

In the Senate of the United States,

April 24 (legislative day, April 23), 2012.

Resolved, That the bill from the House of Representatives (H.R. 4348) entitled “An Act to provide an extension of Federal-aid highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a multiyear law reauthorizing such programs, and for other purposes.”, do pass with the following

AMENDMENT:

Strike out all after the enacting clause and insert:

1 ***SECTION 1. SHORT TITLE; ORGANIZATION OF ACT INTO DI-***

2 ***VISIONS; TABLE OF CONTENTS.***

3 (a) *SHORT TITLE.*—*This Act may be cited as the*

4 *“Moving Ahead for Progress in the 21st Century Act” or*

5 *the “MAP-21”.*

6 (b) *DIVISIONS.*—*This Act is organized into 8 divisions*

7 *as follows:*

8 (1) *Division A—Federal-aid Highways and High-*

9 *way Safety Construction Programs.*

- 1 (2) *Division B—Public Transportation.*
- 2 (3) *Division C—Transportation Safety and Sur-*
3 *face Transportation Policy.*
- 4 (4) *Division D—Finance.*
- 5 (5) *Division E—Research and Education.*
- 6 (6) *Division F—Miscellaneous.*
- 7 (7) *Division G—Air Transportation.*
- 8 (8) *Division H—Budgetary Effects.*
- 9 (c) *TABLE OF CONTENTS.—The table of contents for*
10 *this Act is as follows:*

Sec. 1. Short title; organization of Act into divisions; table of contents.

Sec. 2. Definitions.

*DIVISION A—FEDERAL-AID HIGHWAYS AND HIGHWAY SAFETY
CONSTRUCTION PROGRAMS*

TITLE I—FEDERAL-AID HIGHWAYS

Subtitle A—Authorizations and Programs

Sec. 1101. Authorization of appropriations.

Sec. 1102. Obligation ceiling.

Sec. 1103. Definitions.

Sec. 1104. National highway system.

Sec. 1105. Apportionment.

Sec. 1106. National highway performance program.

Sec. 1107. Emergency relief.

Sec. 1108. Transportation mobility program.

Sec. 1109. Workforce development.

Sec. 1110. Highway use tax evasion projects.

Sec. 1111. National bridge and tunnel inventory and inspection standards.

Sec. 1112. Highway safety improvement program.

Sec. 1113. Congestion mitigation and air quality improvement program.

Sec. 1114. Territorial and Puerto Rico highway program.

Sec. 1115. National freight program.

Sec. 1116. Federal lands and tribal transportation programs.

Sec. 1117. Alaska Highway.

Sec. 1118. Projects of national and regional significance.

Sec. 1119. Construction of ferry boats and ferry terminal facilities.

Subtitle B—Performance Management

Sec. 1201. Metropolitan transportation planning.

Sec. 1202. Statewide and nonmetropolitan transportation planning.

Sec. 1203. National goals.

Subtitle C—Acceleration of Project Delivery

- Sec. 1301. Project delivery initiative.*
- Sec. 1302. Clarified eligibility for early acquisition activities prior to completion of NEPA review.*
- Sec. 1303. Efficiencies in contracting.*
- Sec. 1304. Innovative project delivery methods.*
- Sec. 1305. Assistance to affected State and Federal agencies.*
- Sec. 1306. Application of categorical exclusions for multimodal projects.*
- Sec. 1307. State assumption of responsibilities for categorical exclusions.*
- Sec. 1308. Surface transportation project delivery program.*
- Sec. 1309. Categorical exclusion for projects within the right-of-way.*
- Sec. 1310. Programmatic agreements and additional categorical exclusions.*
- Sec. 1311. Accelerated decisionmaking in environmental reviews.*
- Sec. 1312. Memoranda of agency agreements for early coordination.*
- Sec. 1313. Accelerated decisionmaking.*
- Sec. 1314. Environmental procedures initiative.*
- Sec. 1315. Alternative relocation payment demonstration program.*
- Sec. 1316. Review of Federal project and program delivery.*

Subtitle D—Highway Safety

- Sec. 1401. Jason’s Law.*
- Sec. 1402. Open container requirements.*
- Sec. 1403. Minimum penalties for repeat offenders for driving while intoxicated or driving under the influence.*
- Sec. 1404. Adjustments to penalty provisions.*
- Sec. 1405. Highway worker safety.*

Subtitle E—Miscellaneous

- Sec. 1501. Program efficiencies.*
- Sec. 1502. Project approval and oversight.*
- Sec. 1503. Standards.*
- Sec. 1504. Construction.*
- Sec. 1505. Maintenance.*
- Sec. 1506. Federal share payable.*
- Sec. 1507. Transferability of Federal-aid highway funds.*
- Sec. 1508. Special permits during periods of national emergency.*
- Sec. 1509. Electric vehicle charging stations.*
- Sec. 1510. HOV facilities.*
- Sec. 1511. Construction equipment and vehicles.*
- Sec. 1512. Use of debris from demolished bridges and overpasses.*
- Sec. 1513. Extension of public transit vehicle exemption from axle weight restrictions.*
- Sec. 1514. Uniform Relocation Assistance Act amendments.*
- Sec. 1515. Use of youth service and conservation corps.*
- Sec. 1516. Consolidation of programs; repeal of obsolete provisions.*
- Sec. 1517. Rescissions.*
- Sec. 1518. State autonomy for culvert pipe selection.*
- Sec. 1519. Effective and significant performance measures.*
- Sec. 1520. Requirements for eligible bridge projects.*
- Sec. 1521. Idle reduction technology.*
- Sec. 1522. Report on Highway Trust Fund expenditures.*
- Sec. 1523. Evacuation routes.*

- Sec. 1524. Defense access road program enhancements to address transportation infrastructure in the vicinity of military installations.*
- Sec. 1525. Express lanes demonstration program.*
- Sec. 1526. Treatment of historic signs.*
- Sec. 1527. Consolidation of grants.*
- Sec. 1528. Buy America provisions.*
- Sec. 1529. Exemptions from requirements for certain farm vehicles.*
- Sec. 1530. Appalachian development highway system.*
- Sec. 1531. Denali Commission.*
- Sec. 1532. Updated corrosion control and prevention report.*
- Sec. 1533. Harbor Maintenance trust fund.*
- Sec. 1534. Enrichment technology and intellectual property.*
- Sec. 1535. Sense of Senate concerning expeditious completion of environmental reviews, approvals, licensing, and permit requirements.*

Subtitle F—Gulf Coast Restoration

- Sec. 1601. Short title.*
- Sec. 1602. Gulf Coast Restoration Trust Fund.*
- Sec. 1603. Gulf Coast natural resources restoration and economic recovery.*
- Sec. 1604. Gulf Coast Ecosystem Restoration Science, Observation, Monitoring, and Technology Program.*
- Sec. 1605. Effect.*

Subtitle G—Land and Water Conservation Fund

- Sec. 1701. Land and water conservation fund.*

Subtitle H—Offsets

- Sec. 1801. Delay in application of worldwide interest.*

TITLE II—AMERICA FAST FORWARD FINANCING INNOVATION

- Sec. 2001. Short title.*
- Sec. 2002. Transportation Infrastructure Finance and Innovation Act amendments.*
- Sec. 2003. State infrastructure banks.*

TITLE III—HIGHWAY SPENDING CONTROLS

- Sec. 3001. Highway spending controls.*

DIVISION B—PUBLIC TRANSPORTATION

- Sec. 20001. Short title.*
- Sec. 20002. Repeals.*
- Sec. 20003. Policies, purposes, and goals.*
- Sec. 20004. Definitions.*
- Sec. 20005. Metropolitan transportation planning.*
- Sec. 20006. Statewide and nonmetropolitan transportation planning.*
- Sec. 20007. Public Transportation Emergency Relief Program.*
- Sec. 20008. Urbanized area formula grants.*
- Sec. 20009. Clean fuel grant program.*
- Sec. 20010. Fixed guideway capital investment grants.*
- Sec. 20011. Formula grants for the enhanced mobility of seniors and individuals with disabilities.*
- Sec. 20012. Formula grants for other than urbanized areas.*

- Sec. 20013. Research, development, demonstration, and deployment projects.*
- Sec. 20014. Technical assistance and standards development.*
- Sec. 20015. Bus testing facilities.*
- Sec. 20016. Public transportation workforce development and human resource programs.*
- Sec. 20017. General provisions.*
- Sec. 20018. Contract requirements.*
- Sec. 20019. Transit asset management.*
- Sec. 20020. Project management oversight.*
- Sec. 20021. Public transportation safety.*
- Sec. 20022. Alcohol and controlled substances testing.*
- Sec. 20023. Nondiscrimination.*
- Sec. 20024. Labor standards.*
- Sec. 20025. Administrative provisions.*
- Sec. 20026. National transit database.*
- Sec. 20027. Apportionment of appropriations for formula grants.*
- Sec. 20028. State of good repair grants.*
- Sec. 20029. Authorizations.*
- Sec. 20030. Apportionments based on growing States and high density States formula factors.*
- Sec. 20031. Technical and conforming amendments.*

*DIVISION C—TRANSPORTATION SAFETY AND SURFACE
TRANSPORTATION POLICY*

*TITLE I—MOTOR VEHICLE AND HIGHWAY SAFETY IMPROVEMENT
ACT OF 2012*

- Sec. 31001. Short title.*
- Sec. 31002. Definition.*

Subtitle A—Highway Safety

- Sec. 31101. Authorization of appropriations.*
- Sec. 31102. Highway safety programs.*
- Sec. 31103. Highway safety research and development.*
- Sec. 31104. National driver register.*
- Sec. 31105. Combined occupant protection grants.*
- Sec. 31106. State traffic safety information system improvements.*
- Sec. 31107. Impaired driving countermeasures.*
- Sec. 31108. Distracted driving grants.*
- Sec. 31109. High visibility enforcement program.*
- Sec. 31110. Motorcyclist safety.*
- Sec. 31111. Driver alcohol detection system for safety research.*
- Sec. 31112. State graduated driver licensing laws.*
- Sec. 31113. Agency accountability.*
- Sec. 31114. Emergency medical services.*

Subtitle B—Enhanced Safety Authorities

- Sec. 31201. Definition of motor vehicle equipment.*
- Sec. 31202. Permit reminder system for non-use of safety belts.*
- Sec. 31203. Civil penalties.*
- Sec. 31204. Motor vehicle safety research and development.*
- Sec. 31205. Odometer requirements.*
- Sec. 31206. Increased penalties and damages for odometer fraud.*

- Sec. 31207. Extend prohibitions on importing noncompliant vehicles and equipment to defective vehicles and equipment.*
- Sec. 31208. Financial responsibility requirements for importers.*
- Sec. 31209. Conditions on importation of vehicles and equipment.*
- Sec. 31210. Port inspections; samples for examination or testing.*

Subtitle C—Transparency and Accountability

- Sec. 31301. Improved National Highway Traffic Safety Administration vehicle safety database.*
- Sec. 31302. National Highway Traffic Safety Administration hotline for manufacturer, dealer, and mechanic personnel.*
- Sec. 31303. Consumer notice of software updates and other communications with dealers.*
- Sec. 31304. Public availability of early warning data.*
- Sec. 31305. Corporate responsibility for National Highway Traffic Safety Administration reports.*
- Sec. 31306. Passenger motor vehicle information program.*
- Sec. 31307. Promotion of vehicle defect reporting.*
- Sec. 31308. Whistleblower protections for motor vehicle manufacturers, part suppliers, and dealership employees.*
- Sec. 31309. Anti-revolving door.*
- Sec. 31310. Study of crash data collection.*
- Sec. 31311. Update means of providing notification; improving efficacy of recalls.*
- Sec. 31312. Expanding choices of remedy available to manufacturers of replacement equipment.*
- Sec. 31313. Recall obligations and bankruptcy of manufacturer.*
- Sec. 31314. Repeal of insurance reports and information provision.*
- Sec. 31315. Monroney sticker to permit additional safety rating categories.*

Subtitle D—Vehicle Electronics and Safety Standards

- Sec. 31401. National Highway Traffic Safety Administration electronics, software, and engineering expertise.*
- Sec. 31402. Vehicle stopping distance and brake override standard.*
- Sec. 31403. Pedal placement standard.*
- Sec. 31404. Electronic systems performance standard.*
- Sec. 31405. Pushbutton ignition systems standard.*
- Sec. 31406. Vehicle event data recorders.*
- Sec. 31407. Prohibition on electronic visual entertainment in driver's view.*
- Sec. 31408. Commercial motor vehicle rollover prevention and crash mitigation.*

Subtitle E—Child Safety Standards

- Sec. 31501. Child safety seats.*
- Sec. 31502. Child restraint anchorage systems.*
- Sec. 31503. Rear seat belt reminders.*
- Sec. 31504. Unattended passenger reminders.*
- Sec. 31505. New deadline.*

Subtitle F—Improved Daytime and Nighttime Visibility of Agricultural Equipment

- Sec. 31601. Rulemaking on visibility of agricultural equipment.*

TITLE II—COMMERCIAL MOTOR VEHICLE SAFETY ENHANCEMENT
ACT OF 2012

Sec. 32001. Short title.

Sec. 32002. References to title 49, United States Code.

Subtitle A—Commercial Motor Vehicle Registration

Sec. 32101. Registration of motor carriers.

Sec. 32102. Safety fitness of new operators.

Sec. 32103. Reincarnated carriers.

Sec. 32104. Financial responsibility requirements.

Sec. 32105. USDOT number registration requirement.

Sec. 32106. Registration fee system.

Sec. 32107. Registration update.

Sec. 32108. Increased penalties for operating without registration.

Sec. 32109. Revocation of registration for imminent hazard.

Sec. 32110. Revocation of registration and other penalties for failure to respond to subpoena.

Sec. 32111. Fleetwide out of service order for operating without required registration.

Sec. 32112. Motor carrier and officer patterns of safety violations.

Sec. 32113. Federal successor standard.

Subtitle B—Commercial Motor Vehicle Safety

Sec. 32201. Repeal of commercial jurisdiction exception for brokers of motor carriers of passengers.

Sec. 32202. Bus rentals and definition of employer.

Sec. 32203. Crashworthiness standards.

Sec. 32204. Canadian safety rating reciprocity.

Sec. 32205. State reporting of foreign commercial driver convictions.

Sec. 32206. Authority to disqualify foreign commercial drivers.

Sec. 32207. Revocation of foreign motor carrier operating authority for failure to pay civil penalties.

Sec. 32208. Rental truck accident study.

Subtitle C—Driver Safety

Sec. 32301. Electronic on-board recording devices.

Sec. 32302. Safety fitness.

Sec. 32303. Driver medical qualifications.

Sec. 32304. Commercial driver's license notification system.

Sec. 32305. Commercial motor vehicle operator training.

Sec. 32306. Commercial driver's license program.

Sec. 32307. Commercial driver's license requirements.

Sec. 32308. Commercial motor vehicle driver information systems.

Sec. 32309. Disqualifications based on non-commercial motor vehicle operations.

Sec. 32310. Federal driver disqualifications.

Sec. 32311. Employer responsibilities.

Sec. 32312. Improving and expediting safety assessments in the commercial driver's license application process for members and former members of the Armed Forces.

Subtitle D—Safe Roads Act of 2012

Sec. 32401. Short title.

- Sec. 32402. National clearinghouse for controlled substance and alcohol test results of commercial motor vehicle operators.*
- Sec. 32403. Drug and alcohol violation sanctions.*
- Sec. 32404. Authorization of appropriations.*

Subtitle E—Enforcement

- Sec. 32501. Inspection demand and display of credentials.*
- Sec. 32502. Out of service penalty for denial of access to records.*
- Sec. 32503. Penalties for violation of operation out of service orders.*
- Sec. 32504. Minimum prohibition on operation for unfit carriers.*
- Sec. 32505. Minimum out of service penalties.*
- Sec. 32506. Impoundment and immobilization of commercial motor vehicles for imminent hazard.*
- Sec. 32507. Increased penalties for evasion of regulations.*
- Sec. 32508. Failure to pay civil penalty as a disqualifying offense.*
- Sec. 32509. Violations relating to commercial motor vehicle safety regulation and operators.*
- Sec. 32510. Emergency disqualification for imminent hazard.*
- Sec. 32511. Intrastate operations of interstate motor carriers.*
- Sec. 32512. Enforcement of safety laws and regulations.*
- Sec. 32513. Disclosure to State and local law enforcement agencies.*
- Sec. 32514. Grade crossing safety regulations.*

Subtitle F—Compliance, Safety, Accountability

- Sec. 32601. Compliance, safety, accountability.*
- Sec. 32602. Performance and registration information systems management program.*
- Sec. 32603. Commercial motor vehicle defined.*
- Sec. 32604. Driver safety fitness ratings.*
- Sec. 32605. Uniform electronic clearance for commercial motor vehicle inspections.*
- Sec. 32606. Authorization of appropriations.*
- Sec. 32607. High risk carrier reviews.*
- Sec. 32608. Data and technology grants.*
- Sec. 32609. Driver safety grants.*
- Sec. 32610. Commercial vehicle information systems and networks.*

Subtitle G—Motorcoach Enhanced Safety Act of 2012

- Sec. 32701. Short title.*
- Sec. 32702. Definitions.*
- Sec. 32703. Regulations for improved occupant protection, passenger evacuation, and crash avoidance.*
- Sec. 32704. Standards for improved fire safety.*
- Sec. 32705. Occupant protection, collision avoidance, fire causation, and fire extinguisher research and testing.*
- Sec. 32706. Motorcoach registration.*
- Sec. 32707. Improved oversight of motorcoach service providers.*
- Sec. 32708. Report on feasibility, benefits, and costs of establishing a system of certification of training programs.*
- Sec. 32709. Report on driver's license requirements for 9- to 15-passenger vans.*
- Sec. 32710. Event data recorders.*
- Sec. 32711. Safety inspection program for commercial motor vehicles of passengers.*

Sec. 32712. Distracted driving.

Sec. 32713. Regulations.

Subtitle H—Safe Highways and Infrastructure Preservation

Sec. 32801. Comprehensive truck size and weight limits study.

Sec. 32802. Compilation of existing State truck size and weight limit laws.

Subtitle I—Miscellaneous

PART I—MISCELLANEOUS

Sec. 32911. Detention time study.

Sec. 32912. Prohibition of coercion.

Sec. 32913. Motor carrier safety advisory committee.

Sec. 32914. Waivers, exemptions, and pilot programs.

Sec. 32915. Registration requirements.

Sec. 32916. Additional motor carrier registration requirements.

Sec. 32917. Registration of freight forwarders and brokers.

Sec. 32918. Effective periods of registration.

Sec. 32919. Financial security of brokers and freight forwarders.

Sec. 32920. Unlawful brokerage activities.

PART II—HOUSEHOLD GOODS TRANSPORTATION

Sec. 32921. Additional registration requirements for household goods motor carriers.

Sec. 32922. Failure to give up possession of household goods.

Sec. 32923. Settlement authority.

Sec. 32924. Household goods transportation assistance program.

Sec. 32925. Household goods consumer education program.

PART III—TECHNICAL AMENDMENTS

Sec. 32931. Update of obsolete text.

Sec. 32932. Correction of interstate commerce commission references.

Sec. 32933. Technical and conforming amendments.

*TITLE III—SURFACE TRANSPORTATION AND FREIGHT POLICY ACT
OF 2012*

Sec. 33001. Short title.

Sec. 33002. Establishment of a national surface transportation and freight policy.

Sec. 33003. Surface transportation and freight strategic plan.

Sec. 33004. Transportation investment data and planning tools.

Sec. 33005. Port infrastructure development initiative.

Sec. 33006. Safety for motorized and nonmotorized users.

Sec. 33007. Buy America waiver requirements.

Sec. 33008. Make it in America Initiative.

Sec. 33009. Capacity-building for natural disasters and extreme weather.

Sec. 33010. Toll fairness study.

*TITLE IV—HAZARDOUS MATERIALS TRANSPORTATION SAFETY
IMPROVEMENT ACT OF 2012*

Sec. 34001. Short title.

Sec. 34002. Definition.

Sec. 34003. References to title 49, United States Code.

- Sec. 34004. Training for emergency responders.*
- Sec. 34005. Paperless Hazard Communications Pilot Program.*
- Sec. 34006. Improving data collection, analysis, and reporting.*
- Sec. 34007. Loading and unloading of hazardous materials.*
- Sec. 34008. Hazardous material technical assessment, research and development, and analysis program.*
- Sec. 34009. Hazardous Material Enforcement Training Program.*
- Sec. 34010. Inspections.*
- Sec. 34011. Civil penalties.*
- Sec. 34012. Reporting of fees.*
- Sec. 34013. Special permits, approvals, and exclusions.*
- Sec. 34014. Highway routing disclosures.*
- Sec. 34015. Authorization of appropriations.*

*TITLE V—NATIONAL RAIL SYSTEM PRESERVATION, EXPANSION,
AND DEVELOPMENT ACT OF 2012*

- Sec. 35001. Short title.*
- Sec. 35002. References to title 49, United States Code.*

Subtitle A—Federal and State Roles in Rail Planning and Development Tools

- Sec. 35101. Rail plans.*
- Sec. 35102. Improved data on delay.*
- Sec. 35103. Data and modeling.*
- Sec. 35104. Shared-use corridor study.*
- Sec. 35105. Cooperative equipment pool.*
- Sec. 35106. Project management oversight and planning.*
- Sec. 35107. Improvements to the Capital Assistance Programs.*
- Sec. 35108. Liability.*
- Sec. 35109. Disadvantaged business enterprises.*
- Sec. 35110. Workforce development.*
- Sec. 35111. Veterans employment.*

Subtitle B—Amtrak

- Sec. 35201. State-supported routes.*
- Sec. 35202. Northeast corridor infrastructure and operations advisory commission.*
- Sec. 35203. Northeast corridor high-speed rail improvement plan.*
- Sec. 35204. Northeast corridor environmental review process.*
- Sec. 35205. Delegation authority.*
- Sec. 35206. Amtrak inspector general.*
- Sec. 35207. Compensation for private-sector use of Federally-funded assets.*
- Sec. 35208. On-time performance.*
- Sec. 35209. Board of directors.*
- Sec. 35210. Amtrak.*

Subtitle C—Rail Safety Improvements

- Sec. 35301. Positive train control.*
- Sec. 35302. Additional eligibility for railroad rehabilitation and improvement financing.*
- Sec. 35303. FCC study of spectrum availability.*

Subtitle D—Freight Rail

- Sec. 35401. Rail line relocation.*
Sec. 35402. Compilation of complaints.
Sec. 35403. Maximum relief in certain rate cases.
Sec. 35404. Rate review timelines.
Sec. 35405. Revenue adequacy study.
Sec. 35406. Quarterly reports.
Sec. 35407. Workforce review.
Sec. 35408. Railroad rehabilitation and improvement financing.

Subtitle E—Technical Corrections

- Sec. 35501. Technical corrections.*
Sec. 35502. Condemnation authority.

Subtitle F—Licensing and Insurance Requirements for Passenger Rail Carriers

- Sec. 35601. Certification of passenger rail carriers.*

**TITLE VI—SPORT FISH RESTORATION AND RECREATIONAL
BOATING SAFETY ACT OF 2012**

- Sec. 36001. Short title.*
Sec. 36002. Amendment of Federal Aid in Sport Fish Restoration Act.

TITLE VII—MISCELLANEOUS

- Sec. 37001. Aircraft noise abatement.*

DIVISION D—FINANCE

- Sec. 40001. Short title.*

**TITLE I—EXTENSION OF HIGHWAY TRUST FUND EXPENDITURE
AUTHORITY AND RELATED TAXES**

- Sec. 40101. Extension of trust fund expenditure authority.*
Sec. 40102. Extension of highway-related taxes.

TITLE II—OTHER PROVISIONS

- Sec. 40201. Temporary increase in small issuer exception to tax-exempt interest expense allocation rules for financial institutions.*
Sec. 40202. Temporary modification of alternative minimum tax limitations on tax-exempt bonds.
Sec. 40203. Issuance of TRIP bonds by State infrastructure banks.
Sec. 40204. Extension of parity for exclusion from income for employer-provided mass transit and parking benefits.
Sec. 40205. Exempt-facility bonds for sewage and water supply facilities.

TITLE III—REVENUE PROVISIONS

- Sec. 40301. Transfer from Leaking Underground Storage Tank Trust Fund to Highway Trust Fund.*
Sec. 40302. Portion of Leaking Underground Storage Tank Trust Fund financing rate transferred to Highway Trust Fund.
Sec. 40303. Transfer of gas guzzler taxes to Highway Trust Fund.
Sec. 40304. Revocation or denial of passport in case of certain unpaid taxes.

- Sec. 40305. 100 percent continuous levy on payments to Medicare providers and suppliers.*
- Sec. 40306. Transfer of amounts attributable to certain duties on imported vehicles into the Highway Trust Fund.*
- Sec. 40307. Treatment of securities of a controlled corporation exchanged for assets in certain reorganizations.*
- Sec. 40308. Internal Revenue Service levies and Thrift Savings Plan Accounts.*
- Sec. 40309. Depreciation and amortization rules for highway and related property subject to long-term leases.*
- Sec. 40310. Extension for transfers of excess pension assets to retiree health accounts.*
- Sec. 40311. Transfer of excess pension assets to retiree group term life insurance accounts.*
- Sec. 40312. Pension funding stabilization.*
- Sec. 40313. Additional transfers to Highway Trust Fund.*
- Sec. 40314. Transfers to Federal Old-Age and Survivors Insurance Trust Fund and Federal Disability Insurance Trust Fund.*

DIVISION E—RESEARCH AND EDUCATION

- Sec. 50001. Short title.*

TITLE I—FUNDING

- Sec. 51001. Authorization of appropriations.*

TITLE II—RESEARCH, TECHNOLOGY, AND EDUCATION

- Sec. 52001. Research, technology, and education.*
- Sec. 52002. Surface transportation research, development, and technology.*
- Sec. 52003. Research and technology development and deployment.*
- Sec. 52004. Training and education.*
- Sec. 52005. State planning and research.*
- Sec. 52006. International highway transportation program.*
- Sec. 52007. Surface transportation environmental cooperative research program.*
- Sec. 52008. National cooperative freight research.*
- Sec. 52009. Prize authority.*
- Sec. 52010. University transportation centers program.*
- Sec. 52011. Bureau of transportation statistics.*
- Sec. 52012. Administrative authority.*
- Sec. 52013. Transportation research and development strategic planning.*

TITLE III—INTELLIGENT TRANSPORTATION SYSTEMS RESEARCH

- Sec. 53001. Use of funds for its activities.*
- Sec. 53002. Goals and purposes.*
- Sec. 53003. General authorities and requirements.*
- Sec. 53004. Research and development.*
- Sec. 53005. National architecture and standards.*
- Sec. 53006. Vehicle-to-vehicle and vehicle-to-infrastructure communications systems deployment.*

DIVISION F—MISCELLANEOUS

TITLE I—REAUTHORIZATION OF CERTAIN PROGRAMS

Subtitle A—Secure Rural Schools and Community Self-determination Program

Sec. 100101. Secure Rural Schools and Community Self-Determination Program.

Subtitle B—Payment in Lieu of Taxes Program

Sec. 100111. Payments in lieu of taxes.

Subtitle C—Offsets

Sec. 100112. Tax reporting for life settlement transactions.

Sec. 100113. Clarification of tax basis of life insurance contracts.

Sec. 100114. Exception to transfer for valuable consideration rules.

Sec. 100115. Phased retirement authority.

Sec. 100116. Roll-your-own cigarette machines.

TITLE II—STOP TAX HAVEN ABUSE

Sec. 100201. Authorizing special measures against foreign jurisdictions, financial institutions, and others that significantly impede United States tax enforcement.

DIVISION G—AIR TRANSPORTATION

Sec. 100301. Technical corrections relating to overflights of National Parks.

DIVISION H—BUDGETARY EFFECTS

Sec. 100401. Budgetary effects.

1 **SEC. 2. DEFINITIONS.**

2 *In this Act, the following definitions apply:*

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

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

1 ***DIVISION A—FEDERAL-AID HIGH-***
2 ***WAYS AND HIGHWAY SAFETY***
3 ***CONSTRUCTION PROGRAMS***
4 ***TITLE I—FEDERAL-AID***
5 ***HIGHWAYS***
6 ***Subtitle A—Authorizations and***
7 ***Programs***

8 ***SEC. 1101. AUTHORIZATION OF APPROPRIATIONS.***

9 *(a) IN GENERAL.—The following sums are authorized*
10 *to be appropriated out of the Highway Trust Fund (other*
11 *than the Mass Transit Account):*

12 *(1) FEDERAL-AID HIGHWAY PROGRAM.—For the*
13 *national highway performance program under section*
14 *119 of title 23, United States Code, the transportation*
15 *mobility program under section 133 of that title, the*
16 *highway safety improvement program under section*
17 *148 of that title, the congestion mitigation and air*
18 *quality improvement program under section 149 of*
19 *that title, the national freight program under section*
20 *167 of that title, and to carry out section 134 of that*
21 *title—*

22 *(A) \$39,143,000,000 for fiscal year 2012;*

23 *and*

24 *(B) \$39,806,000,000 for fiscal year 2013.*

1 (2) *TRANSPORTATION INFRASTRUCTURE FINANCE*
2 *AND INNOVATION PROGRAM.*—*For credit assistance*
3 *under the transportation infrastructure finance and*
4 *innovation program under chapter 6 of title 23,*
5 *United States Code, \$1,000,000,000 for each of fiscal*
6 *years 2012 and 2013.*

7 (3) *FEDERAL LANDS AND TRIBAL TRANSPORTATION*
8 *PROGRAMS.*—

9 (A) *TRIBAL TRANSPORTATION PROGRAM.*—
10 *For the tribal transportation program under sec-*
11 *tion 202 of title 23, United States Code,*
12 *\$450,000,000 for each of fiscal years 2012 and*
13 *2013.*

14 (B) *FEDERAL LANDS TRANSPORTATION PRO-*
15 *GRAM.*—*For the Federal lands transportation*
16 *program under section 203 of title 23, United*
17 *States Code, \$300,000,000 for each of fiscal years*
18 *2012 and 2013, of which \$260,000,000 of the*
19 *amount made available for each fiscal year shall*
20 *be the amount for the National Park Service and*
21 *the United States Fish and Wildlife Service.*

22 (C) *FEDERAL LANDS ACCESS PROGRAM.*—
23 *For the Federal lands access program under sec-*
24 *tion 204 of title 23, United States Code,*

1 \$250,000,000 for each of fiscal years 2012 and
2 2013.

3 (4) *TERRITORIAL AND PUERTO RICO HIGHWAY*
4 *PROGRAM.*—For the territorial and Puerto Rico high-
5 way program under section 165 of title 23, United
6 States Code, \$180,000,000 for each of fiscal years
7 2012 and 2013.

8 (b) *DISADVANTAGED BUSINESS ENTERPRISES.*—

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

11 (A) *SMALL BUSINESS CONCERN.*—

12 (i) *IN GENERAL.*—The term “small
13 business concern” means a small business
14 concern (as the term is used in section 3 of
15 the Small Business Act (15 U.S.C. 632)).

16 (ii) *EXCLUSIONS.*—The term “small
17 business concern” does not include any con-
18 cern or group of concerns controlled by the
19 same socially and economically disadvan-
20 taged individual or individuals that have
21 average annual gross receipts during the
22 preceding 3 fiscal years in excess of
23 \$22,410,000, as adjusted annually by the
24 Secretary for inflation.

1 (B) *SOCIALLY AND ECONOMICALLY DIS-*
2 *ADVANTAGED INDIVIDUALS.*—*The term “socially*
3 *and economically disadvantaged individuals”*
4 *means—*

5 (i) *women; and*

6 (ii) *any other socially and economi-*
7 *cally disadvantaged individuals (as the*
8 *term is used in section 8(d) of the Small*
9 *Business Act (15 U.S.C. 637(d)) and rel-*
10 *evant subcontracting regulations promul-*
11 *gated pursuant to that Act).*

12 (2) *AMOUNTS FOR SMALL BUSINESS CON-*
13 *CERNS.*—*Except to the extent that the Secretary deter-*
14 *mines otherwise, not less than 10 percent of the*
15 *amounts made available for any program under divi-*
16 *sions A and B of this Act and section 403 of title 23,*
17 *United States Code, shall be expended through small*
18 *business concerns owned and controlled by socially*
19 *and economically disadvantaged individuals.*

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

22 (A) *survey and compile a list of the small*
23 *business concerns referred to in paragraph (2) in*
24 *the State, including the location of the small*
25 *business concerns in the State; and*

1 (B) *notify the Secretary, in writing, of the*
2 *percentage of the small business concerns that*
3 *are controlled by—*

4 (i) *women;*

5 (ii) *socially and economically dis-*
6 *advantaged individuals (other than*
7 *women); and*

8 (iii) *individuals who are women and*
9 *are otherwise socially and economically dis-*
10 *advantaged individuals.*

11 (4) *UNIFORM CERTIFICATION.—*

12 (A) *IN GENERAL.—The Secretary shall es-*
13 *tablish minimum uniform criteria for use by*
14 *State governments in certifying whether a con-*
15 *cern qualifies as a small business concern for the*
16 *purpose of this subsection.*

17 (B) *INCLUSIONS.—The minimum uniform*
18 *criteria established under subparagraph (A) shall*
19 *include, with respect to a potential small busi-*
20 *ness concern—*

21 (i) *on-site visits;*

22 (ii) *personal interviews with personnel;*

23 (iii) *issuance or inspection of licenses;*

24 (iv) *analyses of stock ownership;*

25 (v) *listings of equipment;*

- 1 (vi) analyses of bonding capacity;
2 (vii) listings of work completed;
3 (viii) examination of the resumes of
4 principal owners;
5 (ix) analyses of financial capacity;
6 and
7 (x) analyses of the type of work pre-
8 ferred.

9 (5) *REPORTING.*—The Secretary shall establish
10 minimum requirements for use by State governments
11 in reporting to the Secretary—

12 (A) information concerning disadvantaged
13 business enterprise awards, commitments, and
14 achievements; and

15 (B) such other information as the Secretary
16 determines to be appropriate for the proper mon-
17 itoring of the disadvantaged business enterprise
18 program.

19 (6) *COMPLIANCE WITH COURT ORDERS.*—Noth-
20 ing in this subsection limits the eligibility of an indi-
21 vidual or entity to receive funds made available
22 under divisions A and B of this Act and section 403
23 of title 23, United States Code, if the entity or person
24 is prevented, in whole or in part, from complying
25 with paragraph (2) because a Federal court issues a

1 *final order in which the court finds that a require-*
2 *ment or the implementation of paragraph (2) is un-*
3 *constitutional.*

4 **SEC. 1102. OBLIGATION CEILING.**

5 (a) *GENERAL LIMITATION.*—Subject to subsection (e),
6 and notwithstanding any other provision of law, the obliga-
7 tions for Federal-aid highway and highway safety construc-
8 tion programs shall not exceed—

9 (1) \$41,564,000,000 for fiscal year 2012; and

10 (2) \$42,227,000,000 for fiscal year 2013.

11 (b) *EXCEPTIONS.*—The limitations under subsection
12 (a) shall not apply to obligations under or for—

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

14 (2) section 147 of the Surface Transportation As-
15 sistance Act of 1978 (23 U.S.C. 144 note; 92 Stat.
16 2714);

17 (3) section 9 of the Federal-Aid Highway Act of
18 1981 (95 Stat. 1701);

19 (4) subsections (b) and (j) of section 131 of the
20 Surface Transportation Assistance Act of 1982 (96
21 Stat. 2119);

22 (5) subsections (b) and (c) of section 149 of the
23 Surface Transportation and Uniform Relocation As-
24 sistance Act of 1987 (101 Stat. 198);

1 (6) *sections 1103 through 1108 of the Intermodal*
2 *Surface Transportation Efficiency Act of 1991 (105*
3 *Stat. 2027);*

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

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

10 (9) *Federal-aid highway programs for which ob-*
11 *ligation authority was made available under the*
12 *Transportation Equity Act for the 21st Century (112*
13 *Stat. 107) or subsequent Acts for multiple years or to*
14 *remain available until expended, but only to the ex-*
15 *tent that the obligation authority has not lapsed or*
16 *been used;*

17 (10) *section 105 of title 23, United States Code*
18 *(but, for each of fiscal years 2005 through 2011, only*
19 *in an amount equal to \$639,000,000 for each of those*
20 *fiscal years);*

21 (11) *section 1603 of the Safe, Accountable, Flexi-*
22 *ble, Efficient Transportation Equity Act: A Legacy*
23 *for Users (119 Stat. 1248), to the extent that funds*
24 *obligated in accordance with that section were not*
25 *subject to a limitation on obligations at the time at*

1 *which the funds were initially made available for ob-*
2 *ligation; and*

3 *(12) section 119 of title 23, United States Code*
4 *(but, for each of fiscal years 2012 through 2013, only*
5 *in an amount equal to \$639,000,000 for each of those*
6 *fiscal years).*

7 *(c) DISTRIBUTION OF OBLIGATION AUTHORITY.—For*
8 *each of fiscal years 2012 through 2013, the Secretary—*

9 *(1) shall not distribute obligation authority pro-*
10 *vided by subsection (a) for the fiscal year for—*

11 *(A) amounts authorized for administrative*
12 *expenses and programs by section 104(a) of title*
13 *23, United States Code; and*

14 *(B) amounts authorized for the Bureau of*
15 *Transportation Statistics;*

16 *(2) shall not distribute an amount of obligation*
17 *authority provided by subsection (a) that is equal to*
18 *the unobligated balance of amounts—*

19 *(A) made available from the Highway Trust*
20 *Fund (other than the Mass Transit Account) for*
21 *Federal-aid highway and highway safety con-*
22 *struction programs for previous fiscal years the*
23 *funds for which are allocated by the Secretary*
24 *(or apportioned by the Secretary under sections*
25 *202 or 204 of title 23, United States Code); and*

1 (B) for which obligation authority was pro-
2 vided in a previous fiscal year;

3 (3) shall determine the proportion that—

4 (A) the obligation authority provided by
5 subsection (a) for the fiscal year, less the aggre-
6 gate of amounts not distributed under para-
7 graphs (1) and (2) of this subsection; bears to

8 (B) the total of the sums authorized to be
9 appropriated for the Federal-aid highway and
10 highway safety construction programs (other
11 than sums authorized to be appropriated for pro-
12 visions of law described in paragraphs (1)
13 through (11) of subsection (b) and sums author-
14 ized to be appropriated for section 119 of title
15 23, United States Code, equal to the amount re-
16 ferred to in subsection (b)(12) for the fiscal
17 year), less the aggregate of the amounts not dis-
18 tributed under paragraphs (1) and (2) of this
19 subsection;

20 (4) shall distribute the obligation authority pro-
21 vided by subsection (a), less the aggregate amounts
22 not distributed under paragraphs (1) and (2), for
23 each of the programs (other than programs to which
24 paragraph (1) applies) that are allocated by the Sec-
25 retary under this Act and title 23, United States

1 *Code, or apportioned by the Secretary under sections*
2 *202 or 204 of that title, by multiplying—*

3 *(A) the proportion determined under para-*
4 *graph (3); by*

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

8 *(5) shall distribute the obligation authority pro-*
9 *vided by subsection (a), less the aggregate amounts*
10 *not distributed under paragraphs (1) and (2) and the*
11 *amounts distributed under paragraph (4), for Fed-*
12 *eral-aid highway and highway safety construction*
13 *programs that are apportioned by the Secretary*
14 *under title 23, United States Code (other than the*
15 *amounts apportioned for the national highway per-*
16 *formance program in section 119 of title 23, United*
17 *States Code, that are exempt from the limitation*
18 *under subsection (b)(12) and the amounts appor-*
19 *tioned under section 204 of that title) in the propor-*
20 *tion that—*

21 *(A) amounts authorized to be appropriated*
22 *for the programs that are apportioned under title*
23 *23, United States Code, to each State for the fis-*
24 *cal year; bears to*

1 (B) *the total of the amounts authorized to*
2 *be appropriated for the programs that are ap-*
3 *portioned under title 23, United States Code, to*
4 *all States for the fiscal year.*

5 (d) *REDISTRIBUTION OF UNUSED OBLIGATION AU-*
6 *THORITY.—Notwithstanding subsection (c), the Secretary*
7 *shall, after August 1 of each of fiscal years 2012 through*
8 *2013—*

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

13 (2) *redistribute sufficient amounts to those States*
14 *able to obligate amounts in addition to those pre-*
15 *viously distributed during that fiscal year, giving pri-*
16 *ority to those States having large unobligated bal-*
17 *ances of funds apportioned under sections 144 (as in*
18 *effect on the day before the date of enactment of this*
19 *Act) and 104 of title 23, United States Code.*

20 (e) *APPLICABILITY OF OBLIGATION LIMITATIONS TO*
21 *TRANSPORTATION RESEARCH PROGRAMS.—*

22 (1) *IN GENERAL.—Except as provided in para-*
23 *graph (2), obligation limitations imposed by sub-*
24 *section (a) shall apply to contract authority for trans-*
25 *portation research programs carried out under—*

1 (A) *chapter 5 of title 23, United States*
2 Code; and

3 (B) *division E of this Act.*

4 (2) *EXCEPTION.—Obligation authority made*
5 *available under paragraph (1) shall—*

6 (A) *remain available for a period of 4 fiscal*
7 *years; and*

8 (B) *be in addition to the amount of any*
9 *limitation imposed on obligations for Federal-*
10 *aid highway and highway safety construction*
11 *programs for future fiscal years.*

12 (f) *REDISTRIBUTION OF CERTAIN AUTHORIZED*
13 *FUNDS.—*

14 (1) *IN GENERAL.—Not later than 30 days after*
15 *the date of distribution of obligation authority under*
16 *subsection (c) for each of fiscal years 2012 through*
17 *2013, the Secretary shall distribute to the States any*
18 *funds (excluding funds authorized for the program*
19 *under section 202 of title 23, United States Code)*
20 *that—*

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

24 (B) *the Secretary determines will not be al-*
25 *located to the States (or will not be apportioned*

1 to the States under section 204 of title 23,
2 United States Code), and will not be available
3 for obligation, for the fiscal year because of the
4 imposition of any obligation limitation for the
5 fiscal year.

6 (2) *RATIO*.—Funds shall be distributed under
7 paragraph (1) in the same proportion as the distribu-
8 tion of obligation authority under subsection (c)(5).

9 (3) *AVAILABILITY*.—Funds distributed to each
10 State under paragraph (1) shall be available for any
11 purpose described in section 133(c) of title 23, United
12 States Code.

13 **SEC. 1103. DEFINITIONS.**

14 (a) *DEFINITIONS*.—Section 101(a) of title 23, United
15 States Code, is amended—

16 (1) by striking paragraphs (6), (7), (9), (12),
17 (19), (20), (24), (25), (26), (28), (38), and (39);

18 (2) by redesignating paragraphs (2), (3), (4),
19 (5), (8), (13), (14), (15), (16), (17), (18), (21), (22),
20 (23), (27), (29), (30), (31), (32), (33), (34), (35), (36),
21 and (37) as paragraphs (3), (4), (5), (6), (9), (12),
22 (13), (14), (15), (16), (17), (18), (19), (20), (21), (22),
23 (23), (24), (25), (26), (28), (29), (33), and (34), re-
24 spectively;

1 (3) *by inserting after paragraph (1) the fol-*
2 *lowing:*

3 “(2) *ASSET MANAGEMENT.—The term ‘asset*
4 *management’ means a strategic and systematic proc-*
5 *ess of operating, maintaining, and improving phys-*
6 *ical assets, with a focus on both engineering and eco-*
7 *nomics analysis based upon quality information, to*
8 *identify a structured sequence of maintenance, preser-*
9 *vation, repair, rehabilitation, and replacement ac-*
10 *tions that will achieve and sustain a desired state of*
11 *good repair over the lifecycle of the assets at min-*
12 *imum practicable cost.”;*

13 (4) *in paragraph (4) (as redesignated by para-*
14 *graph (2))—*

15 (A) *in the matter preceding subparagraph*
16 *(A), by inserting “or any project eligible for as-*
17 *sistance under this title” after “of a highway”;*

18 (B) *by striking subparagraph (A) and in-*
19 *serting the following:*

20 “(A) *preliminary engineering, engineering,*
21 *and design-related services directly relating to*
22 *the construction of a highway project, including*
23 *engineering, design, project development and*
24 *management, construction project management*
25 *and inspection, surveying, mapping (including*

1 *the establishment of temporary and permanent*
 2 *geodetic control in accordance with specifications*
 3 *of the National Oceanic and Atmospheric Ad-*
 4 *ministration), and architectural-related serv-*
 5 *ices;”;*

6 *(C) in subparagraph (B)—*

7 *(i) by inserting “reconstruction,” be-*
 8 *fore “resurfacing”; and*

9 *(ii) by striking “and rehabilitation”*
 10 *and inserting “rehabilitation, and preserva-*
 11 *tion”;*

12 *(D) in subparagraph (E) by striking “rail-*
 13 *way” and inserting “railway-highway”; and*

14 *(E) in subparagraph (F) by striking “obsta-*
 15 *cles” and inserting “hazards”.*

16 *(5) in paragraph (6) (as so redesignated)—*

17 *(A) by inserting “public” before “highway*
 18 *eligible”; and*

19 *(B) by inserting “functionally” before “clas-*
 20 *sified”;*

21 *(6) by inserting after paragraph (6) (as so red-*
 22 *esignated) the following:*

23 *“(7) FEDERAL LANDS ACCESS TRANSPORTATION*
 24 *FACILITY.—The term ‘Federal Lands access transpor-*
 25 *tation facility’ means a public highway, road, bridge,*

1 *trail, or transit system that is located on, is adjacent*
2 *to, or provides access to Federal lands for which title*
3 *or maintenance responsibility is vested in a State,*
4 *county, town, township, tribal, municipal, or local*
5 *government.*

6 “(8) *FEDERAL LANDS TRANSPORTATION FACIL-*
7 *ITY.—The term ‘Federal lands transportation facility’*
8 *means a public highway, road, bridge, trail, or tran-*
9 *sit system that is located on, is adjacent to, or pro-*
10 *vides access to Federal lands for which title and*
11 *maintenance responsibility is vested in the Federal*
12 *Government, and that appears on the national Fed-*
13 *eral lands transportation facility inventory described*
14 *in section 203(c).”;*

15 (7) *in paragraph (11)(B) by inserting “includ-*
16 *ing public roads on dams” after “drainage structure”;*

17 (8) *in paragraph (14) (as so redesignated)—*

18 (A) *by striking “as a” and inserting “as an*
19 *air quality”;* and

20 (B) *by inserting “air quality” before “at-*
21 *tainment area”;*

22 (9) *in paragraph (18) (as so redesignated) by*
23 *striking “an undertaking to construct a particular*
24 *portion of a highway, or if the context so implies, the*

1 *particular portion of a highway so constructed or any*
2 *other undertaking” and inserting “any undertaking”;*

3 *(10) in paragraph (19) (as so redesignated)—*

4 *(A) by striking “the State transportation*
5 *department and”;* and

6 *(B) by inserting “and the recipient” after*
7 *“Secretary”;*

8 *(11) by striking paragraph (23) (as so redesignated)*
9 *and inserting the following:*

10 *“(23) SAFETY IMPROVEMENT PROJECT.—The*
11 *term ‘safety improvement project’ means a strategy,*
12 *activity, or project on a public road that is consistent*
13 *with the State strategic highway safety plan and cor-*
14 *rects or improves a roadway feature that constitutes*
15 *a hazard to road users or addresses a highway safety*
16 *problem.”;*

17 *(12) by inserting after paragraph (26) (as so re-*
18 *designated) the following:*

19 *“(27) STATE STRATEGIC HIGHWAY SAFETY*
20 *PLAN.—The term ‘State strategic highway safety*
21 *plan’ has the same meaning given such term in sec-*
22 *tion 148(a).”;*

23 *(13) by striking paragraph (29) (as so redesignated)*
24 *and inserting the following:*

1 “(29) *TRANSPORTATION ENHANCEMENT ACTIV-*
2 *ITY.*—*The term ‘transportation enhancement activity’*
3 *means any of the following activities when carried*
4 *out as part of any program or project authorized or*
5 *funded under this title, or as an independent program*
6 *or project related to surface transportation:*

7 “(A) *Provision of facilities for pedestrians*
8 *and bicycles.*

9 “(B) *Provision of safety and educational*
10 *activities for pedestrians and bicyclists.*

11 “(C) *Acquisition of scenic easements and*
12 *scenic or historic sites.*

13 “(D) *Scenic or historic highways and*
14 *bridges.*

15 “(E) *Vegetation management practices in*
16 *transportation rights-of-way and other activities*
17 *eligible under section 319.*

18 “(F) *Historic preservation, rehabilitation,*
19 *and operation of historic transportation build-*
20 *ings, structures, or facilities.*

21 “(G) *Preservation of abandoned railway*
22 *corridors, including the conversion and use of the*
23 *corridors for pedestrian or bicycle trails.*

24 “(H) *Inventory, control, and removal of*
25 *outdoor advertising.*

1 “(I) *Archaeological planning and research.*

2 “(J) *Any environmental mitigation activ-*
3 *ity, including pollution prevention and pollution*
4 *abatement activities and mitigation to—*

5 “(i) *address stormwater management,*
6 *control, and water pollution prevention or*
7 *abatement related to highway construction*
8 *or due to highway runoff, including activi-*
9 *ties described in sections 133(b)(11), 328(a),*
10 *and 329; or*

11 “(ii) *reduce vehicle-caused wildlife*
12 *mortality or to restore and maintain*
13 *connectivity among terrestrial or aquatic*
14 *habitats.”; and*

15 (14) *by inserting after paragraph (29) (as so re-*
16 *designated) the following:*

17 “(30) *TRANSPORTATION SYSTEMS MANAGEMENT*
18 *AND OPERATIONS.—*

19 “(A) *IN GENERAL.—The term ‘transpor-*
20 *tation systems management and operations’*
21 *means integrated strategies to optimize the per-*
22 *formance of existing infrastructure through the*
23 *implementation of multimodal and intermodal,*
24 *cross-jurisdictional systems, services, and projects*
25 *designed to preserve capacity and improve secu-*

1 *rity, safety, and reliability of the transportation*
2 *system.*

3 “(B) *INCLUSIONS.*—*The term ‘transportation systems management and operations’ includes—*

6 “(i) *actions such as traffic detection*
7 *and surveillance, corridor management,*
8 *freeway management, arterial management,*
9 *active transportation and demand manage-*
10 *ment, work zone management, emergency*
11 *management, traveler information services,*
12 *congestion pricing, parking management,*
13 *automated enforcement, traffic control, com-*
14 *mmercial vehicle operations, freight manage-*
15 *ment, and coordination of highway, rail,*
16 *transit, bicycle, and pedestrian operations;*
17 *and*

18 “(ii) *coordination of the implementa-*
19 *tion of regional transportation system man-*
20 *agement and operations investments (such*
21 *as traffic incident management, traveler in-*
22 *formation services, emergency management,*
23 *roadway weather management, intelligent*
24 *transportation systems, communication net-*
25 *works, and information sharing systems) re-*

1 *quiring agreements, integration, and inter-*
 2 *operability to achieve targeted system per-*
 3 *formance, reliability, safety, and customer*
 4 *service levels.*

5 “(31) *TRIBAL TRANSPORTATION FACILITY.*—*The*
 6 *term ‘tribal transportation facility’ means a public*
 7 *highway, road, bridge, trail, or transit system that is*
 8 *located on or provides access to tribal land and ap-*
 9 *pears on the national tribal transportation facility*
 10 *inventory described in section 202(b)(1).*

11 “(32) *TRUCK STOP ELECTRIFICATION SYSTEM.*—
 12 *The term ‘truck stop electrification system’ means a*
 13 *system that delivers heat, air conditioning, electricity,*
 14 *or communications to a heavy-duty vehicle.”.*

15 (b) *SENSE OF CONGRESS.*—*Section 101(c) of title 23,*
 16 *United States Code, is amended by striking “system” and*
 17 *inserting “highway”.*

18 **SEC. 1104. NATIONAL HIGHWAY SYSTEM.**

19 (a) *IN GENERAL.*—*Section 103 of title 23, United*
 20 *States Code, is amended to read as follows:*

21 **“§ 103. National highway system**

22 *“(a) IN GENERAL.—For the purposes of this title, the*
 23 *Federal-aid system is the National Highway System, which*
 24 *includes the Interstate System.*

25 *“(b) NATIONAL HIGHWAY SYSTEM.—*

1 “(1) *DESCRIPTION.*—*The National Highway*
2 *System consists of the highway routes and connections*
3 *to transportation facilities that shall—*

4 “(A) *serve major population centers, inter-*
5 *national border crossings, ports, airports, public*
6 *transportation facilities, and other intermodal*
7 *transportation facilities and other major travel*
8 *destinations;*

9 “(B) *meet national defense requirements;*
10 *and*

11 “(C) *serve interstate and interregional trav-*
12 *el and commerce.*

13 “(2) *COMPONENTS.*—*The National Highway*
14 *System described in paragraph (1) consists of the fol-*
15 *lowing:*

16 “(A) *The National Highway System de-*
17 *scribed on the map submitted by the Secretary of*
18 *Transportation to Congress with the report enti-*
19 *tled ‘Pulling Together: The National Highway*
20 *System and its Connections to Major Intermodal*
21 *Terminals’ and dated May 24, 1996, and modi-*
22 *fications approved by the Secretary before the*
23 *date of enactment of the MAP–21.*

24 “(B) *Other urban and rural principal arte-*
25 *rial routes, and border crossings on those routes,*

1 *that were not included on the National Highway*
2 *System before the date of enactment of the MAP–*
3 *21.*

4 “(C) *Other connector highways (including*
5 *toll facilities) that were not included in the Na-*
6 *tional Highway System before the date of enact-*
7 *ment of the MAP–21 but that provide motor ve-*
8 *hicle access between arterial routes on the Na-*
9 *tional Highway System and a major intermodal*
10 *transportation facility.*

11 “(D) *A strategic highway network that—*

12 “(i) *consists of a network of highways*
13 *that are important to the United States*
14 *strategic defense policy, that provide defense*
15 *access, continuity, and emergency capabili-*
16 *ties for the movement of personnel, mate-*
17 *rials, and equipment in both peacetime and*
18 *wartime, and that were not included on the*
19 *National Highway System before the date of*
20 *enactment of the MAP–21;*

21 “(ii) *may include highways on or off*
22 *the Interstate System; and*

23 “(iii) *shall be designated by the Sec-*
24 *retary, in consultation with appropriate*
25 *Federal agencies and the States.*

1 “(E) Major strategic highway network con-
2 nectors that—

3 “(i) consist of highways that provide
4 motor vehicle access between major military
5 installations and highways that are part of
6 the strategic highway network but were not
7 included on the National Highway System
8 before the date of enactment of the MAP-21;
9 and

10 “(ii) shall be designated by the Sec-
11 retary, in consultation with appropriate
12 Federal agencies and the States.

13 “(3) MODIFICATIONS TO NHS.—

14 “(A) IN GENERAL.—The Secretary may
15 make any modification, including any modifica-
16 tion consisting of a connector to a major inter-
17 modal terminal, to the National Highway Sys-
18 tem that is proposed by a State if the Secretary
19 determines that the modification—

20 “(i) meets the criteria established for
21 the National Highway System under this
22 title after the date of enactment of the
23 MAP-21; and

1 “(i) *enhances the national transpor-*
2 *tation characteristics of the National High-*
3 *way System.*

4 “(B) *COOPERATION.—*

5 “(i) *IN GENERAL.—In proposing a*
6 *modification under this paragraph, a State*
7 *shall cooperate with local and regional offi-*
8 *cials.*

9 “(ii) *URBANIZED AREAS.—In an ur-*
10 *banized area, the local officials shall act*
11 *through the metropolitan planning organi-*
12 *zation designated for the area under section*
13 *134.*

14 “(c) *INTERSTATE SYSTEM.—*

15 “(1) *DESCRIPTION.—*

16 “(A) *IN GENERAL.—The Dwight D. Eisen-*
17 *hower National System of Interstate and Defense*
18 *Highways within the United States (including*
19 *the District of Columbia and Puerto Rico) con-*
20 *sists of highways designed, located, and selected*
21 *in accordance with this paragraph.*

22 “(B) *DESIGN.—*

23 “(i) *IN GENERAL.—Except as provided*
24 *in clause (ii), highways on the Interstate*

1 *System shall be designed in accordance with*
2 *the standards of section 109(b).*

3 “(ii) *EXCEPTION.—Highways on the*
4 *Interstate System in Alaska and Puerto*
5 *Rico shall be designed in accordance with*
6 *such geometric and construction standards*
7 *as are adequate for current and probable fu-*
8 *ture traffic demands and the needs of the lo-*
9 *cality of the highway.*

10 “(C) *LOCATION.—Highways on the Inter-*
11 *state System shall be located so as—*

12 “(i) *to connect by routes, as direct as*
13 *practicable, the principal metropolitan*
14 *areas, cities, and industrial centers;*

15 “(ii) *to serve the national defense; and*

16 “(iii) *to the maximum extent prac-*
17 *ticable, to connect at suitable border points*
18 *with routes of continental importance in*
19 *Canada and Mexico.*

20 “(D) *SELECTION OF ROUTES.—To the max-*
21 *imum extent practicable, each route of the Inter-*
22 *state System shall be selected by joint action of*
23 *the State transportation departments of the State*
24 *in which the route is located and the adjoining*
25 *States, in cooperation with local and regional of-*

1 *officials, and subject to the approval of the Sec-*
2 *retary.*

3 “(2) *MAXIMUM MILEAGE.*—*The mileage of high-*
4 *ways on the Interstate System shall not exceed 43,000*
5 *miles, exclusive of designations under paragraph (4).*

6 “(3) *MODIFICATIONS.*—*The Secretary may ap-*
7 *prove or require modifications to the Interstate Sys-*
8 *tem in a manner consistent with the policies and pro-*
9 *cedures established under this subsection.*

10 “(4) *INTERSTATE SYSTEM DESIGNATIONS.*—

11 “(A) *ADDITIONS.*—*If the Secretary deter-*
12 *mines that a highway on the National Highway*
13 *System meets all standards of a highway on the*
14 *Interstate System and that the highway is a log-*
15 *ical addition or connection to the Interstate Sys-*
16 *tem, the Secretary may, upon the affirmative*
17 *recommendation of the State or States in which*
18 *the highway is located, designate the highway as*
19 *a route on the Interstate System.*

20 “(B) *DESIGNATIONS AS FUTURE INTER-*
21 *STATE SYSTEM ROUTES.*—

22 “(i) *IN GENERAL.*—*Subject to clauses*
23 *(ii) through (vi), if the Secretary determines*
24 *that a highway on the National Highway*
25 *System would be a logical addition or con-*

1 *nection to the Interstate System and would*
2 *qualify for designation as a route on the*
3 *Interstate System under subparagraph (A)*
4 *if the highway met all standards of a high-*
5 *way on the Interstate System, the Secretary*
6 *may, upon the affirmative recommendation*
7 *of the State or States in which the highway*
8 *is located, designate the highway as a future*
9 *Interstate System route.*

10 *“(ii) WRITTEN AGREEMENT.—A des-*
11 *ignation under clause (i) shall be made only*
12 *upon the written agreement of each State*
13 *described in that clause that the highway*
14 *will be constructed to meet all standards of*
15 *a highway on the Interstate System by not*
16 *later than the date that is 25 years after the*
17 *date of the agreement.*

18 *“(iii) FAILURE TO COMPLETE CON-*
19 *STRUCTION.—If a State described in clause*
20 *(i) has not substantially completed the con-*
21 *struction of a highway designated under*
22 *this subparagraph by the date specified in*
23 *clause (ii), the Secretary shall remove the*
24 *designation of the highway as a future*
25 *Interstate System route.*

1 “(iv) *EFFECT OF REMOVAL.*—Removal
2 of the designation of a highway under
3 clause (iii) shall not preclude the Secretary
4 from designating the highway as a route on
5 the Interstate System under subparagraph
6 (A) or under any other provision of law
7 providing for addition to the Interstate Sys-
8 tem.

9 “(v) *RETROACTIVE EFFECT.*—An
10 agreement described in clause (ii) that is
11 entered into before August 10, 2005, shall be
12 deemed to include the 25-year time limita-
13 tion described in that clause, regardless of
14 any earlier construction completion date in
15 the agreement.

16 “(vi) *REFERENCES.*—No law, rule, reg-
17 ulation, map, document, or other record of
18 the United States, or of any State or polit-
19 ical subdivision of a State, shall refer to
20 any highway designated as a future Inter-
21 state System route under this subpara-
22 graph, and no such highway shall be signed
23 or marked, as a highway on the Interstate
24 System, until such time as the highway—

1 “(I) is constructed to the geo-
2 metric and construction standards for
3 the Interstate System; and

4 “(II) has been designated as a
5 route on the Interstate System.

6 “(C) *FINANCIAL RESPONSIBILITY.*—*Except*
7 *as provided in this title, the designation of a*
8 *highway under this paragraph shall create no*
9 *additional Federal financial responsibility with*
10 *respect to the highway.*

11 “(5) *EXEMPTION OF INTERSTATE SYSTEM.*—

12 “(A) *IN GENERAL.*—*Except as provided in*
13 *subparagraph (B), the Interstate System shall*
14 *not be considered to be a historic site under sec-*
15 *tion 303 of title 49 or section 138 of this title,*
16 *regardless of whether the Interstate System or*
17 *portions or elements of the Interstate System are*
18 *listed on, or eligible for listing on, the National*
19 *Register of Historic Places.*

20 “(B) *INDIVIDUAL ELEMENTS.*—*Subject to*
21 *subparagraph (C)—*

22 “(i) *the Secretary shall determine,*
23 *through the administrative process estab-*
24 *lished for exempting the Interstate System*
25 *from section 106 of the National Historic*

1 *Preservation Act (16 U.S.C. 470f), those in-*
2 *dividual elements of the Interstate System*
3 *that possess national or exceptional historic*
4 *significance (such as a historic bridge or a*
5 *highly significant engineering feature); and*

6 *“(ii) those elements shall be considered*
7 *to be historic sites under section 303 of title*
8 *49 or section 138 of this title, as applicable.*

9 *“(C) CONSTRUCTION, MAINTENANCE, RES-*
10 *TORATION, AND REHABILITATION ACTIVITIES.—*
11 *Subparagraph (B) does not prohibit a State*
12 *from carrying out construction, maintenance,*
13 *preservation, restoration, or rehabilitation ac-*
14 *tivities for a portion of the Interstate System re-*
15 *ferred to in subparagraph (B) upon compliance*
16 *with section 303 of title 49 or section 138 of this*
17 *title, as applicable, and section 106 of the Na-*
18 *tional Historic Preservation Act (16 U.S.C.*
19 *470f).”.”*

20 ***(b) INCLUSION OF CERTAIN ROUTE SEGMENTS ON***
21 ***INTERSTATE SYSTEM.—***

22 ***(1) IN GENERAL.—Section 1105(e)(5)(A) of the***
23 ***Intermodal Surface Transportation Efficiency Act of***
24 ***1991 (105 Stat. 2031; 109 Stat. 597; 115 Stat. 872)***
25 ***is amended—***

1 (A) *in the first sentence, by striking “and*
 2 *in subsections (c)(18) and (c)(20)” and inserting*
 3 *“; in subsections (c)(18) and (c)(20), and in sub-*
 4 *paragraphs (A)(iii) and (B) of subsection*
 5 *(c)(26)”*; and

6 (B) *in the second sentence, by striking “that*
 7 *the segment” and all that follows through the pe-*
 8 *riod and inserting “that the segment meets the*
 9 *Interstate System design standards approved by*
 10 *the Secretary under section 109(b) of title 23,*
 11 *United States Code, and is planned to connect to*
 12 *an existing Interstate System segment by the*
 13 *date that is 25 years after the date of enactment*
 14 *of the MAP-21.”.*

15 (2) ROUTE DESIGNATION.—*Section*
 16 *1105(e)(5)(C)(i) of the Intermodal Surface Transpor-*
 17 *tation Efficiency Act of 1991 (105 Stat. 2032; 109*
 18 *Stat. 598) is amended by adding at the end the fol-*
 19 *lowing: “The routes referred to subparagraphs (A)(iii)*
 20 *and (B)(i) of subsection (c)(26) are designated as*
 21 *Interstate Route I-11.”.*

22 (c) CONFORMING AMENDMENTS.—

23 (1) ANALYSIS.—*The analysis for chapter 1 of*
 24 *title 23, United States Code, is amended by striking*

1 *the item relating to section 103 and inserting the fol-*
2 *lowing:*

“103. National highway system.”.

3 (2) *SECTION 113.—Section 113 of title 23,*
4 *United States Code, is amended—*

5 (A) *in subsection (a) by striking “the Fed-*
6 *eral-aid systems” and inserting “Federal-aid*
7 *highways”;* and

8 (B) *in subsection (b), in the first sentence,*
9 *by striking “of the Federal-aid systems” and in-*
10 *serting “Federal-aid highway”.*

11 (3) *SECTION 123.—Section 123(a) of title 23,*
12 *United States Code, is amended in the first sentence*
13 *by striking “Federal-aid system” and inserting “Fed-*
14 *eral-aid highway”.*

15 (4) *SECTION 217.—Section 217(b) of title 23,*
16 *United States Code, is amended in the subsection*
17 *heading by striking “NATIONAL HIGHWAY SYSTEM”*
18 *and inserting “NATIONAL HIGHWAY PERFORMANCE*
19 *PROGRAM”.*

20 (5) *SECTION 304.—Section 304 of title 23,*
21 *United States Code, is amended in the first sentence*
22 *by striking “the Federal-aid highway systems” and*
23 *inserting “Federal-aid highways”.*

1 (6) *SECTION 317.*—*Section 317(d) of title 23,*
2 *United States Code is amended by striking “system”*
3 *and inserting “highway”.*

4 **SEC. 1105. APPORTIONMENT.**

5 (a) *IN GENERAL.*—*Section 104 of title 23, United*
6 *States Code, is amended to read as follows:*

7 **“§ 104. Apportionment**

8 “(a) *ADMINISTRATIVE EXPENSES.*—

9 “(1) *IN GENERAL.*—*There are authorized to be*
10 *appropriated from the Highway Trust Fund (other*
11 *than the Mass Transit Account) to be made available*
12 *to the Secretary for administrative expenses of the*
13 *Federal Highway Administration \$480,000,000 for*
14 *each of fiscal years 2012 and 2013.*

15 “(2) *PURPOSES.*—*The amounts authorized to be*
16 *appropriated by this subsection shall be used—*

17 “(A) *to administer the provisions of law to*
18 *be funded from appropriations for the Federal-*
19 *aid highway program and programs authorized*
20 *under chapter 2;*

21 “(B) *to make transfers of such sums as the*
22 *Secretary determines to be appropriate to the*
23 *Appalachian Regional Commission for adminis-*
24 *trative activities associated with the Appa-*
25 *lachian development highway system; and*

1 “(C) to reimburse, as appropriate, the Of-
2 fice of Inspector General of the Department of
3 Transportation for the conduct of annual audits
4 of financial statements in accordance with sec-
5 tion 3521 of title 31.

6 “(3) AVAILABILITY.—The amounts made avail-
7 able under paragraph (1) shall remain available until
8 expended.

9 “(b) DIVISION OF STATE APPORTIONMENTS AMONG
10 PROGRAMS.—The Secretary shall distribute the amount ap-
11 portioned to a State for a fiscal year under subsection (c)
12 among the national highway performance program, the
13 transportation mobility program, the highway safety im-
14 provement program, the congestion mitigation and air
15 quality improvement program, and the national freight
16 program, and to carry out section 134 as follows:

17 “(1) NATIONAL HIGHWAY PERFORMANCE PRO-
18 GRAM.—For the national highway performance pro-
19 gram, 58 percent of the amount remaining after dis-
20 tributing amounts under paragraphs (4) and (6).

21 “(2) TRANSPORTATION MOBILITY PROGRAM.—
22 For the transportation mobility program, 29.3 per-
23 cent of the amount remaining after distributing
24 amounts under paragraphs (4) and (6).

1 “(3) *HIGHWAY SAFETY IMPROVEMENT PRO-*
2 *GRAM.—For the highway safety improvement pro-*
3 *gram, 7 percent of the amount remaining after dis-*
4 *tributing amounts under paragraphs (4) and (6).*

5 “(4) *CONGESTION MITIGATION AND AIR QUALITY*
6 *IMPROVEMENT PROGRAM.—For the congestion mitiga-*
7 *tion and air quality improvement program, an*
8 *amount determined by multiplying the amount deter-*
9 *mined for the State under subsection (c) by the pro-*
10 *portion that—*

11 “(A) *the amount apportioned to the State*
12 *for the congestion mitigation and air quality im-*
13 *provement program for fiscal year 2009, plus 10*
14 *percent of the amount apportioned to the State*
15 *for the surface transportation program for that*
16 *fiscal year; bears to*

17 “(B) *the total amount of funds apportioned*
18 *to the State for that fiscal year for the programs*
19 *referred to in section 105(a)(2) (except for the*
20 *high priority projects program referred to in sec-*
21 *tion 105(a)(2)(H)), as in effect on the day before*
22 *the date of enactment of the MAP-21.*

23 “(5) *NATIONAL FREIGHT PROGRAM.—For the na-*
24 *tional freight program, 5.7 percent of the amount re-*

1 *maintaining after distributing amounts under para-*
2 *graphs (4) and (6).*

3 “(6) *METROPOLITAN PLANNING.*—*To carry out*
4 *section 134, an amount determined by multiplying*
5 *the amount determined for the State under subsection*
6 *(c) by the proportion that—*

7 “(A) *the amount apportioned to the State to*
8 *carry out section 134 for fiscal year 2009; bears*
9 *to*

10 “(B) *the total amount of funds apportioned*
11 *to the State for that fiscal year for the programs*
12 *referred to in section 105(a)(2) (except for the*
13 *high priority projects program referred to in sec-*
14 *tion 105(a)(2)(H)), as in effect on the day before*
15 *the date of enactment of the MAP–21.*

16 “(c) *CALCULATION OF STATE AMOUNTS.*—

17 “(1) *STATE SHARE.*—*The amount for each State*
18 *of combined apportionments for the national highway*
19 *performance program under section 119, the transpor-*
20 *tation mobility program under section 133, the high-*
21 *way safety improvement program under section 148,*
22 *the congestion mitigation and air quality improve-*
23 *ment program under section 149, the national freight*
24 *program under section 167, and to carry out section*
25 *134 shall be determined as follows:*

1 “(A) *INITIAL AMOUNT.*—*The initial amount*
2 *for each State shall be determined by multi-*
3 *plying the total amount available for apporportion-*
4 *ment by the share for each State which shall be*
5 *equal to the proportion that—*

6 “(i) *the amount of apportionments and*
7 *allocations that the State received for fiscal*
8 *years 2005 through 2009; bears to*

9 “(ii) *the amount of those apporportion-*
10 *ments and allocations received by all States*
11 *for those fiscal years.*

12 “(B) *ADJUSTMENTS TO AMOUNTS.*—*The ini-*
13 *tial amounts resulting from the calculation*
14 *under subparagraph (A) shall be adjusted to en-*
15 *sure that, for each State, the amount of combined*
16 *apportionments for the programs shall not be less*
17 *than 95 percent of the estimated tax payments*
18 *attributable to highway users in the State paid*
19 *into the Highway Trust Fund (other than the*
20 *Mass Transit Account) in the most recent fiscal*
21 *year for which data are available.*

22 “(C) *FURTHER ADJUSTMENT FOR*
23 *PRIVATIZED HIGHWAYS.—*

24 “(i) *DEFINITION OF PRIVATIZED HIGH-*
25 *WAY.—In this subparagraph:*

1 “(I) *IN GENERAL.*—*The term*
2 *‘privatized highway’ means a highway*
3 *that was formerly a publically oper-*
4 *ated toll road that is subject to an*
5 *agreement giving a private entity—*

6 “(aa) *control over the oper-*
7 *ation of the highway; and*

8 “(bb) *ownership over the toll*
9 *revenues collected from the oper-*
10 *ation of the highway.*

11 “(II) *EXCLUSION.*—*The term*
12 *‘privatized highway’ does not include*
13 *any highway or toll road that was*
14 *originally—*

15 “(aa) *financed and con-*
16 *structed using private funds; and*

17 “(bb) *operated by a private*
18 *entity.*

19 “(ii) *ADJUSTMENT.*—*After making the*
20 *adjustments to the apportionment of a State*
21 *under subparagraphs (A) and (B), the Sec-*
22 *retary shall further adjust the amount to be*
23 *apportioned to the State by reducing the*
24 *apportionment by an amount equal to the*
25 *product obtained by multiplying—*

1 “(I) the amount to be apportioned
2 to the State, as so adjusted under those
3 subparagraphs; and

4 “(II) the percentage described in
5 clause (iii).

6 “(iii) *PERCENTAGE*.—The percentage
7 referred to in clause (ii) is the percentage
8 equal to the sum obtained by adding—

9 “(I) the product obtained by mul-
10 tiplying—

11 “(aa) $\frac{1}{2}$; and

12 “(bb) the proportion that—

13 “(AA) the total number
14 of lane miles on privatized
15 highway lanes on National
16 Highway System routes in a
17 State; bears to

18 “(BB) the total number
19 of all lane miles on National
20 Highway System routes in
21 the State; and

22 “(II) the product obtained by
23 multiplying—

24 “(aa) $\frac{1}{2}$; and

25 “(bb) the proportion that—

1 “(AA) the total number
2 of vehicle miles traveled on
3 privatized highway lanes on
4 National Highway System
5 routes in the State; bears to
6 “(BB) the total number
7 of vehicle miles traveled on
8 all lanes on National High-
9 way System routes in the
10 State.

11 “(iv) REAPPORTIONMENT.—An amount
12 withheld from apportionment to a State
13 under clause (ii) shall be reapportioned
14 among all other States based on the propor-
15 tions calculated under subparagraph (A).

16 “(2) STATE APPORTIONMENT.—On October 1 of
17 each fiscal year, the Secretary shall apportion the
18 sum authorized to be appropriated for expenditure on
19 the national highway performance program under
20 section 119, the transportation mobility program
21 under section 133, the highway safety improvement
22 program under section 148, the congestion mitigation
23 and air quality improvement program under section
24 149, the national freight program under section 167,

1 *and to carry out section 134 in accordance with*
2 *paragraph (1).*

3 “(d) *METROPOLITAN PLANNING.*—

4 “(1) *USE OF AMOUNTS.*—

5 “(A) *USE.*—

6 “(i) *IN GENERAL.*—*Except as provided*
7 *in clause (ii), the amounts apportioned to a*
8 *State under subsection (b)(6) shall be made*
9 *available by the State to the metropolitan*
10 *planning organizations responsible for car-*
11 *rying out section 134 in the State.*

12 “(ii) *STATES RECEIVING MINIMUM AP-*
13 *PORTIONMENT.*—*A State that received the*
14 *minimum apportionment for use in car-*
15 *rying out section 134 for fiscal year 2009*
16 *may, subject to the approval of the Sec-*
17 *retary, use the funds apportioned under*
18 *subsection (b)(6) to fund transportation*
19 *planning outside of urbanized areas.*

20 “(B) *UNUSED FUNDS.*—*Any funds that are*
21 *not used to carry out section 134 may be made*
22 *available by a metropolitan planning organiza-*
23 *tion to the State to fund activities under section*
24 *135.*

1 “(2) *DISTRIBUTION OF AMOUNTS WITHIN*
2 *STATES.*—

3 “(A) *IN GENERAL.*—*The distribution within*
4 *any State of the planning funds made available*
5 *to organizations under paragraph (1) shall be in*
6 *accordance with a formula that—*

7 “(i) *is developed by each State and ap-*
8 *proved by the Secretary; and*

9 “(ii) *takes into consideration, at a*
10 *minimum, population, status of planning,*
11 *attainment of air quality standards, metro-*
12 *politan area transportation needs, and*
13 *other factors necessary to provide for an ap-*
14 *propriate distribution of funds to carry out*
15 *section 134 and other applicable require-*
16 *ments of Federal law.*

17 “(B) *REIMBURSEMENT.*—*Not later than 15*
18 *business days after the date of receipt by a State*
19 *of a request for reimbursement of expenditures*
20 *made by a metropolitan planning organization*
21 *for carrying out section 134, the State shall re-*
22 *imburse, from amounts distributed under this*
23 *paragraph to the metropolitan planning organi-*
24 *zation by the State, the metropolitan planning*
25 *organization for those expenditures.*

1 “(3) *DETERMINATION OF POPULATION FIG-*
2 *URES.—For the purpose of determining population*
3 *figures under this subsection, the Secretary shall use*
4 *the latest available data from the decennial census*
5 *conducted under section 141(a) of title 13, United*
6 *States Code.*

7 “(e) *CERTIFICATION OF APPORTIONMENTS.—*

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

9 “(A) *on October 1 of each fiscal year, certify*
10 *to each of the State transportation departments*
11 *the amount that has been apportioned to the*
12 *State under this section for the fiscal year; and*

13 “(B) *to permit the States to develop ade-*
14 *quate plans for the use of amounts apportioned*
15 *under this section, advise each State of the*
16 *amount that will be apportioned to the State*
17 *under this section for a fiscal year not later than*
18 *90 days before the beginning of the fiscal year for*
19 *which the sums to be apportioned are authorized.*

20 “(2) *NOTICE TO STATES.—If the Secretary has*
21 *not made an apportionment under this section for a*
22 *fiscal year beginning after September 30, 1998, by*
23 *not later than the date that is the twenty-first day of*
24 *that fiscal year, the Secretary shall submit, by not*
25 *later than that date, to the Committee on Transpor-*

1 *tation and Infrastructure of the House of Representa-*
2 *tives and the Committee on Environment and Public*
3 *Works of the Senate, a written statement of the reason*
4 *for not making the apportionment in a timely man-*
5 *ner.*

6 “(3) *APPORTIONMENT CALCULATIONS.*—

7 “(A) *IN GENERAL.*—*The calculation of offi-*
8 *cial apportionments of funds to the States under*
9 *this title is a primary responsibility of the De-*
10 *partment and shall be carried out only by em-*
11 *ployees (and not contractors) of the Department.*

12 “(B) *PROHIBITION ON USE OF FUNDS TO*
13 *HIRE CONTRACTORS.*—*None of the funds made*
14 *available under this title shall be used to hire*
15 *contractors to calculate the apportionments of*
16 *funds to States.*

17 “(f) *TRANSFER OF HIGHWAY AND TRANSIT FUNDS.*—

18 “(1) *TRANSFER OF HIGHWAY FUNDS FOR TRAN-*
19 *SIT PROJECTS.*—

20 “(A) *IN GENERAL.*—*Subject to subpara-*
21 *graph (B), amounts made available for transit*
22 *projects or transportation planning under this*
23 *title may be transferred to and administered by*
24 *the Secretary in accordance with chapter 53 of*
25 *title 49.*

1 “(B) *NON-FEDERAL SHARE.*—*The provi-*
2 *sions of this title relating to the non-Federal*
3 *share shall apply to the amounts transferred*
4 *under subparagraph (A).*

5 “(2) *TRANSFER OF TRANSIT FUNDS FOR HIGH-*
6 *WAY PROJECTS.*—

7 “(A) *IN GENERAL.*—*Subject to subpara-*
8 *graph (B), amounts made available for highway*
9 *projects or transportation planning under chap-*
10 *ter 53 of title 49 may be transferred to and ad-*
11 *ministered by the Secretary in accordance with*
12 *this title.*

13 “(B) *NON-FEDERAL SHARE.*—*The provi-*
14 *sions of chapter 53 of title 49 relating to the*
15 *non-Federal share shall apply to amounts trans-*
16 *ferred under subparagraph (A).*

17 “(3) *TRANSFER OF FUNDS AMONG STATES OR TO*
18 *FEDERAL HIGHWAY ADMINISTRATION.*—

19 “(A) *IN GENERAL.*—*Subject to subpara-*
20 *graph (B), the Secretary may, at the request of*
21 *a State, transfer amounts apportioned or allo-*
22 *cated under this title to the State to another*
23 *State, or to the Federal Highway Administra-*
24 *tion, for the purpose of funding 1 or more*

1 *projects that are eligible for assistance with*
2 *amounts so apportioned or allocated.*

3 “(B) *APPORTIONMENT.*—*The transfer shall*
4 *have no effect on any apportionment of amounts*
5 *to a State under this section.*

6 “(C) *FUNDS SUBALLOCATED TO URBANIZED*
7 *AREAS.*—*Amounts that are apportioned or allo-*
8 *cated to a State under subsection (b)(3) (as in*
9 *effect on the day before the date of enactment of*
10 *the MAP-21) or subsection (b)(2) and attributed*
11 *to an urbanized area of a State with a popu-*
12 *lation of more than 200,000 individuals under*
13 *section 133(d) may be transferred under this*
14 *paragraph only if the metropolitan planning or-*
15 *ganization designated for the area concurs, in*
16 *writing, with the transfer request.*

17 “(4) *TRANSFER OF OBLIGATION AUTHORITY.*—
18 *Obligation authority for amounts transferred under*
19 *this subsection shall be transferred in the same man-*
20 *ner and amount as the amounts for the projects that*
21 *are transferred under this section.”*

22 “(g) *REPORT TO CONGRESS.*—*For each fiscal year, the*
23 *Secretary shall make available to the public, in a user-*
24 *friendly format via the Internet, a report that describes—*

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

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

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

10 “(4) the rates of obligation of funds apportioned
11 or set aside under this section, according to—

12 “(A) program;

13 “(B) funding category of subcategory;

14 “(C) type of improvement;

15 “(D) State; and

16 “(E) sub-State geographical area, including
17 urbanized and rural areas, on the basis of the
18 population of each such area.”.

19 (b) *CONFORMING AMENDMENT.*—Section 146(a) of
20 title 23, United States Code, is amended by striking “sec-
21 tions 104(b)(1) and 104(b)(3)” and inserting “section
22 104(b)(2)”.

23 **SEC. 1106. NATIONAL HIGHWAY PERFORMANCE PROGRAM.**

24 (a) *IN GENERAL.*—Section 119 of title 23, United
25 States Code, is amended to read as follows:

1 **“§ 119. National highway performance program**

2 “(a) *ESTABLISHMENT.*—*The Secretary shall establish*
3 *and implement a national highway performance program*
4 *under this section.*

5 “(b) *PURPOSES.*—*The purposes of the national high-*
6 *way performance program shall be—*

7 “(1) *to provide support for the condition and*
8 *performance of the National Highway System; and*

9 “(2) *to ensure that investments of Federal-aid*
10 *funds in highway construction are directed to support*
11 *progress toward the achievement of performance tar-*
12 *gets for infrastructure condition and performance.*

13 “(c) *ELIGIBLE FACILITIES.*—*Except as provided in*
14 *subsection (d), to be eligible for funding apportioned under*
15 *section 104(b)(1) to carry out this section, a facility shall*
16 *be located on the National Highway System, as defined in*
17 *section 103.*

18 “(d) *ELIGIBLE PROJECTS.*—*Funds apportioned to a*
19 *State to carry out the national highway performance pro-*
20 *gram may be obligated only for a project on an eligible fa-*
21 *cility that is—*

22 “(1) *a project, or is part of a program of*
23 *projects, supporting progress toward the achievement*
24 *of national performance goals for improving infra-*
25 *structure condition, safety, mobility, or freight move-*

1 *ment on the National Highway System and consistent*
2 *with sections 134 and 135; and*

3 *“(2) for 1 or more of the following purposes:*

4 *“(A) Construction, reconstruction, resur-*
5 *facing, restoration, rehabilitation, preservation,*
6 *or operational improvement of segments of the*
7 *National Highway System.*

8 *“(B) Construction, replacement (including*
9 *replacement with fill material), rehabilitation,*
10 *preservation, and protection (including scour*
11 *countermeasures, seismic retrofits, impact protec-*
12 *tion measures, security countermeasures, and*
13 *protection against extreme events) of bridges on*
14 *the National Highway System.*

15 *“(C) Construction, replacement (including*
16 *replacement with fill material), rehabilitation,*
17 *preservation, and protection (including impact*
18 *protection measures, security countermeasures,*
19 *and protection against extreme events) of tunnels*
20 *on the National Highway System.*

21 *“(D) Inspection and evaluation, as de-*
22 *scribed in section 144, of bridges and tunnels on*
23 *the National Highway System, and inspection*
24 *and evaluation of other highway infrastructure*
25 *assets on the National Highway System, includ-*

1 *ing signs and sign structures, earth retaining*
2 *walls, and drainage structures.*

3 *“(E) Training of bridge and tunnel inspec-*
4 *tors, as described in section 144.*

5 *“(F) Construction, rehabilitation, or re-*
6 *placement of existing ferry boats and ferry boat*
7 *facilities, including approaches, that connect*
8 *road segments of the National Highway System.*

9 *“(G) Construction, reconstruction, resur-*
10 *facing, restoration, rehabilitation, and preserva-*
11 *tion of, and operational improvements for, a*
12 *Federal-aid highway not on the National High-*
13 *way System, and construction of a transit*
14 *project eligible for assistance under chapter 53 of*
15 *title 49, if—*

16 *“(i) the highway project or transit*
17 *project is in the same corridor as, and in*
18 *proximity to, a fully access-controlled high-*
19 *way designated as a part of the National*
20 *Highway System;*

21 *“(ii) the construction or improvements*
22 *will reduce delays or produce travel time*
23 *savings on the fully access-controlled high-*
24 *way described in clause (i) and improve re-*
25 *gional traffic flow; and*

1 “(iii) the construction or improvements
2 are more cost-effective, as determined by
3 benefit-cost analysis, than an improvement
4 to the fully access-controlled highway de-
5 scribed in clause (i).

6 “(H) Bicycle transportation and pedestrian
7 walkways in accordance with section 217.

8 “(I) Highway safety improvements for seg-
9 ments of the National Highway System.

10 “(J) Capital and operating costs for traffic
11 and traveler information monitoring, manage-
12 ment, and control facilities and programs.

13 “(K) Development and implementation of a
14 State asset management plan for the National
15 Highway System in accordance with this section,
16 including data collection, maintenance, and inte-
17 gration and the cost associated with obtaining,
18 updating, and licensing software and equipment
19 required for risk-based asset management and
20 performance-based management.

21 “(L) Infrastructure-based intelligent trans-
22 portation systems capital improvements.

23 “(M) Environmental restoration and pollu-
24 tion abatement in accordance with section 328.

1 “(N) *Control of noxious weeds and aquatic*
2 *noxious weeds and establishment of native spe-*
3 *cies in accordance with section 329.*

4 “(O) *In accordance with all applicable Fed-*
5 *eral law (including regulations), participation*
6 *in natural habitat and wetlands mitigation ef-*
7 *forts relating to projects funded under this title,*
8 *which may include participation in natural*
9 *habitat and wetlands mitigation banks, contribu-*
10 *tions to statewide and regional efforts to con-*
11 *serve, restore, enhance, and create natural habi-*
12 *tats and wetlands, and development of statewide*
13 *and regional natural habitat and wetlands con-*
14 *servation and mitigation plans, including any*
15 *such banks, efforts, and plans developed in ac-*
16 *cordance with applicable Federal law (including*
17 *regulations), on the conditions that—*

18 “(i) *contributions to those mitigation*
19 *efforts may—*

20 “(I) *take place concurrent with or*
21 *in advance of project construction; and*

22 “(II) *occur in advance of project*
23 *construction only if the efforts are con-*
24 *sistent with all applicable requirements*
25 *of Federal law (including regulations)*

1 and State transportation planning
2 processes; and

3 “(ii) with respect to participation in a
4 natural habitat or wetland mitigation effort
5 relating to a project funded under this title
6 that has an impact that occurs within the
7 service area of a mitigation bank, preference
8 is given, to the maximum extent prac-
9 ticable, to the use of the mitigation bank if
10 the bank contains sufficient available cred-
11 its to offset the impact and the bank is ap-
12 proved in accordance with applicable Fed-
13 eral law (including regulations).

14 “(P) Replacement (including replacement
15 with fill material), rehabilitation, preservation,
16 and protection (including scour countermeasures,
17 seismic retrofits, impact protection measures, se-
18 curity countermeasures, and protection against
19 extreme events) of bridges on Federal-aid high-
20 ways (other than on the National Highway Sys-
21 tem).

22 “(e) *LIMITATION ON NEW CAPACITY.*—

23 “(1) *IN GENERAL.*—Except as provided in para-
24 graph (2), the maximum amount that a State may
25 obligate under this section for projects under subpara-

1 *graphs (G) and (P) of subsection (d)(2) and that is*
2 *attributable to the portion of the cost of any project*
3 *undertaken to expand the capacity of eligible facilities*
4 *on the National Highway System, in a case in which*
5 *the new capacity consists of 1 or more new travel*
6 *lanes that are not high-occupancy vehicle lanes, shall*
7 *not, in total, exceed 40 percent of the combined appor-*
8 *tionments of a State under section 104(b)(1) for the*
9 *most recent 3 consecutive years.*

10 “(2) *EXCEPTION.—Paragraph (1) shall not*
11 *apply to a project for the construction of auxiliary*
12 *lanes and turning lanes or widening of a bridge dur-*
13 *ing rehabilitation or replacement to meet current geo-*
14 *metric, construction, and structural standards for the*
15 *types and volumes of projected traffic over the design*
16 *life of the project.*

17 “(f) *STATE PERFORMANCE MANAGEMENT.—*

18 “(1) *IN GENERAL.—A State shall develop a risk-*
19 *based asset management plan for the National High-*
20 *way System to improve or preserve asset condition*
21 *and system performance.*

22 “(2) *PERFORMANCE DRIVEN PLAN.—A State*
23 *asset management plan shall include strategies lead-*
24 *ing to a program of projects that would make*
25 *progress toward achievement of the State targets for*

1 *asset condition and performance of the National*
2 *Highway System in accordance with paragraph (5)*
3 *and supporting the progress toward the achievement*
4 *of the national goals identified in section 150.*

5 “(3) *PLAN CONTENTS.—A State asset manage-*
6 *ment plan shall, at a minimum, be in a form that*
7 *the Secretary determines to be appropriate and in-*
8 *clude—*

9 “(A) *a summary listing of the pavement*
10 *and bridge assets on the National Highway Sys-*
11 *tem in the State, including a description of the*
12 *condition of those assets;*

13 “(B) *asset management objectives and meas-*
14 *ures;*

15 “(C) *performance gap identification;*

16 “(D) *lifecycle cost and risk management*
17 *analysis;*

18 “(E) *a financial plan; and*

19 “(F) *investment strategies.*

20 “(4) *STANDARDS AND MEASURES.—*

21 “(A) *IN GENERAL.—Subject to subpara-*
22 *graph (B), not later than 18 months after the*
23 *date of enactment of the MAP–21, the Secretary*
24 *shall, in consultation with State departments of*

1 *transportation and other stakeholders, estab-*
2 *lish—*

3 “(i) *minimum standards for States to*
4 *use in developing and operating pavement*
5 *management systems and bridge manage-*
6 *ment systems;*

7 “(ii) *measures for States to use to as-*
8 *sess—*

9 “(I) *the condition of pavements on*
10 *the Interstate system;*

11 “(II) *the condition of pavements*
12 *on the National Highway System (ex-*
13 *cluding the Interstate);*

14 “(III) *the condition of bridges on*
15 *the National Highway System;*

16 “(IV) *the performance of the*
17 *Interstate System; and*

18 “(V) *the performance of the Na-*
19 *tional Highway System (excluding the*
20 *Interstate System);*

21 “(iii) *the data elements that are nec-*
22 *essary to collect and maintain data, and a*
23 *standardized process for collection and shar-*
24 *ing of data with appropriate governmental*
25 *entities at the Federal, State, and local lev-*

1 *els (including metropolitan planning orga-*
2 *nizations), to carry out paragraph (5); and*

3 *“(iv) minimum levels for—*

4 *“(I) the condition of pavement on*
5 *the Interstate System; and*

6 *“(II) the condition of bridges on*
7 *the National Highway System.*

8 *“(B) STATE PARTICIPATION.—In carrying*
9 *out subparagraph (A), the Secretary shall—*

10 *“(i) provide States not less than 90*
11 *days to comment on any regulation pro-*
12 *posed by the Secretary under that subpara-*
13 *graph; and*

14 *“(ii) take into consideration any com-*
15 *ments of the States relating to a proposed*
16 *regulation received during that comment pe-*
17 *riod.*

18 *“(5) STATE PERFORMANCE TARGETS.—*

19 *“(A) ESTABLISHMENT OF TARGETS.—Not*
20 *later than 1 year after the date on which the*
21 *Secretary promulgates final regulations under*
22 *paragraph (4), each State, in consultation with*
23 *metropolitan planning organizations, shall estab-*
24 *lish targets that address each of the performance*
25 *measures identified in paragraph (4)(A)(ii).*

1 “(B) *PERIODIC UPDATES.*—*Each State shall*
2 *periodically update the targets established under*
3 *subparagraph (A).*

4 “(6) *REQUIREMENT FOR PLAN.*—*To obligate*
5 *funding apportioned under section 104(b)(1), each*
6 *State shall have in effect—*

7 “(A) *a risk-based asset management plan*
8 *for the National Highway System in accordance*
9 *with this section, developed through a process de-*
10 *veloped and approved by the Secretary; and*

11 “(B) *State targets that address the perform-*
12 *ance measures identified in paragraph (4)(B).*

13 “(7) *CERTIFICATION OF PLAN DEVELOPMENT*
14 *PROCESS.*—

15 “(A) *IN GENERAL.*—*Not later than 90 days*
16 *after the date on which a State submits a request*
17 *for approval of the process used by the State to*
18 *develop the State asset management plan for the*
19 *National Highway System, the Secretary shall—*

20 “(i) *review the process; and*

21 “(ii)(I) *certify that the process meets*
22 *the requirements established by the Sec-*
23 *retary; or*

1 “(II) deny certification and specify ac-
2 tions necessary for the State to take to cor-
3 rect deficiencies in the State process.

4 “(B) *RECERTIFICATION.*—Not less often
5 than every 4 years, the Secretary shall review
6 and recertify that the process used by a State to
7 develop and maintain the State asset manage-
8 ment plan for the National Highway System
9 meets the requirements for the process, as estab-
10 lished by the Secretary.

11 “(C) *OPPORTUNITY TO CURE.*—If the Sec-
12 retary denies certification under subparagraph
13 (A), the Secretary shall provide the State with—

14 “(i) not less than 90 days to cure the
15 deficiencies of the plan, during which time
16 period all penalties and other legal impacts
17 of a denial of certification shall be stayed;
18 and

19 “(ii) a written statement of the specific
20 actions the Secretary determines to be nec-
21 essary for the State to cure the plan.

22 “(8) *PERFORMANCE REPORTS.*—

23 “(A) *IN GENERAL.*—Not later than 4 years
24 after the date of enactment of the MAP-21 and

1 *biennially thereafter, a State shall submit to the*
2 *Secretary a report that describes—*

3 *“(i) the condition and performance of*
4 *the National Highway System in the State;*

5 *“(ii) progress in achieving State tar-*
6 *gets for each of the performance measures*
7 *for the National Highway System; and*

8 *“(iii) the effectiveness of the investment*
9 *strategy documented in the State asset man-*
10 *agement plan for the National Highway*
11 *System.*

12 *“(B) FAILURE TO ACHIEVE TARGETS.—A*
13 *State that does not achieve or make significant*
14 *progress toward achieving the targets of the State*
15 *for performance measures described in subpara-*
16 *graph (A)(ii) for 2 consecutive reports submitted*
17 *under this paragraph shall include in the next*
18 *report submitted a description of the actions the*
19 *State will undertake to achieve the targets.*

20 *“(9) PROCESS.—Not later than 18 months after*
21 *the date of enactment of the MAP–21, the Secretary*
22 *shall, by regulation and in consultation with State*
23 *departments of transportation, establish the process to*
24 *develop the State asset management plan described in*

1 *paragraph (1) and establish the standards and meas-*
2 *ures described in paragraph (4).*

3 “(g) *INTERSTATE SYSTEM AND NHS BRIDGE CONDI-*
4 *TIONS.—*

5 “(1) *CONDITION OF INTERSTATE SYSTEM.—*

6 “(A) *PENALTY.—If, during 2 consecutive re-*
7 *porting periods, the condition of the Interstate*
8 *System, excluding bridges on the Interstate Sys-*
9 *tem, in a State falls below the minimum condi-*
10 *tion level established by the Secretary under sub-*
11 *section (f)(4)(A)(iv), the State shall be required,*
12 *during the following fiscal year—*

13 “(i) *to obligate, from the amounts ap-*
14 *portioned to the State under section*
15 *104(b)(1), an amount that is not less than*
16 *the amount of funds apportioned to the*
17 *State for fiscal year 2009 under the Inter-*
18 *state maintenance program for the purposes*
19 *described in this section (as in effect on the*
20 *day before the date of enactment of the*
21 *MAP–21), except that for each year after*
22 *fiscal year 2013, the amount required to be*
23 *obligated under this clause shall be in-*
24 *creased by 2 percent over the amount re-*

1 *quired to be obligated in the previous fiscal*
2 *year; and*

3 “(ii) *to transfer, from the amounts ap-*
4 *portioned to the State under section*
5 *104(b)(2) (other than amounts suballocated*
6 *to metropolitan areas and other areas of the*
7 *State under section 133(d)) to the appor-*
8 *tionment of the State under section*
9 *104(b)(1), an amount equal to 10 percent of*
10 *the amount of funds apportioned to the*
11 *State for fiscal year 2009 under the Inter-*
12 *state maintenance program for the purposes*
13 *described in this section (as in effect on the*
14 *day before the date of enactment of the*
15 *MAP–21).*

16 “(B) *RESTORATION.*—*The obligation re-*
17 *quirement for the Interstate System in a State*
18 *required by subparagraph (A) for a fiscal year*
19 *shall remain in effect for each subsequent fiscal*
20 *year until such time as the condition of the*
21 *Interstate System in the State exceeds the min-*
22 *imum condition level established by the Sec-*
23 *retary under subsection (f)(4)(A)(iv).*

24 “(2) *CONDITION OF NHS BRIDGES.*—

1 “(A) *PENALTY.*—If, during 2 consecutive re-
2 porting periods, the condition of bridges on the
3 National Highway System in a State falls below
4 the minimum condition level established by the
5 Secretary under subsection (f)(4)(A)(iv), the
6 State shall be required, during the following fis-
7 cal year—

8 “(i) to obligate, from the amounts ap-
9 portioned to the State under section
10 104(b)(1), an amount for bridges on the Na-
11 tional Highway System that is not less
12 than 50 percent of the amount of funds ap-
13 portioned to the State for fiscal year 2009
14 under the highway bridge program for the
15 purposes described in section 144 (as in ef-
16 fect on the day before the date of enactment
17 of the MAP-21), except that for each year
18 after fiscal year 2013, the amount required
19 to be obligated under this clause shall be in-
20 creased by 2 percent over the amount re-
21 quired to be obligated in the previous fiscal
22 year; and

23 “(ii) to transfer, from the amounts ap-
24 portioned to the State under section
25 104(b)(2) (other than amounts suballocated

1 to metropolitan areas and other areas of the
2 State under section 133(d)) to the appor-
3 tionment of the State under section
4 104(b)(1), an amount equal to 10 percent of
5 the amount of funds apportioned to the
6 State for fiscal year 2009 under the high-
7 way bridge program for the purposes de-
8 scribed in section 144 (as in effect on the
9 day before the date of enactment of the
10 MAP-21).

11 “(B) *RESTORATION.*—The obligation re-
12 quirement for bridges on the National Highway
13 System in a State required by subparagraph (A)
14 for a fiscal year shall remain in effect for each
15 subsequent fiscal year until such time as the con-
16 dition of bridges on the National Highway Sys-
17 tem in the State exceeds the minimum condition
18 level established by the Secretary under sub-
19 section (f)(4)(A)(iv).”.

20 (b) *TRANSITION PERIOD.*—

21 (1) *IN GENERAL.*—Except as provided in para-
22 graph (2), until such date as a State has in effect an
23 approved asset management plan and has established
24 performance targets as described in section 119 of
25 title 23, United States Code, that will contribute to

1 *achieving the national goals for the condition and*
2 *performance of the National Highway System, but*
3 *not later than 18 months after the date on which the*
4 *Secretary promulgates final regulations required*
5 *under section 119(f)(4) of that title, the Secretary*
6 *shall approve obligations of funds apportioned to a*
7 *State to carry out the national highway performance*
8 *program under section 119 of that title, for projects*
9 *that otherwise meet the requirements of that section.*

10 (2) *EXTENSION.*—*The Secretary may extend the*
11 *transition period for a State under paragraph (1) if*
12 *the Secretary determines that the State has made a*
13 *good faith effort to establish an asset management*
14 *plan and performance targets referred to in that*
15 *paragraph.*

16 (c) *CONFORMING AMENDMENT.*—*The analysis for*
17 *chapter 1 of title 23, United States Code, is amended by*
18 *striking the item relating to section 119 and inserting the*
19 *following:*

 “119. National highway performance program.”.

20 **SEC. 1107. EMERGENCY RELIEF.**

21 Section 125 of title 23, United States Code, is amended
22 to read as follows:

23 **“§ 125. Emergency relief**

24 “(a) *IN GENERAL.*—*Subject to this section and section*
25 *120, an emergency fund is authorized for expenditure by*

1 *the Secretary for the repair or reconstruction of highways,*
2 *roads, and trails, in any area of the United States, includ-*
3 *ing Indian reservations, that the Secretary finds have suf-*
4 *fered serious damage as a result of—*

5 “(1) *a natural disaster over a wide area, such as*
6 *by a flood, hurricane, tidal wave, earthquake, severe*
7 *storm, or landslide; or*

8 “(2) *catastrophic failure from any external*
9 *cause.*

10 “(b) *RESTRICTION ON ELIGIBILITY.—*

11 “(1) *DEFINITION OF CONSTRUCTION PHASE.—In*
12 *this subsection, the term ‘construction phase’ means*
13 *the phase of physical construction of a highway or*
14 *bridge facility that is separate from any other identi-*
15 *fied phases, such as planning, design, or right-of-way*
16 *phases, in the State transportation improvement pro-*
17 *gram.*

18 “(2) *RESTRICTION.—In no case shall funds be*
19 *used under this section for the repair or reconstruc-*
20 *tion of a bridge—*

21 “(A) *that has been permanently closed to all*
22 *vehicular traffic by the State or responsible local*
23 *official because of imminent danger of collapse*
24 *due to a structural deficiency or physical dete-*
25 *rioration; or*

1 “(B) if a construction phase of a replace-
2 ment structure is included in the approved
3 Statewide transportation improvement program
4 at the time of an event described in subsection
5 (a).

6 “(c) FUNDING.—

7 “(1) IN GENERAL.—Subject to the limitations de-
8 scribed in paragraph (2), there are authorized to be
9 appropriated from the Highway Trust Fund (other
10 than the Mass Transit Account) such sums as are nec-
11 essary to establish the fund authorized by this section
12 and to replenish that fund on an annual basis.

13 “(2) LIMITATIONS.—The limitations referred to
14 in paragraph (1) are that—

15 “(A) not more than \$100,000,000 is author-
16 ized to be obligated in any 1 fiscal year com-
17 mencing after September 30, 1980, to carry out
18 this section, except that, if for any fiscal year the
19 total of all obligations under this section is less
20 than the amount authorized to be obligated for
21 the fiscal year, the unobligated balance of that
22 amount shall—

23 “(i) remain available until expended;
24 and

1 “(ii) be in addition to amounts other-
2 wise available to carry out this section for
3 each year; and

4 “(B)(i) pending such appropriation or re-
5 plenishment, the Secretary may obligate from
6 any funds appropriated at any time for obliga-
7 tion in accordance with this title, including ex-
8 isting Federal-aid appropriations, such sums as
9 are necessary for the immediate prosecution of
10 the work herein authorized; and

11 “(i) funds obligated under this subpara-
12 graph shall be reimbursed from the appropria-
13 tion or replenishment.

14 “(d) *ELIGIBILITY.*—

15 “(1) *IN GENERAL.*—The Secretary may expend
16 funds from the emergency fund authorized by this sec-
17 tion only for the repair or reconstruction of highways
18 on Federal-aid highways in accordance with this
19 chapter, except that—

20 “(A) no funds shall be so expended unless
21 an emergency has been declared by the Governor
22 of the State with concurrence by the Secretary,
23 unless the President has declared the emergency
24 to be a major disaster for the purposes of the
25 Robert T. Stafford Disaster Relief and Emer-

1 *gency Assistance Act (42 U.S.C. 5121 et seq.) for*
2 *which concurrence of the Secretary is not re-*
3 *quired; and*

4 “(B) *the Secretary has received an applica-*
5 *tion from the State transportation department*
6 *that includes a comprehensive list of all eligible*
7 *project sites and repair costs by not later than*
8 *2 years after the natural disaster or catastrophic*
9 *failure.*

10 “(2) *COST LIMITATION.—*

11 “(A) *DEFINITION OF COMPARABLE FACIL-*
12 *ITY.—In this paragraph, the term ‘comparable*
13 *facility’ means a facility that meets the current*
14 *geometric and construction standards required*
15 *for a facility of comparable capacity and char-*
16 *acter to the destroyed facility, except a bridge fa-*
17 *facility which may be constructed for the type and*
18 *volume of traffic that the bridge will carry over*
19 *its design life.*

20 “(B) *LIMITATION.—The total cost of a*
21 *project funded under this section may not exceed*
22 *the cost of repair or reconstruction of a com-*
23 *parable facility.*

24 “(3) *TERRITORIES.—The total obligations for*
25 *projects under this section for any fiscal year in the*

1 *Virgin Islands, Guam, American Samoa, and the*
2 *Commonwealth of the Northern Mariana Islands shall*
3 *not exceed \$20,000,000.*

4 “(4) *SUBSTITUTE TRAFFIC.*—*Notwithstanding*
5 *any other provision of this section, actual and nec-*
6 *essary costs of maintenance and operation of ferry-*
7 *boats or additional transit service providing tem-*
8 *porary substitute highway traffic service, less the*
9 *amount of fares charged for comparable service, may*
10 *be expended from the emergency fund authorized by*
11 *this section for Federal-aid highways.*

12 “(e) *TRIBAL TRANSPORTATION FACILITIES, FEDERAL*
13 *LANDS TRANSPORTATION FACILITIES, AND PUBLIC ROADS*
14 *ON FEDERAL LANDS.*—

15 “(1) *DEFINITION OF OPEN TO PUBLIC TRAVEL.*—
16 *In this subsection, the term ‘open to public travel’*
17 *means, with respect to a road, that, except during*
18 *scheduled periods, extreme weather conditions, or*
19 *emergencies, the road is open to the general public for*
20 *use with a standard passenger vehicle, without re-*
21 *strictive gates or prohibitive signs or regulations,*
22 *other than for general traffic control or restrictions*
23 *based on size, weight, or class of registration.*

24 “(2) *EXPENDITURE OF FUNDS.*—*Notwith-*
25 *standing subsection (d)(1), the Secretary may expend*

1 *funds from the emergency fund authorized by this sec-*
2 *tion, independently or in cooperation with any other*
3 *branch of the Federal Government, a State agency, a*
4 *tribal government, an organization, or a person, for*
5 *the repair or reconstruction of tribal transportation*
6 *facilities, Federal lands transportation facilities, and*
7 *other federally owned roads that are open to public*
8 *travel, whether or not those facilities are Federal-aid*
9 *highways.*

10 *“(3) REIMBURSEMENT.—*

11 *“(A) IN GENERAL.—The Secretary may re-*
12 *imburse Federal and State agencies (including*
13 *political subdivisions) for expenditures made for*
14 *projects determined eligible under this section,*
15 *including expenditures for emergency repairs*
16 *made before a determination of eligibility.*

17 *“(B) TRANSFERS.—With respect to reim-*
18 *bursments described in subparagraph (A)—*

19 *“(i) those reimbursements to Federal*
20 *agencies and Indian tribal governments*
21 *shall be transferred to the account from*
22 *which the expenditure was made, or to a*
23 *similar account that remains available for*
24 *obligation; and*

1 “(ii) the budget authority associated
2 with the expenditure shall be restored to the
3 agency from which the authority was de-
4 rived and shall be available for obligation
5 until the end of the fiscal year following the
6 year in which the transfer occurs.

7 “(f) *TREATMENT OF TERRITORIES.*—For purposes of
8 this section, the Virgin Islands, Guam, American Samoa,
9 and the Commonwealth of the Northern Mariana Islands
10 shall be considered to be States and parts of the United
11 States, and the chief executive officer of each such territory
12 shall be considered to be a Governor of a State.

13 “(g) *PROTECTING PUBLIC SAFETY AND MAINTAINING*
14 *ROADWAYS.*—The Secretary may use amounts from the
15 emergency fund authorized by this section to carry out
16 projects that the Secretary determines are necessary to pro-
17 tect public safety or to maintain or protect roadways that
18 have been included within the scope of a prior emergency
19 declaration in order to maintain the continuation of road-
20 way services on roads that are threatened by continuous
21 or frequent flooding.”.

22 **SEC. 1108. TRANSPORTATION MOBILITY PROGRAM.**

23 “(a) *IN GENERAL.*—Section 133 of title 23, United
24 States Code, is amended to read as follows:

1 **“§ 133. Transportation mobility program**

2 “(a) *ESTABLISHMENT.*—*The Secretary shall establish*
3 *and implement a transportation mobility program under*
4 *this section.*

5 “(b) *PURPOSE.*—*The purpose of the transportation*
6 *mobility program shall be to assist States and localities in*
7 *improving the conditions and performance on Federal-aid*
8 *highways and on bridges on any public road.*

9 “(c) *ELIGIBLE PROJECTS.*—*Funds apportioned under*
10 *section 104(b)(2) to carry out the transportation mobility*
11 *program may be obligated for any of following purposes:*

12 “(1) *Construction, reconstruction, rehabilitation,*
13 *resurfacing, restoration, preservation, or operational*
14 *improvements for highways, including construction of*
15 *designated routes of the Appalachian development*
16 *highway system and local access roads under section*
17 *14501 of title 40, United States Code.*

18 “(2) *Replacement (including replacement with*
19 *fill material), rehabilitation, preservation, protection*
20 *(including painting, scour countermeasures, seismic*
21 *retrofits, impact protection measures, security coun-*
22 *termeasures, and protection against extreme events)*
23 *and application of calcium magnesium acetate, so-*
24 *dium acetate/formate, or other environmentally ac-*
25 *ceptable, minimally corrosive anti-icing and deicing*
26 *compositions for bridges (and approaches to bridges*

1 *and other elevated structures) and tunnels on public*
2 *roads of all functional classifications, including any*
3 *such construction or reconstruction necessary to ac-*
4 *commodate other transportation modes.*

5 *“(3) Construction of a new bridge or tunnel on*
6 *a new location on a highway, including any such*
7 *construction necessary to accommodate other trans-*
8 *portation modes.*

9 *“(4) Inspection and evaluation (within the*
10 *meaning of section 144) of bridges and tunnels on*
11 *public roads of all functional classifications and in-*
12 *spection and evaluation of other highway infrastruc-*
13 *ture assets, including signs and sign structures, re-*
14 *taining walls, and drainage structures.*

15 *“(5) Training of bridge and tunnel inspectors*
16 *(within the meaning of section 144).*

17 *“(6) Capital costs for transit projects eligible for*
18 *assistance under chapter 53 of title 49, including ve-*
19 *hicles and facilities, whether publicly or privately*
20 *owned, that are used to provide intercity passenger*
21 *service by bus.*

22 *“(7) Carpool projects, fringe and corridor park-*
23 *ing facilities and programs, including electric vehicle*
24 *infrastructure in accordance with section 137, bicycle*
25 *transportation and pedestrian walkways in accord-*

1 *ance with section 217, and the modification of public*
2 *sidewalks to comply with the Americans with Disabil-*
3 *ities Act of 1990 (42 U.S.C. 12101 et seq.).*

4 *“(8) Highway and transit safety infrastructure*
5 *improvements and programs, installation of safety*
6 *barriers and nets on bridges, hazard eliminations,*
7 *projects to mitigate hazards caused by wildlife, and*
8 *railway-highway grade crossings.*

9 *“(9) Highway and transit research and develop-*
10 *ment and technology transfer programs.*

11 *“(10) Capital and operating costs for traffic and*
12 *traveler information monitoring, management, and*
13 *control facilities and programs, including truck stop*
14 *electrification systems.*

15 *“(11) Projects and strategies designed to support*
16 *congestion pricing, including electronic toll collection*
17 *and travel demand management strategies and pro-*
18 *grams.*

19 *“(12) Surface transportation planning.*

20 *“(13) Transportation enhancement activities.*

21 *“(14) Recreational trails projects eligible for*
22 *funding under section 206.*

23 *“(15) Construction of ferry boats and ferry ter-*
24 *minal facilities eligible for funding under section*
25 *129(c).*

1 “(16) *Border infrastructure projects eligible for*
2 *funding under section 1303 of the SAFETEA-LU*
3 *(Public Law 109–59).*

4 “(17) *Projects, programs, and technical assist-*
5 *ance associated with National Scenic Byways, All-*
6 *American Roads, and America’s Byways eligible for*
7 *funding under section 162.*

8 “(18) *Truck parking facilities eligible for fund-*
9 *ing under section 1401 of the MAP–21.*

10 “(19) *Safe routes to school projects eligible for*
11 *funding under section 1404 of the SAFETEA-LU (23*
12 *U.S.C. 402 note; Public Law 109–59).*

13 “(20) *Transportation control measures described*
14 *in section 108(f)(1)(A) of the Clean Air Act (42*
15 *U.S.C. 7408(f)(1)(A)), other than section*
16 *108(f)(1)(A)(xvi) of that Act.*

17 “(21) *Development and implementation of a*
18 *State asset management plan for the National High-*
19 *way System in accordance with section 119, includ-*
20 *ing data collection, maintenance, and integration and*
21 *the costs associated with obtaining, updating, and li-*
22 *censing software and equipment required for risk-*
23 *based asset management and performance-based man-*
24 *agement, and for similar activities relating to the de-*

1 *velopment and implementation of a performance-*
2 *based management program for other public roads.*

3 “(22) *In accordance with all applicable Federal*
4 *law (including regulations), participation in natural*
5 *habitat and wetlands mitigation efforts relating to*
6 *projects funded under this title, which may include*
7 *participation in natural habitat and wetlands miti-*
8 *gation banks, contributions to statewide and regional*
9 *efforts to conserve, restore, enhance, and create nat-*
10 *ural habitats and wetlands, and development of state-*
11 *wide and regional natural habitat and wetlands con-*
12 *servation and mitigation plans, including any such*
13 *banks, efforts, and plans developed in accordance with*
14 *applicable Federal law (including regulations), on the*
15 *conditions that—*

16 “(A) *contributions to those mitigation ef-*
17 *forts may—*

18 “(i) *take place concurrent with or in*
19 *advance of project construction; and*

20 “(ii) *occur in advance of project con-*
21 *struction only if the efforts are consistent*
22 *with all applicable requirements of Federal*
23 *law (including regulations) and State*
24 *transportation planning processes; and*

1 “(B) *with respect to participation in a nat-*
2 *ural habitat or wetland mitigation effort relating*
3 *to a project funded under this title that has an*
4 *impact that occurs within the service area of a*
5 *mitigation bank, preference is given, to the max-*
6 *imum extent practicable, to the use of the miti-*
7 *gation bank if the bank contains sufficient avail-*
8 *able credits to offset the impact and the bank is*
9 *approved in accordance with applicable Federal*
10 *law (including regulations).*

11 “(23) *Infrastructure-based intelligent transpor-*
12 *tation systems capital improvements.*

13 “(24) *Environmental restoration and pollution*
14 *abatement in accordance with section 328.*

15 “(25) *Control of noxious weeds and aquatic nox-*
16 *ious weeds and establishment of native species in ac-*
17 *cordance with section 329.*

18 “(26) *Improvements to a freight railroad, ma-*
19 *rine highway, or intermodal facility, but only to the*
20 *extent that the Secretary concurs with the State*
21 *that—*

22 “(A) *the project will make significant im-*
23 *provement to freight movements on the national*
24 *freight network;*

1 “(B) *the public benefit of the project exceeds*
2 *the Federal investment; and*

3 “(C) *the project provides a better return*
4 *than a highway project on a segment of the pri-*
5 *mary freight network, except that a State may*
6 *not obligate in excess of 5 percent of funds ap-*
7 *portioned to the State under section 104(b)(2) to*
8 *carry out this section for that purpose.*

9 “(27) *Maintenance of and improvements to all*
10 *public roads, including non-State-owned public roads*
11 *and roads on tribal land—*

12 “(A) *that are located within 10 miles of the*
13 *international border between the United States*
14 *and Canada or Mexico; and*

15 “(B) *on which federally owned vehicles com-*
16 *prise more than 50 percent of the traffic.*

17 “(28) *Construction, reconstruction, resurfacing,*
18 *restoration, rehabilitation, and preservation of, and*
19 *operational improvements for, any public road if—*

20 “(A) *the public road, and the highway*
21 *project to be carried out with respect to the pub-*
22 *lic road, are in the same corridor as, and in*
23 *proximity to—*

1 “(i) a fully access-controlled highway
2 designated as a part of the National High-
3 way System; or

4 “(ii) in areas with a population of less
5 than 200,000, a federal-aid highway des-
6 ignated as part of the National Highway
7 System;

8 “(B) the construction or improvements will
9 enhance the level of service on the highway de-
10 scribed in subparagraph (A) and improve re-
11 gional traffic flow; and

12 “(C) the construction or improvements are
13 more cost-effective, as determined by benefit-cost
14 analysis, than an improvement to the highway
15 described in subparagraph (A).

16 “(d) ALLOCATIONS OF APPORTIONED FUNDS TO
17 AREAS BASED ON POPULATION.—

18 “(1) CALCULATION.—Of the funds apportioned to
19 a State under section 104(b)(2)—

20 “(A) 50 percent for a fiscal year shall be ob-
21 ligated under this section, in proportion to their
22 relative shares of the population of the State—

23 “(i) in urbanized areas of the State
24 with an urbanized area population of over
25 200,000;

1 “(ii) in areas of the State other than
2 urban areas with a population greater than
3 5,000; and

4 “(iii) in other areas of the State; and
5 “(B) 50 percent may be obligated in any
6 area of the State.

7 “(2) METROPOLITAN AREAS.—Funds attributed
8 to an urbanized area under subparagraph (A)(i) may
9 be obligated in the metropolitan area established
10 under section 134 that encompasses the urbanized
11 area.

12 “(3) DISTRIBUTION AMONG URBANIZED AREAS
13 OF OVER 200,000 POPULATION.—

14 “(A) IN GENERAL.—Except as provided in
15 subparagraph (B), the amount of funds that a
16 State is required to obligate under paragraph
17 (1)(A)(i) shall be obligated in urbanized areas
18 described in paragraph (1)(A)(i) based on the
19 relative population of the areas.

20 “(B) OTHER FACTORS.—The State may ob-
21 ligate the funds described in subparagraph (A)
22 based on other factors if the State and the rel-
23 evant metropolitan planning organizations joint-
24 ly apply to the Secretary for the permission to

1 *base the obligation on other factors and the Sec-*
2 *retary grants the request.*

3 “(e) *LOCATION OF PROJECTS.—Except as provided in*
4 *subsection (g) and for projects described in paragraphs (2),*
5 *(4), (7), (8), (13), (14), and (19) of subsection (c), for local*
6 *access roads under section 14501 of title 40, United States*
7 *Code, transportation mobility program projects may not be*
8 *undertaken on roads functionally classified as local or rural*
9 *minor collectors.*

10 “(f) *APPLICABILITY OF PLANNING REQUIREMENTS.—*
11 *Programming and expenditure of funds for projects under*
12 *this section shall be consistent with sections 134 and 135.*

13 “(g) *BRIDGES NOT ON FEDERAL-AID HIGHWAYS.—*

14 “(1) *DEFINITION OF OFF-SYSTEM BRIDGE.—The*
15 *term ‘off-system bridge’ means a highway bridge lo-*
16 *cated on a public road, other than a bridge on a Fed-*
17 *eral-aid highway.*

18 “(2) *SPECIAL RULE.—*

19 “(A) *SET-ASIDE.—Of the amounts appor-*
20 *tioned to a State for fiscal year 2012 and each*
21 *fiscal year thereafter under this section, the State*
22 *shall obligate for activities described in sub-*
23 *section (c)(2) for off-system bridges an amount*
24 *that is not less than 15 percent of the amount of*

1 *funds apportioned to the State for the highway*
2 *bridge program for fiscal year 2009.*

3 “(B) *REDUCTION OF EXPENDITURES.*—*The*
4 *Secretary, after consultation with State and*
5 *local officials, may reduce the requirement for*
6 *expenditures for off-system bridges under sub-*
7 *paragraph (A) with respect to the State if the*
8 *Secretary determines that the State has inad-*
9 *equately needs to justify the expenditure.*

10 “(3) *CREDIT FOR BRIDGES NOT ON FEDERAL-AID*
11 *HIGHWAYS.*—*Notwithstanding any other provision of*
12 *law, with respect to any project not on a Federal-aid*
13 *highway for the replacement of a bridge or rehabilita-*
14 *tion of a bridge that is wholly funded from State and*
15 *local sources, is eligible for Federal funds under this*
16 *section, is noncontroversial, is certified by the State*
17 *to have been carried out in accordance with all stand-*
18 *ards applicable to such projects under this section,*
19 *and is determined by the Secretary upon completion*
20 *to be no longer a deficient bridge—*

21 “(A) *any amount expended after the date of*
22 *enactment of this subsection from State and local*
23 *sources for the project in excess of 20 percent of*
24 *the cost of construction of the project may be*
25 *credited to the non-Federal share of the cost of*

1 *other bridge projects in the State that are eligible*
2 *for Federal funds under this section; and*

3 *“(B) that crediting shall be conducted in ac-*
4 *cordance with procedures established by the Sec-*
5 *retary.”*

6 *“(h) ADMINISTRATION.—*

7 *“(1) SUBMISSION OF PROJECT AGREEMENT.—*
8 *For each fiscal year, each State shall submit a project*
9 *agreement that—*

10 *“(A) certifies that the State will meet all the*
11 *requirements of this section; and*

12 *“(B) notifies the Secretary of the amount of*
13 *obligations needed to carry out the program*
14 *under this section.*

15 *“(2) REQUEST FOR ADJUSTMENTS OF*
16 *AMOUNTS.—Each State shall request from the Sec-*
17 *retary such adjustments to the amount of obligations*
18 *referred to in paragraph (1)(B) as the State deter-*
19 *mines to be necessary.*

20 *“(3) EFFECT OF APPROVAL BY THE SEC-*
21 *RETARY.—Approval by the Secretary of a project*
22 *agreement under paragraph (1) shall be deemed a*
23 *contractual obligation of the United States to pay*
24 *transportation mobility program funds made avail-*
25 *able under this title.*

1 “(i) *OBLIGATION AUTHORITY.*—

2 “(1) *IN GENERAL.*—A State that is required to
3 obligate, in an urbanized area with an urbanized
4 area population of over 200,000 individuals under
5 subsection (d), funds apportioned to the State under
6 section 104(b)(2) shall make available during the fis-
7 cal year an amount of obligation authority distrib-
8 uted to the State for Federal-aid highways and high-
9 way safety construction programs for use in the area
10 that is equal to the product obtained by multi-
11 plying—

12 “(A) the aggregate amount of funds that the
13 State is required to obligate in the area under
14 subsection (d) during the period; and

15 “(B) the ratio that—

16 “(i) the aggregate amount of obligation
17 authority distributed to the State for Fed-
18 eral-aid highways and highway safety con-
19 struction programs during the period; bears
20 to

21 “(ii) the total of the sums apportioned
22 to the State for Federal-aid highways and
23 highway safety construction programs (ex-
24 cluding sums not subject to an obligation
25 limitation) during the period.

1 “(2) *JOINT RESPONSIBILITY.*—*Each State, each*
2 *affected metropolitan planning organization, and the*
3 *Secretary shall jointly ensure compliance with para-*
4 *graph (1).”.*

5 (b) *CONFORMING AMENDMENT.*—*The analysis for*
6 *chapter 1 of title 23, United States Code, is amended by*
7 *striking the item relating to section 133 and inserting the*
8 *following:*

 “133. *Transportation mobility program.*”.

9 **SEC. 1109. WORKFORCE DEVELOPMENT.**

10 (a) *ON-THE-JOB TRAINING.*—*Section 140(b) of title 23,*
11 *United States Code, is amended—*

12 (1) *by striking “Whenever apportionments are*
13 *made under section 104(b)(3),” and inserting “From*
14 *administrative funds made available under section*
15 *104(a),”; and*

16 (2) *by striking “the surface transportation pro-*
17 *gram under section 104(b) and the bridge program*
18 *under section 144” and inserting “the transportation*
19 *mobility program under section 104(b).”.*

20 (b) *DISADVANTAGED BUSINESS ENTERPRISE.*—*Sec-*
21 *tion 140(c) of title 23, United States Code, is amended by*
22 *striking “Whenever apportionments are made under section*
23 *104(b)(3),” and inserting “From administrative funds*
24 *made available under section 104(a),”.*

1 **SEC. 1110. HIGHWAY USE TAX EVASION PROJECTS.**

2 *Section 143 of title 23, United States Code, is amend-*
3 *ed—*

4 *(1) in subsection (b)—*

5 *(A) by striking paragraph (2) and inserting*
6 *the following:*

7 *“(2) FUNDING.—*

8 *“(A) IN GENERAL.—From administrative*
9 *funds made available under section 104(a), the*
10 *Secretary shall deduct such sums as are nec-*
11 *essary, not to exceed \$10,000,000 for each of fis-*
12 *cal years 2012 and 2013, to carry out this sec-*
13 *tion.*

14 *“(B) ALLOCATION OF FUNDS.—Funds made*
15 *available to carry out this section may be allo-*
16 *cated to the Internal Revenue Service and the*
17 *States at the discretion of the Secretary, except*
18 *that of funds so made available for each fiscal*
19 *year, \$2,000,000 shall be available only to carry*
20 *out intergovernmental enforcement efforts, in-*
21 *cluding research and training.”; and*

22 *(B) in paragraph (8)—*

23 *(i) in the paragraph heading by strik-*
24 *ing “SURFACE TRANSPORTATION PROGRAM”*
25 *and inserting “TRANSPORTATION MOBILITY*
26 *PROGRAM”; and*

1 (ii) by striking “section 104(b)(3)”
 2 and inserting “section 104(b)(2)”; and
 3 (2) in subsection (c)(3) by striking “for each of
 4 fiscal years 2005 through 2009,” and inserting “for
 5 each fiscal year,”.

6 **SEC. 1111. NATIONAL BRIDGE AND TUNNEL INVENTORY**
 7 **AND INSPECTION STANDARDS.**

8 (a) *IN GENERAL.*—Section 144 of title 23, United
 9 States Code, is amended to read as follows:

10 **“§ 144. National bridge and tunnel inventory and in-**
 11 **spection standards**

12 “(a) *FINDINGS AND DECLARATIONS.*—

13 “(1) *FINDINGS.*—Congress finds that—

14 “(A) the condition of the bridges of the
 15 United States has improved since the date of en-
 16 actment of the Transportation Equity Act for the
 17 21st Century (Public Law 105–178; 112 Stat.
 18 107), yet continued improvement to bridge con-
 19 ditions is essential to protect the safety of the
 20 traveling public and allow for the efficient move-
 21 ment of people and goods on which the economy
 22 of the United States relies; and

23 “(B) the systematic preventative mainte-
 24 nance of bridges, and replacement and rehabili-
 25 tation of deficient bridges, should be undertaken

1 *through an overall asset management approach*
2 *to transportation investment.*

3 “(2) *DECLARATIONS.—Congress declares that it*
4 *is in the vital interest of the United States—*

5 “(A) *to inventory, inspect, and improve the*
6 *condition of the highway bridges and tunnels of*
7 *the United States;*

8 “(B) *to use a data-driven, risk-based ap-*
9 *proach and cost-effective strategy for systematic*
10 *preventative maintenance, replacement, and re-*
11 *habilitation of highway bridges and tunnels to*
12 *ensure safety and extended service life;*

13 “(C) *to use performance-based bridge man-*
14 *agement systems to assist States in making time-*
15 *ly investments;*

16 “(D) *to ensure accountability and link per-*
17 *formance outcomes to investment decisions; and*

18 “(E) *to ensure connectivity and access for*
19 *residents of rural areas of the United States*
20 *through strategic investments in National High-*
21 *way System bridges and bridges on all public*
22 *roads.*

23 “(b) *NATIONAL BRIDGE AND TUNNEL INVENTORIES.—*

24 “(1) *IN GENERAL.—The Secretary, in consulta-*
25 *tion with the States, shall—*

1 “(A) inventory all highway bridges on pub-
2 lic roads that are bridges over waterways, other
3 topographical barriers, other highways, and rail-
4 roads;

5 “(B) classify the bridges according to serv-
6 iceability, safety, and essentiality for public use,
7 including the potential impacts to emergency
8 evacuation routes and to regional and national
9 freight and passenger mobility if the service-
10 ability of the bridge is restricted or diminished;
11 and

12 “(C) based on that classification, assign
13 each a risk-based priority for systematic prevent-
14 ative maintenance, replacement, or rehabilita-
15 tion.

16 “(2) *TRIBALLY OWNED AND FEDERALLY OWNED*
17 *BRIDGES.*—As part of the activities carried out under
18 paragraph (1), the Secretary, in consultation with the
19 Secretaries of appropriate Federal agencies, shall—

20 “(A) inventory all tribally owned and Fed-
21 erally owned highway bridges that are open to
22 the public, over waterways, other topographical
23 barriers, other highways, and railroads;

1 “(B) *classify the bridges according to serv-*
2 *iceability, safety, and essentiality for public use;*
3 *and*

4 “(C) *based on the classification, assign each*
5 *a risk-based priority for systematic preventative*
6 *maintenance, replacement, or rehabilitation.*

7 “(3) *TUNNELS.—The Secretary shall establish a*
8 *national inventory of highway tunnels reflecting the*
9 *findings of the most recent highway tunnel inspec-*
10 *tions conducted by States under this section.*

11 “(c) *GENERAL BRIDGE AUTHORITY.—*

12 “(1) *IN GENERAL.—Except as provided in para-*
13 *graph (2) and notwithstanding any other provision of*
14 *law, the General Bridge Act of 1946 (33 U.S.C. 525*
15 *et seq.) shall apply to bridges authorized to be re-*
16 *placed, in whole or in part, by this title.*

17 “(2) *EXCEPTION.—Section 502(b) of the General*
18 *Bridge Act of 1946 (33 U.S.C. 525(b)) and section 9*
19 *of the Act of March 3, 1899 (33 U.S.C. 401), shall not*
20 *apply to any bridge constructed, reconstructed, reha-*
21 *ilitated, or replaced with assistance under this title,*
22 *if the bridge is over waters that—*

23 “(A) *are not used and are not susceptible to*
24 *use in the natural condition of the bridge or by*

1 *reasonable improvement as a means to transport*
2 *interstate or foreign commerce; and*

3 “(B) are—

4 “(i) not tidal; or

5 “(ii) if tidal, used only by recreational
6 *boating, fishing, and other small vessels that*
7 *are less than 21 feet in length.*

8 “(d) *INVENTORY UPDATES AND REPORTS.*—

9 “(1) *IN GENERAL.*—*The Secretary shall—*

10 “(A) *annually revise the inventories author-*
11 *ized by subsection (b); and*

12 “(B) *submit to the Committee on Transpor-*
13 *tation and Infrastructure of the House of Rep-*
14 *resentatives and the Committee on Environment*
15 *and Public Works of the Senate a report on the*
16 *inventories.*

17 “(2) *INSPECTION REPORT.*—*Not later than 1*
18 *year after the date of enactment of the MAP–21, each*
19 *State and appropriate Federal agency shall report*
20 *element level data to the Secretary, as each bridge is*
21 *inspected pursuant to this section, for all highway*
22 *bridges on the National Highway System.*

23 “(3) *GUIDANCE.*—*The Secretary shall provide*
24 *guidance to States and Federal agencies for imple-*

1 *mentation of this subsection, while respecting the ex-*
2 *isting inspection schedule of each State.*

3 “(4) *BRIDGES NOT ON NATIONAL HIGHWAY SYS-*
4 *TEM.—The Secretary shall—*

5 “(A) *conduct a study on the benefits, cost-*
6 *effectiveness, and feasibility of requiring element-*
7 *level data collection for bridges not on the Na-*
8 *tional Highway System; and*

9 “(B) *submit to the Committee on Transpor-*
10 *tation and Infrastructure of the House of Rep-*
11 *resentatives and the Committee on Environment*
12 *and Public Works of the Senate a report on the*
13 *results of the study.*

14 “(e) *BRIDGES WITHOUT TAXING POWERS.—*

15 “(1) *IN GENERAL.—Notwithstanding any other*
16 *provision of law, any bridge that is owned and oper-*
17 *ated by an agency that does not have taxing powers*
18 *and whose functions include operating a federally as-*
19 *sisted public transit system subsidized by toll reve-*
20 *nues shall be eligible for assistance under this title,*
21 *but the amount of such assistance shall in no event*
22 *exceed the cumulative amount which such agency has*
23 *expended for capital and operating costs to subsidize*
24 *such transit system.*

1 “(2) *INSUFFICIENT ASSETS.*—*Before authorizing*
2 *an expenditure of funds under this subsection, the*
3 *Secretary shall determine that the applicant agency*
4 *has insufficient reserves, surpluses, and projected reve-*
5 *nues (over and above those required for bridge and*
6 *transit capital and operating costs) to fund the bridge*
7 *project or activity eligible for assistance under this*
8 *title.*

9 “(3) *CREDITING OF NON-FEDERAL FUNDS.*—*Any*
10 *non-Federal funds expended for the seismic retrofit of*
11 *the bridge may be credited toward the non-Federal*
12 *share required as a condition of receipt of any Fed-*
13 *eral funds for seismic retrofit of the bridge made*
14 *available after the date of the expenditure.*

15 “(f) *REPLACEMENT OF DESTROYED BRIDGES AND*
16 *FERRY BOAT SERVICE.*—

17 “(1) *IN GENERAL.*—*Notwithstanding any other*
18 *provision of law, a State may use the funds appor-*
19 *tioned under section 104(b)(2) to construct any bridge*
20 *that replaces—*

21 “(A) *any low water crossing (regardless of*
22 *the length of the low water crossing);*

23 “(B) *any bridge that was destroyed prior to*
24 *January 1, 1965;*

1 “(C) any ferry that was in existence on
2 January 1, 1984; or

3 “(D) any road bridge that is rendered obso-
4 lete as a result of a Corps of Engineers flood con-
5 trol or channelization project and is not rebuilt
6 with funds from the Corps of Engineers.

7 “(2) FEDERAL SHARE.—The Federal share pay-
8 able on any bridge construction carried out under
9 paragraph (1) shall be 80 percent of the cost of the
10 construction.

11 “(g) HISTORIC BRIDGES.—

12 “(1) DEFINITION OF HISTORIC BRIDGE.—In this
13 subsection, the term ‘historic bridge’ means any
14 bridge that is listed on, or eligible for listing on, the
15 National Register of Historic Places.

16 “(2) COORDINATION.—The Secretary shall, in co-
17 operation with the States, encourage the retention, re-
18 habilitation, adaptive reuse, and future study of his-
19 toric bridges.

20 “(3) STATE INVENTORY.—The Secretary shall re-
21 quire each State to complete an inventory of all
22 bridges on and off Federal-aid highways to determine
23 the historic significance of the bridges.

24 “(4) ELIGIBILITY.—

1 “(A) *IN GENERAL.*—Subject to subpara-
2 graph (B), reasonable costs associated with ac-
3 tions to preserve, or reduce the impact of a
4 project under this chapter on, the historic integ-
5 rity of a historic bridge shall be eligible as reim-
6 bursable project costs under section 133 if the
7 load capacity and safety features of the historic
8 bridge are adequate to serve the intended use for
9 the life of the historic bridge.

10 “(B) *BRIDGES NOT USED FOR VEHICLE*
11 *TRAFFIC.*—In the case of a historic bridge that is
12 no longer used for motorized vehicular traffic, the
13 costs eligible as reimbursable project costs pursu-
14 ant to this chapter shall not exceed the estimated
15 cost of demolition of the historic bridge.

16 “(5) *PRESERVATION.*—Any State that proposes
17 to demolish a historic bridge for a replacement project
18 with funds made available to carry out this section
19 shall first make the historic bridge available for dona-
20 tion to a State, locality, or responsible private entity
21 if the State, locality, or responsible entity enters into
22 an agreement—

23 “(A) to maintain the bridge and the fea-
24 tures that give the historic bridge its historic sig-
25 nificance; and

1 “(B) to assume all future legal and finan-
2 cial responsibility for the historic bridge, which
3 may include an agreement to hold the State
4 transportation department harmless in any li-
5 ability action.

6 “(6) COSTS INCURRED.—

7 “(A) IN GENERAL.—Costs incurred by the
8 State to preserve a historic bridge (including
9 funds made available to the State, locality, or
10 private entity to enable it to accept the bridge)
11 shall be eligible as reimbursable project costs
12 under this chapter in an amount not to exceed
13 the cost of demolition.

14 “(B) ADDITIONAL FUNDING.—Any bridge
15 preserved pursuant to this paragraph shall not
16 be eligible for any other funds authorized pursu-
17 ant to this title.

18 “(h) NATIONAL BRIDGE AND TUNNEL INSPECTION
19 STANDARDS.—

20 “(1) REQUIREMENT.—

21 “(A) IN GENERAL.—The Secretary shall es-
22 tablish and maintain inspection standards for
23 the proper inspection and evaluation of all high-
24 way bridges and tunnels for safety and service-
25 ability.

1 “(B) *UNIFORMITY.*—*The standards under*
2 *this subsection shall be designed to ensure uni-*
3 *formity of the inspections and evaluations.*

4 “(2) *MINIMUM REQUIREMENTS OF INSPECTION*
5 *STANDARDS.*—*The standards established under para-*
6 *graph (1) shall, at a minimum—*

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

10 “(B) *establish the maximum time period be-*
11 *tween inspections;*

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

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

17 “(i) *written reports on the results of*
18 *highway bridge and tunnel inspections and*
19 *notations of any action taken pursuant to*
20 *the findings of the inspections; and*

21 “(ii) *current inventory data for all*
22 *highway bridges and tunnels reflecting the*
23 *findings of the most recent highway bridge*
24 *and tunnel inspections conducted; and*

1 “(E) establish a procedure for national cer-
2 tification of highway bridge inspectors and tun-
3 nel inspectors.

4 “(3) STATE COMPLIANCE WITH INSPECTION
5 STANDARDS.—The Secretary shall, at a minimum—

6 “(A) establish, in consultation with the
7 States, and interested and knowledgeable private
8 organizations and individuals, procedures to
9 conduct reviews of State compliance with—

10 “(i) the standards established under
11 this subsection; and

12 “(ii) the calculation or reevaluation of
13 bridge load ratings; and

14 “(B) establish, in consultation with the
15 States, and interested and knowledgeable private
16 organizations and individuals, procedures for
17 States to follow in reporting to the Secretary—

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

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

24 “(4) REVIEWS OF STATE COMPLIANCE.—

1 “(A) *IN GENERAL.*—*The Secretary shall an-*
2 *nually review State compliance with the stand-*
3 *ards established under this section.*

4 “(B) *NONCOMPLIANCE.*—*If an annual re-*
5 *view in accordance with subparagraph (A) iden-*
6 *tifies noncompliance by a State, the Secretary*
7 *shall—*

8 “(i) *issue a report detailing the issues*
9 *of the noncompliance by December 31 of the*
10 *calendar year in which the review was*
11 *made; and*

12 “(ii) *provide the State an opportunity*
13 *to address the noncompliance by—*

14 “(I) *developing a corrective action*
15 *plan to remedy the noncompliance; or*

16 “(II) *resolving the issues of non-*
17 *compliance not later than 45 days*
18 *after the date of notification.*

19 “(5) *PENALTY FOR NONCOMPLIANCE.*—

20 “(A) *IN GENERAL.*—*If a State fails to sat-*
21 *isfy the requirements of paragraph (4)(B) by Au-*
22 *gust 1 of the calendar year following the year of*
23 *a finding of noncompliance, the Secretary shall,*
24 *on October 1 of that year, and each year there-*
25 *after as may be necessary, require the State to*

1 *dedicate funds apportioned to the State under*
2 *sections 119 and 133 after the date of enactment*
3 *of the MAP-21 to correct the noncompliance*
4 *with the minimum inspection standards estab-*
5 *lished under this subsection.*

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

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

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

14 “(6) *UPDATE OF STANDARDS.*—*Not later than 3*
15 *years after the date of enactment of the MAP-21, the*
16 *Secretary shall update inspection standards to*
17 *cover—*

18 “(A) *the methodology, training, and quali-*
19 *fications for inspectors; and*

20 “(B) *the frequency of inspection.*

21 “(7) *RISK-BASED APPROACH.*—*In carrying out*
22 *the revisions required by paragraph (6), the Secretary*
23 *shall consider a risk-based approach to determining*
24 *the frequency of bridge inspections.*

1 “(i) *TRAINING PROGRAM FOR BRIDGE AND TUNNEL*
2 *INSPECTORS.*—

3 “(1) *IN GENERAL.*—*The Secretary, in coopera-*
4 *tion with the State transportation departments, shall*
5 *maintain a program designed to train appropriate*
6 *personnel to carry out highway bridge and tunnel in-*
7 *spections.*

8 “(2) *REVISIONS.*—*The training program shall be*
9 *revised from time to time to take into account new*
10 *and improved techniques.*

11 “(j) *AVAILABILITY OF FUNDS.*—*To carry out this sec-*
12 *tion, the Secretary may use funds made available under*
13 *sections 104(a), 119, 133, and 503.”.*

14 “(b) *CONFORMING AMENDMENT.*—*The analysis for*
15 *chapter 1 of title 23, United States Code, is amended by*
16 *striking the item relating to section 144 and inserting the*
17 *following:*

 “144. *National bridge and tunnel inventory and inspection standards.”.*

18 **SEC. 1112. HIGHWAY SAFETY IMPROVEMENT PROGRAM.**

19 *Section 148 of title 23, United States Code, is amended*
20 *to read as follows:*

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

22 “(a) *DEFINITIONS.*—*In this section, the following defi-*
23 *nitions apply:*

24 “(1) *HIGH RISK RURAL ROAD.*—*The term ‘high*
25 *risk rural road’ means any roadway functionally*

1 *classified as a rural major or minor collector or a*
2 *rural local road with significant safety risks, as de-*
3 *finied by a State in accordance with an updated State*
4 *strategic highway safety plan.*

5 “(2) *HIGHWAY BASEMAP.*—*The term ‘highway*
6 *basemap’ means a representation of all public roads*
7 *that can be used to geolocate attribute data on a road-*
8 *way.*

9 “(3) *HIGHWAY SAFETY IMPROVEMENT PRO-*
10 *GRAM.*—*The term ‘highway safety improvement pro-*
11 *gram’ means projects, activities, plans, and reports*
12 *carried out under this section.*

13 “(4) *HIGHWAY SAFETY IMPROVEMENT*
14 *PROJECT.*—

15 “(A) *IN GENERAL.*—*The term ‘highway*
16 *safety improvement project’ means strategies, ac-*
17 *tivities, and projects on a public road that are*
18 *consistent with a State strategic highway safety*
19 *plan and—*

20 “(i) *correct or improve a hazardous*
21 *road location or feature; or*

22 “(ii) *address a highway safety prob-*
23 *lem.*

1 “(B) *INCLUSIONS.*—*The term ‘highway safety*
2 *improvement project’ includes, but is not lim-*
3 *ited to, a project for 1 or more of the following:*

4 “(i) *An intersection safety improve-*
5 *ment.*

6 “(ii) *Pavement and shoulder widening*
7 *(including addition of a passing lane to*
8 *remedy an unsafe condition).*

9 “(iii) *Installation of rumble strips or*
10 *another warning device, if the rumble strips*
11 *or other warning devices do not adversely*
12 *affect the safety or mobility of bicyclists and*
13 *pedestrians, including persons with disabil-*
14 *ities.*

15 “(iv) *Installation of a skid-resistant*
16 *surface at an intersection or other location*
17 *with a high frequency of crashes.*

18 “(v) *An improvement for pedestrian or*
19 *bicyclist safety or safety of persons with dis-*
20 *abilities.*

21 “(vi) *Construction and improvement of*
22 *a railway-highway grade crossing safety*
23 *feature, including installation of protective*
24 *devices.*

1 “(vii) *The conduct of a model traffic*
2 *enforcement activity at a railway-highway*
3 *crossing.*

4 “(viii) *Construction of a traffic*
5 *calming feature.*

6 “(ix) *Elimination of a roadside haz-*
7 *ard.*

8 “(x) *Installation, replacement, and*
9 *other improvement of highway signage and*
10 *pavement markings, or a project to main-*
11 *tain minimum levels of retroreflectivity,*
12 *that addresses a highway safety problem*
13 *consistent with a State strategic highway*
14 *safety plan.*

15 “(xi) *Installation of a priority control*
16 *system for emergency vehicles at signalized*
17 *intersections.*

18 “(xii) *Installation of a traffic control*
19 *or other warning device at a location with*
20 *high crash potential.*

21 “(xiii) *Transportation safety planning.*

22 “(xiv) *Collection, analysis, and im-*
23 *provement of safety data.*

24 “(xv) *Planning integrated interoper-*
25 *able emergency communications equipment,*

1 *operational activities, or traffic enforcement*
2 *activities (including police assistance) relat-*
3 *ing to work zone safety.*

4 “(xvi) *Installation of guardrails, bar-*
5 *riers (including barriers between construc-*
6 *tion work zones and traffic lanes for the*
7 *safety of road users and workers), and crash*
8 *attenuators.*

9 “(xvii) *The addition or retrofitting of*
10 *structures or other measures to eliminate or*
11 *reduce crashes involving vehicles and wild-*
12 *life.*

13 “(xviii) *Installation of yellow-green*
14 *signs and signals at pedestrian and bicycle*
15 *crossings and in school zones.*

16 “(xix) *Construction and operational*
17 *improvements on high risk rural roads.*

18 “(xx) *Geometric improvements to a*
19 *road for safety purposes that improve safe-*
20 *ty.*

21 “(xxi) *A road safety audit.*

22 “(xxii) *Roadway safety infrastructure*
23 *improvements consistent with the rec-*
24 *ommendations included in the publication*
25 *of the Federal Highway Administration en-*

1 *titled ‘Highway Design Handbook for Older*
2 *Drivers and Pedestrians’ (FHWA–RD–01–*
3 *103), dated May 2001 or as subsequently re-*
4 *vised and updated.*

5 *“(xxiii) Truck parking facilities eligi-*
6 *ble for funding under section 1401 of the*
7 *MAP–21.*

8 *“(xxiv) Systemic safety improvements.*

9 “(5) *MODEL INVENTORY OF ROADWAY ELE-*
10 *MENTS.—The term ‘model inventory of roadway ele-*
11 *ments’ means the listing and standardized coding by*
12 *the Federal Highway Administration of roadway and*
13 *traffic data elements critical to safety management,*
14 *analysis, and decisionmaking.*

15 “(6) *PROJECT TO MAINTAIN MINIMUM LEVELS OF*
16 *RETROREFLECTIVITY.—The term ‘project to maintain*
17 *minimum levels of retroreflectivity’ means a project*
18 *that is designed to maintain a highway sign or pave-*
19 *ment marking retroreflectivity at or above the min-*
20 *imum levels prescribed in Federal or State regula-*
21 *tions.*

22 “(7) *ROAD SAFETY AUDIT.—The term ‘road safe-*
23 *ty audit’ means a formal safety performance exam-*
24 *ination of an existing or future road or intersection*
25 *by an independent multidisciplinary audit team.*

1 “(8) *ROAD USERS.*—*The term ‘road user’ means*
2 *a motorist, passenger, public transportation operator*
3 *or user, truck driver, bicyclist, motorcyclist, or pedes-*
4 *trian, including a person with disabilities.*

5 “(9) *SAFETY DATA.*—

6 “(A) *IN GENERAL.*—*The term ‘safety data’*
7 *means crash, roadway, and traffic data on a*
8 *public road.*

9 “(B) *INCLUSION.*—*The term ‘safety data’*
10 *includes, in the case of a railway-highway grade*
11 *crossing, the characteristics of highway and*
12 *train traffic, licensing, and vehicle data.*

13 “(10) *SAFETY PROJECT UNDER ANY OTHER SEC-*
14 *TION.*—

15 “(A) *IN GENERAL.*—*The term ‘safety project*
16 *under any other section’ means a project carried*
17 *out for the purpose of safety under any other sec-*
18 *tion of this title.*

19 “(B) *INCLUSION.*—*The term ‘safety project*
20 *under any other section’ includes—*

21 “(i) *a project consistent with the State*
22 *strategic highway safety plan that promotes*
23 *the awareness of the public and educates the*
24 *public concerning highway safety matters*
25 *(including motorcycle safety);*

1 “(ii) a project to enforce highway safe-
2 ty laws; and

3 “(iii) a project to provide infrastruc-
4 ture and infrastructure-related equipment
5 to support emergency services.

6 “(11) *STATE HIGHWAY SAFETY IMPROVEMENT*
7 *PROGRAM.*—The term ‘State highway safety improve-
8 ment program’ means a program of highway safety
9 improvement projects, activities, plans and reports
10 carried out as part of the Statewide transportation
11 improvement program under section 135(g).

12 “(12) *STATE STRATEGIC HIGHWAY SAFETY*
13 *PLAN.*—The term ‘State strategic highway safety
14 plan’ means a comprehensive plan, based on safety
15 data, developed by a State transportation department
16 that—

17 “(A) is developed after consultation with—

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

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

23 “(iii) representatives of major modes of
24 transportation;

1 “(iv) *State and local traffic enforce-*
2 *ment officials;*

3 “(v) *a highway-rail grade crossing*
4 *safety representative of the Governor of the*
5 *State;*

6 “(vi) *representatives conducting a*
7 *motor carrier safety program under section*
8 *31102, 31106, or 31309 of title 49;*

9 “(vii) *motor vehicle administration*
10 *agencies;*

11 “(viii) *county transportation officials;*

12 “(ix) *State representatives of non-*
13 *motorized users; and*

14 “(x) *other major Federal, State, tribal,*
15 *and local safety stakeholders;*

16 “(B) *analyzes and makes effective use of*
17 *State, regional, local, or tribal safety data;*

18 “(C) *addresses engineering, management,*
19 *operation, education, enforcement, and emer-*
20 *gency services elements (including integrated,*
21 *interoperable emergency communications) of*
22 *highway safety as key factors in evaluating high-*
23 *way projects;*

24 “(D) *considers safety needs of, and high-fa-*
25 *tality segments of, all public roads, including*

1 *non-State-owned public roads and roads on trib-*
2 *al land;*

3 “(E) *considers the results of State, regional,*
4 *or local transportation and highway safety plan-*
5 *ning processes;*

6 “(F) *describes a program of strategies to re-*
7 *duce or eliminate safety hazards;*

8 “(G) *is approved by the Governor of the*
9 *State or a responsible State agency;*

10 “(H) *is consistent with section 135(g); and*

11 “(I) *is updated and submitted to the Sec-*
12 *retary for approval as required under subsection*
13 *(d)(2).*

14 “(13) *SYSTEMIC SAFETY IMPROVEMENT.—The*
15 *term ‘systemic safety improvement’ means an im-*
16 *provement that is widely implemented based on high-*
17 *risk roadway features that are correlated with par-*
18 *ticular crash types, rather than crash frequency.*

19 “(b) *PROGRAM.—*

20 “(1) *IN GENERAL.—The Secretary shall carry*
21 *out a highway safety improvement program.*

22 “(2) *PURPOSE.—The purpose of the highway*
23 *safety improvement program shall be to achieve a sig-*
24 *nificant reduction in traffic fatalities and serious in-*

1 *juries on all public roads, including non-State-owned*
2 *public roads and roads on tribal land.*

3 “(c) *ELIGIBILITY.*—

4 “(1) *IN GENERAL.*—*To obligate funds appor-*
5 *tioned under section 104(b)(3) to carry out this sec-*
6 *tion, a State shall have in effect a State highway safe-*
7 *ty improvement program under which the State—*

8 “(A) *develops, implements, and updates a*
9 *State strategic highway safety plan that identi-*
10 *fies and analyzes highway safety problems and*
11 *opportunities as provided in subsections (a)(12)*
12 *and (d);*

13 “(B) *produces a program of projects or*
14 *strategies to reduce identified safety problems;*
15 *and*

16 “(C) *evaluates the strategic highway safety*
17 *plan on a regularly recurring basis in accord-*
18 *ance with subsection (d)(1) to ensure the accu-*
19 *racy of the data and priority of proposed strate-*
20 *gies.*

21 “(2) *IDENTIFICATION AND ANALYSIS OF HIGH-*
22 *WAY SAFETY PROBLEMS AND OPPORTUNITIES.*—*As*
23 *part of the State highway safety improvement pro-*
24 *gram, a State shall—*

1 “(A) have in place a safety data system
2 with the ability to perform safety problem iden-
3 tification and countermeasure analysis—

4 “(i) to improve the timeliness, accu-
5 racy, completeness, uniformity, integration,
6 and accessibility of the safety data on all
7 public roads, including non-State-owned
8 public roads and roads on tribal land in the
9 State;

10 “(ii) to evaluate the effectiveness of
11 data improvement efforts;

12 “(iii) to link State data systems, in-
13 cluding traffic records, with other data sys-
14 tems within the State;

15 “(iv) to improve the compatibility and
16 interoperability of safety data with other
17 State transportation-related data systems
18 and the compatibility and interoperability
19 of State safety data systems with data sys-
20 tems of other States and national data sys-
21 tems;

22 “(v) to enhance the ability of the Sec-
23 retary to observe and analyze national
24 trends in crash occurrences, rates, outcomes,
25 and circumstances; and

1 “(vi) to improve the collection of data
2 on nonmotorized crashes;

3 “(B) based on the analysis required by sub-
4 paragraph (A)—

5 “(i) identify hazardous locations, sec-
6 tions, and elements (including roadside ob-
7 stacles, railway-highway crossing needs,
8 and unmarked or poorly marked roads) that
9 constitute a danger to motorists (including
10 motorcyclists), bicyclists, pedestrians, and
11 other highway users;

12 “(ii) using such criteria as the State
13 determines to be appropriate, establish the
14 relative severity of those locations, in terms
15 of crashes (including crash rates), fatalities,
16 serious injuries, traffic volume levels, and
17 other relevant data;

18 “(iii) identify the number of fatalities
19 and serious injuries on all public roads by
20 location in the State;

21 “(iv) identify highway safety improve-
22 ment projects on the basis of crash experi-
23 ence, crash potential, crash rate, or other
24 data-supported means; and

1 “(v) consider which projects maximize
2 opportunities to advance safety;

3 “(C) adopt strategic and performance-based
4 goals that—

5 “(i) address traffic safety, including
6 behavioral and infrastructure problems and
7 opportunities on all public roads;

8 “(ii) focus resources on areas of great-
9 est need; and

10 “(iii) are coordinated with other State
11 highway safety programs;

12 “(D) advance the capabilities of the State
13 for safety data collection, analysis, and integra-
14 tion in a manner that—

15 “(i) complements the State highway
16 safety program under chapter 4 and the
17 commercial vehicle safety plan under sec-
18 tion 31102 of title 49;

19 “(ii) includes all public roads, includ-
20 ing public non-State-owned roads and roads
21 on tribal land;

22 “(iii) identifies hazardous locations,
23 sections, and elements on all public roads
24 that constitute a danger to motorists (in-
25 cluding motorcyclists), bicyclists, pedes-

1 *trians, persons with disabilities, and other*
2 *highway users;*

3 *“(iv) includes a means of identifying*
4 *the relative severity of hazardous locations*
5 *described in clause (iii) in terms of crashes*
6 *(including crash rate), serious injuries, fa-*
7 *talities, and traffic volume levels; and*

8 *“(v) improves the ability of the State*
9 *to identify the number of fatalities and seri-*
10 *ous injuries on all public roads in the State*
11 *with a breakdown by functional classifica-*
12 *tion and ownership in the State;*

13 *“(E)(i) determine priorities for the correc-*
14 *tion of hazardous road locations, sections, and*
15 *elements (including railway-highway crossing*
16 *improvements), as identified through safety data*
17 *analysis;*

18 *“(ii) identify opportunities for preventing*
19 *the development of such hazardous conditions;*
20 *and*

21 *“(iii) establish and implement a schedule of*
22 *highway safety improvement projects for hazard*
23 *correction and hazard prevention; and*

24 *“(F)(i) establish an evaluation process to*
25 *analyze and assess results achieved by highway*

1 *safety improvement projects carried out in ac-*
2 *cordance with procedures and criteria established*
3 *by this section; and*

4 “(i) *use the information obtained under*
5 *clause (i) in setting priorities for highway safety*
6 *improvement projects.*

7 “(d) *UPDATES TO STRATEGIC HIGHWAY SAFETY*
8 *PLANS.—*

9 “(1) *ESTABLISHMENT OF REQUIREMENTS.—*

10 “(A) *IN GENERAL.—Not later than 1 year*
11 *after the date of enactment of the MAP-21, the*
12 *Secretary shall establish requirements for regu-*
13 *larly recurring State updates of strategic high-*
14 *way safety plans.*

15 “(B) *CONTENTS OF UPDATED STRATEGIC*
16 *HIGHWAY SAFETY PLANS.—In establishing re-*
17 *quirements under this subsection, the Secretary*
18 *shall ensure that States take into consideration,*
19 *with respect to updated strategic highway safety*
20 *plans—*

21 “(i) *the findings of road safety audits;*

22 “(ii) *the locations of fatalities and se-*
23 *rious injuries;*

24 “(iii) *the locations that do not have an*
25 *empirical history of fatalities and serious*

1 *injuries, but possess risk factors for poten-*
2 *tial crashes;*

3 *“(iv) rural roads, including all public*
4 *roads, commensurate with fatality data;*

5 *“(v) motor vehicle crashes that include*
6 *fatalities or serious injuries to pedestrians*
7 *and bicyclists;*

8 *“(vi) the cost-effectiveness of improve-*
9 *ments;*

10 *“(vii) improvements to rail-highway*
11 *grade crossings; and*

12 *“(viii) safety on all public roads, in-*
13 *cluding non-State-owned public roads and*
14 *roads on tribal land.*

15 *“(2) APPROVAL OF UPDATED STRATEGIC HIGH-*
16 *WAY SAFETY PLANS.—*

17 *“(A) IN GENERAL.—Each State shall—*

18 *“(i) update the strategic highway safe-*
19 *ty plans of the State in accordance with the*
20 *requirements established by the Secretary*
21 *under this subsection; and*

22 *“(ii) submit the updated plans to the*
23 *Secretary, along with a detailed description*
24 *of the process used to update the plan.*

1 “(B) *REQUIREMENTS FOR APPROVAL.*—*The*
2 *Secretary shall not approve the process for an*
3 *updated strategic highway safety plan unless—*

4 “(i) *the updated strategic highway*
5 *safety plan is consistent with the require-*
6 *ments of this subsection and subsection*
7 *(a)(12); and*

8 “(ii) *the process used is consistent with*
9 *the requirements of this subsection.*

10 “(3) *PENALTY FOR FAILURE TO HAVE AN AP-*
11 *PROVED UPDATED STRATEGIC HIGHWAY SAFETY*
12 *PLAN.*—*If a State does not have an updated strategic*
13 *highway safety plan with a process approved by the*
14 *Secretary by August 1 of the fiscal year beginning*
15 *after the date of establishment of the requirements*
16 *under paragraph (1)—*

17 “(A) *the State shall not be eligible to receive*
18 *any additional limitation pursuant to the redis-*
19 *tribution of the limitation on obligations for*
20 *Federal-aid highway and highway safety con-*
21 *struction programs that occurs after August 1 for*
22 *each succeeding fiscal year until the fiscal year*
23 *during which the plan is approved; and*

24 “(B) *the Secretary shall, on October 1 of*
25 *each fiscal year thereafter, transfer from funds*

1 *apportioned to the State under section 104(b)(2)*
2 *(other than amounts suballocated to metropolitan*
3 *areas and other areas of the State under section*
4 *133(d)) an amount equal to 10 percent of the*
5 *funds so apportioned for the fiscal year for use*
6 *under the highway safety improvement program*
7 *under this section to the apportionment of the*
8 *State under section 104(b)(3) until the fiscal*
9 *year in which the plan is approved.*

10 “(e) *ELIGIBLE PROJECTS.—*

11 “(1) *IN GENERAL.—Funds apportioned to the*
12 *State under section 104(b)(3) may be obligated to*
13 *carry out—*

14 “(A) *any highway safety improvement*
15 *project on any public road or publicly owned bi-*
16 *cycle or pedestrian pathway or trail; or*

17 “(B) *as provided in subsection (f), other*
18 *safety projects.*

19 “(2) *USE OF OTHER FUNDING FOR SAFETY.—*

20 “(A) *EFFECT OF SECTION.—Nothing in this*
21 *section prohibits the use of funds made available*
22 *under other provisions of this title for highway*
23 *safety improvement projects.*

24 “(B) *USE OF OTHER FUNDS.—States are*
25 *encouraged to address the full scope of the safety*

1 *needs and opportunities of the States by using*
2 *funds made available under other provisions of*
3 *this title (except a provision that specifically*
4 *prohibits that use).*

5 “(f) *FLEXIBLE FUNDING FOR STATES WITH A STRA-*
6 *TEGIC HIGHWAY SAFETY PLAN.*—

7 “(1) *IN GENERAL.*—*To further the implementa-*
8 *tion of a State strategic highway safety plan, a State*
9 *may use up to 10 percent of the amount of funds ap-*
10 *portioned to the State under section 104(b)(3) for a*
11 *fiscal year to carry out safety projects under any*
12 *other section as provided in the State strategic high-*
13 *way safety plan if the State certifies that—*

14 “(A) *the State has met needs in the State*
15 *relating to railway-highway crossings for the*
16 *preceding fiscal year; and*

17 “(B) *the funds are being used for the most*
18 *effective projects to make progress toward achiev-*
19 *ing the safety performance targets of the State.*

20 “(2) *OTHER TRANSPORTATION AND HIGHWAY*
21 *SAFETY PLANS.*—*Nothing in this subsection requires a*
22 *State to revise any State process, plan, or program*
23 *in effect on the date of enactment of the MAP–21.*

24 “(g) *DATA IMPROVEMENT.*—

1 “(1) *DEFINITION OF DATA IMPROVEMENT ACTIVITIES.*—*In this subsection:*

3 “(A) *IN GENERAL.*—*The term ‘data improvement activities’ means a project or activity*
4 *to further the capacity of a State to make more*
5 *informed and effective safety infrastructure investment decisions.*

8 “(B) *INCLUSIONS.*—*The term ‘data improvement activities’ includes a project or activity—*

11 “(i) *to create, update, or enhance a*
12 *highway basemap of all public roads in a*
13 *State;*

14 “(ii) *to collect safety data, including*
15 *data identified as part of the model inventory of roadway elements, for creation of or*
16 *use on a highway basemap of all public*
17 *roads in a State;*

18 “(iii) *to store and maintain safety*
19 *data in an electronic manner;*

21 “(iv) *to develop analytical processes for*
22 *safety data elements;*

23 “(v) *to acquire and implement road-*
24 *way safety analysis tools; and*

1 “(vi) to support the collection, mainte-
2 nance, and sharing of safety data on all
3 public roads and related systems associated
4 with the analytical usage of that data.

5 “(2) *APPORTIONMENT.*—Of the funds appor-
6 tioned to a State under section 104(b)(3) for a fiscal
7 year—

8 “(A) not less than 8 percent of the funds ap-
9 portioned for each of fiscal years 2012 through
10 2013 shall be available only for data improve-
11 ment activities under this subsection; and

12 “(B) not less than 4 percent of the funds
13 apportioned for fiscal year 2014 and each fiscal
14 year thereafter shall be available only for data
15 improvement activities under this subsection.

16 “(3) *SPECIAL RULE.*—A State may use funds
17 apportioned to the State pursuant to this subsection
18 for any project eligible under this section if the State
19 demonstrates to the satisfaction of the Secretary that
20 the State has met all of the State needs for data col-
21 lection to support the State strategic highway safety
22 plan and sufficiently addressed the data improvement
23 activities described in paragraph (1).

24 “(4) *MODEL INVENTORY OF ROADWAY ELE-*
25 *MENTS.*—The Secretary shall—

1 “(A) *establish a subset of the model inven-*
2 *tory of roadway elements that are useful for the*
3 *inventory of roadway safety; and*

4 “(B) *ensure that States adopt and use the*
5 *subset to improve data collection.*

6 “(h) *PERFORMANCE MEASURES AND TARGETS FOR*
7 *STATE HIGHWAY SAFETY IMPROVEMENT PROGRAMS.—*

8 “(1) *ESTABLISHMENT OF PERFORMANCE MEAS-*
9 *URES.—Not later than 1 year after the date of enact-*
10 *ment of the MAP–21, the Secretary shall issue guid-*
11 *ance to States on the establishment, collection, and re-*
12 *porting of performance measures that reflect—*

13 “(A) *serious injuries and fatalities per vehi-*
14 *cle mile traveled;*

15 “(B) *serious injuries and fatalities per cap-*
16 *ita; and*

17 “(C) *the number of serious injuries and fa-*
18 *talities*

19 “(2) *ESTABLISHMENT OF STATE PERFORMANCE*
20 *TARGETS.—Not later than 1 year after the Secretary*
21 *has issued guidance to States on the establishment,*
22 *collection, and reporting of performance measures,*
23 *each State shall set performance targets that reflect—*

24 “(A) *serious injuries and fatalities per vehi-*
25 *cle mile traveled;*

1 “(B) serious injuries and fatalities per cap-
2 ita; and

3 “(C) the number of serious injuries and fa-
4 talities.

5 “(i) SPECIAL RULES.—

6 “(1) HIGH-RISK RURAL ROAD SAFETY.—If the
7 fatality rate on rural roads in a State increases over
8 the most recent 2-year period for which data are
9 available, that State shall be required to obligate in
10 the next fiscal year for projects on high risk rural
11 roads an amount equal to at least 200 percent of the
12 amount of funds the State received for fiscal year
13 2009 for high risk rural roads under subsection (f) of
14 this section, as in effect on the day before the date of
15 enactment of the MAP-21.

16 “(2) RAIL-HIGHWAY GRADE CROSSINGS.—If the
17 average number of fatalities at rail-highway grade
18 crossings in a State over the most recent 2-year pe-
19 riod for which data are available increases over the
20 average number of fatalities during the preceding 2-
21 year period, that State shall be required to obligate
22 in the next fiscal year for projects on rail-highway
23 grade crossings an amount equal to 120 percent of the
24 amount of funds the State received for fiscal year
25 2009 for rail-highway grade crossings under section

1 130(f) (as in effect on the day before the date of enact-
2 ment of the MAP-21).

3 “(3) *OLDER DRIVERS.*—If traffic fatalities and
4 serious injuries per capita for drivers and pedestrians
5 over the age of 65 in a State increases during the
6 most recent 2-year period for which data are avail-
7 able, that State shall be required to include, in the
8 subsequent Strategic Highway Safety Plan of the
9 State, strategies to address the increases in those
10 rates, taking into account the recommendations in-
11 cluded in the publication of the Federal Highway Ad-
12 ministration entitled ‘Highway Design Handbook for
13 Older Drivers and Pedestrians’ (FHWA-RD-01-
14 103), and dated May 2001, or as subsequently revised
15 and updated.

16 “(j) *REPORTS.*—

17 “(1) *IN GENERAL.*—A State shall submit to the
18 Secretary a report that—

19 “(A) describes the progress being made to
20 achieve the performance targets established under
21 subsection (h);

22 “(B) describes progress being made to im-
23 plement highway safety improvement projects
24 under this section;

1 “(C) assesses the effectiveness of those im-
2 provements; and

3 “(D) describes the extent to which the im-
4 provements funded under this section have con-
5 tributed to reducing—

6 “(i) the number and rate of fatalities
7 on all public roads with, to the maximum
8 extent practicable, a breakdown by func-
9 tional classification and ownership in the
10 State;

11 “(ii) the number and rate of serious
12 injuries on all public roads with, to the
13 maximum extent practicable, a breakdown
14 by functional classification and ownership
15 in the State; and

16 “(iii) the occurrences of fatalities and
17 serious injuries at railway-highway cross-
18 ings.

19 “(2) CONTENTS; SCHEDULE.—The Secretary
20 shall establish the content and schedule for the sub-
21 mission of the report under paragraph (1).

22 “(3) TRANSPARENCY.—The Secretary shall make
23 strategic highway safety plans submitted under sub-
24 section (d) and reports submitted under this sub-
25 section available to the public through—

1 “(A) *the website of the Department; and*

2 “(B) *such other means as the Secretary de-*
3 *termines to be appropriate.*

4 “(4) *DISCOVERY AND ADMISSION INTO EVIDENCE*
5 *OF CERTAIN REPORTS, SURVEYS, AND INFORMA-*
6 *TION.—Notwithstanding any other provision of law,*
7 *reports, surveys, schedules, lists, or data compiled or*
8 *collected for any purpose relating to this section, shall*
9 *not be subject to discovery or admitted into evidence*
10 *in a Federal or State court proceeding or considered*
11 *for other purposes in any action for damages arising*
12 *from any occurrence at a location identified or ad-*
13 *dressed in the reports, surveys, schedules, lists, or*
14 *other data.*

15 “(k) *STATE PERFORMANCE TARGETS.—If the Sec-*
16 *retary determines that a State has not met or made signifi-*
17 *cant progress toward meeting the performance targets of the*
18 *State established under subsection (h) by the date that is*
19 *2 years after the date of the establishment of the perform-*
20 *ance targets, the State shall—*

21 “(1) *use obligation authority equal to the appor-*
22 *tionment of the State for the prior year under section*
23 *104(b)(3) only for highway safety improvement*
24 *projects under this section until the Secretary deter-*
25 *mines that the State has met or made significant*

1 *progress toward meeting the performance targets of*
2 *the State; and*

3 “(2) *submit annually to the Secretary, until the*
4 *Secretary determines that the State has met or made*
5 *significant progress toward meeting the performance*
6 *targets of the State, an implementation plan that—*

7 “(A) *identifies roadway features that con-*
8 *stitute a hazard to road users;*

9 “(B) *identifies highway safety improvement*
10 *projects on the basis of crash experience, crash*
11 *potential, or other data-supported means;*

12 “(C) *describes how highway safety improve-*
13 *ment program funds will be allocated, including*
14 *projects, activities, and strategies to be imple-*
15 *mented;*

16 “(D) *describes how the proposed projects,*
17 *activities, and strategies funded under the State*
18 *highway safety improvement program will allow*
19 *the State to make progress toward achieving the*
20 *safety performance targets of the State; and*

21 “(E) *describes the actions the State will un-*
22 *dertake to meet the performance targets of the*
23 *State.*

24 “(l) *FEDERAL SHARE OF HIGHWAY SAFETY IMPROVE-*
25 *MENT PROJECTS.—Except as provided in sections 120 and*

1 130, the Federal share of the cost of a highway safety im-
2 provement project carried out with funds apportioned to a
3 State under section 104(b)(3) shall be 90 percent.”.

4 **SEC. 1113. CONGESTION MITIGATION AND AIR QUALITY IM-**
5 **PROVEMENT PROGRAM.**

6 Section 149 of title 23, United States Code, is amended
7 to read as follows:

8 **“§ 149. Congestion mitigation and air quality im-**
9 **provement program**

10 “(a) *ESTABLISHMENT.*—The Secretary shall establish
11 and implement a congestion mitigation and air quality im-
12 provement program in accordance with this section.

13 “(b) *ELIGIBLE PROJECTS.*—

14 “(1) *IN GENERAL.*—Except as provided in sub-
15 section (c), a State may obligate funds apportioned to
16 the State for the congestion mitigation and air qual-
17 ity improvement program under section 104(b)(4)
18 that are not reserved under subsection (l) only for a
19 transportation project or program if the project or
20 program is for an area in the State that is or was
21 designated as a nonattainment area for ozone, carbon
22 monoxide, or particulate matter under section 107(d)
23 of the Clean Air Act (42 U.S.C. 7407(d)) and classi-
24 fied pursuant to section 181(a), 186(a), 188(a), or
25 188(b) of the Clean Air Act (42 U.S.C. 7511(a),

1 7512(a), 7513(a), or 7513(b)) or is or was designated
2 as a nonattainment area under section 107(d) of that
3 Act after December 31, 1997, or is required to pre-
4 pare, and file with the Administrator of the Environ-
5 mental Protection Agency, maintenance plans under
6 the Clean Air Act (42 U.S.C. 7401 et seq.); and

7 “(A)(i)(I) if the Secretary, after consulta-
8 tion with the Administrator determines, on the
9 basis of information published by the Environ-
10 mental Protection Agency pursuant to subpara-
11 graph (A) of section 108(f)(1) of the Clean Air
12 Act (other than clause (xvi) of that subpara-
13 graph) (42 U.S.C. 7408(f)(1)) that the project or
14 program is likely to contribute to—

15 “(aa) the attainment of a national am-
16 bient air quality standard; or

17 “(bb) the maintenance of a national
18 ambient air quality standard in a mainte-
19 nance area; and

20 “(II) there exists a high level of effectiveness
21 in reducing air pollution, in cases of projects or
22 programs where sufficient information is avail-
23 able in the database established pursuant to sub-
24 section (h) to determine the relative effectiveness
25 of such projects or programs; or

1 “(i) in any case in which such information
2 is not available, if the Secretary, after such con-
3 sultation, determines that the project or program
4 is part of a program, method, or strategy de-
5 scribed in such section 108(f)(1)(A);

6 “(B) if the project or program is included
7 in a State implementation plan that has been
8 approved pursuant to the Clean Air Act and the
9 project will have air quality benefits;

10 “(C) to establish or operate a traffic moni-
11 toring, management, and control facility or pro-
12 gram, including truck stop electrification sys-
13 tems, if the Secretary, after consultation with the
14 Administrator, determines that the facility or
15 program is likely to contribute to the attainment
16 of a national ambient air quality standard;

17 “(D) if the program or project improves
18 traffic flow, including projects to improve sig-
19 nalization, construct high-occupancy vehicle
20 lanes, improve intersections, add turning lanes,
21 improve transportation systems management
22 and operations that mitigate congestion and im-
23 prove air quality, and implement intelligent
24 transportation system strategies and such other
25 projects that are eligible for assistance under this

1 *section on the day before the date of enactment*
2 *of the MAP-21, including programs or projects*
3 *to improve incident and emergency response or*
4 *improve mobility, such as through real-time traf-*
5 *fic, transit, and multimodal traveler informa-*
6 *tion;*

7 “(E) *if the project or program involves the*
8 *purchase of integrated, interoperable emergency*
9 *communications equipment;*

10 “(F) *if the project or program is for—*

11 “(i) *the purchase of diesel retrofits that*
12 *are—*

13 “(I) *for motor vehicles (as defined*
14 *in section 216 of the Clean Air Act (42*
15 *U.S.C. 7550)); or*

16 “(II) *verified technologies (as de-*
17 *defined in section 791 of the Energy Pol-*
18 *icy Act of 2005 (42 U.S.C. 16131)) for*
19 *nonroad vehicles and nonroad engines*
20 *(as defined in section 216 of the Clean*
21 *Air Act (42 U.S.C. 7550)) that are*
22 *used in construction projects that*
23 *are—*

24 “(aa) *located in nonattain-*
25 *ment or maintenance areas for*

1 ozone, PM_{10} , or $PM_{2.5}$ (as defined
2 under the Clean Air Act (42
3 U.S.C. 7401 et seq.)); and

4 “(bb) funded, in whole or in
5 part, under this title; or

6 “(ii) the conduct of outreach activities
7 that are designed to provide information
8 and technical assistance to the owners and
9 operators of diesel equipment and vehicles
10 regarding the purchase and installation of
11 diesel retrofits;

12 “(G) if the project involves the installation
13 of battery charging or replacement facilities for
14 electric-drive vehicles, or refueling facilities for
15 alternative-fuel vehicles;

16 “(H) if the project or program shifts traffic
17 demand to nonpeak hours or other transpor-
18 tation modes, increases vehicle occupancy rates,
19 or otherwise reduces demand for roads through
20 such means as telecommuting, ridesharing,
21 carsharing, alternative work hours, and pricing;
22 or

23 “(I) if the Secretary, after consultation with
24 the Administrator, determines that the project or
25 program is likely to contribute to the attainment

1 *of a national ambient air quality standard,*
2 *whether through reductions in vehicle miles trav-*
3 *eled, fuel consumption, or through other factors.*

4 “(2) *LIMITATIONS.—Funds apportioned to a*
5 *State under section 104(b)(4) and not reserved under*
6 *subsection (l) may not be obligated for a project that*
7 *will result in the construction of new capacity avail-*
8 *able to single-occupant vehicles unless the project con-*
9 *sists of a high-occupancy vehicle facility available to*
10 *single-occupant vehicles only at other than peak travel*
11 *times or such use by single-occupant vehicles at peak*
12 *travel times is subject to a toll.*

13 “(3) *USE OF FUNDS FOR OTHER ACTIVITIES.—*
14 *Notwithstanding paragraph (1) and subsection (c),*
15 *the Secretary may permit a State to use amounts ap-*
16 *portioned to the State for each of fiscal years 2012*
17 *and 2013 for the congestion mitigation and air qual-*
18 *ity improvement program under section 104(b)(4) to*
19 *carry out any activity on a system that was eligible*
20 *for funding under that program as in effect on De-*
21 *cember 31, 2010.*

22 “(c) *STATES FLEXIBILITY.—*

23 “(1) *STATES WITHOUT A NONATTAINMENT*
24 *AREA.—If a State does not have, and never has had,*
25 *a nonattainment area designated under the Clean Air*

1 *Act (42 U.S.C. 7401 et seq.) for ozone, carbon mon-*
2 *oxide, or PM_{2.5}, the State may use funds apportioned*
3 *to the State under section 104(b)(4) (excluding the*
4 *amount of funds reserved under subsection (l)) for*
5 *any project in the State that—*

6 *“(A) would otherwise be eligible under sub-*
7 *section (b) as if the project were carried out in*
8 *a nonattainment or maintenance area; or*

9 *“(B) is eligible under the transportation*
10 *mobility program under section 133.*

11 *“(2) STATES WITH A NONATTAINMENT AREA.—*

12 *“(A) IN GENERAL.—If a State has a non-*
13 *attainment area or maintenance area and re-*
14 *ceived funds in fiscal year 2009 under section*
15 *104(b)(2)(D), as in effect on the day before the*
16 *date of enactment of the MAP–21, above the*
17 *amount of funds that the State would have re-*
18 *ceived based on the nonattainment and mainte-*
19 *nance area population of the State under sub-*
20 *paragraphs (B) and (C) of section 104(b)(2), as*
21 *in effect on the day before the date of enactment*
22 *of the MAP–21, the State may use for any*
23 *project that is eligible under the transportation*
24 *mobility program under section 133 an amount*
25 *of funds apportioned to such State under section*

1 104(b)(4) (excluding the amount of funds re-
2 served under subsection (l)) that is equal to the
3 product obtained by multiplying—

4 “(i) the amount apportioned to such
5 State under section 104(b)(4) (excluding the
6 amount of funds reserved under subsection
7 (l)); by

8 “(ii) the ratio calculated under para-
9 graph (B).

10 “(B) *RATIO*.—For purposes of this para-
11 graph, the ratio shall be calculated as—

12 “(i) the amount for fiscal year 2009
13 such State was permitted by section
14 149(c)(2), as in effect on the day before the
15 date of enactment of the MAP-21, to obli-
16 gate in any area of the State for projects el-
17 igible under section 133, as in effect on the
18 day before the date of enactment of the
19 MAP-21; bears to

20 “(ii) the total apportionment to such
21 State for fiscal year 2009 under section
22 104(b)(2), as in effect on the day before the
23 date of enactment of the MAP-21.

24 “(3) *CHANGES IN DESIGNATION*.—If a new non-
25 attainment area is designated or a previously des-

1 *ignated nonattainment area is redesignated as an at-*
2 *tainment area in a State under the Clean Air Act (42*
3 *U.S.C. 7401 et seq.), the Secretary shall modify the*
4 *amount such State is permitted to obligate in any*
5 *area of the State for projects eligible under section*
6 *133.*

7 “(d) *APPLICABILITY OF PLANNING REQUIREMENTS.—*
8 *Programming and expenditure of funds for projects under*
9 *this section shall be consistent with the requirements of sec-*
10 *tions 134 and 135.*

11 “(e) *PARTNERSHIPS WITH NONGOVERNMENTAL ENTI-*
12 *TIES.—*

13 “(1) *IN GENERAL.—Notwithstanding any other*
14 *provision of this title and in accordance with this*
15 *subsection, a metropolitan planning organization,*
16 *State transportation department, or other project*
17 *sponsor may enter into an agreement with any pub-*
18 *lic, private, or nonprofit entity to cooperatively im-*
19 *plement any project carried out with funds appor-*
20 *tioned under section 104(b)(4).*

21 “(2) *FORMS OF PARTICIPATION BY ENTITIES.—*
22 *Participation by an entity under paragraph (1) may*
23 *consist of—*

1 “(A) ownership or operation of any land,
2 facility, vehicle, or other physical asset associ-
3 ated with the project;

4 “(B) cost sharing of any project expense;

5 “(C) carrying out of administration, con-
6 struction management, project management,
7 project operation, or any other management or
8 operational duty associated with the project; and

9 “(D) any other form of participation ap-
10 proved by the Secretary.

11 “(3) ALLOCATION TO ENTITIES.—A State may
12 allocate funds apportioned under section 104(b)(4) to
13 an entity described in paragraph (1).

14 “(4) ALTERNATIVE FUEL PROJECTS.—In the case
15 of a project that will provide for the use of alternative
16 fuels by privately owned vehicles or vehicle fleets, ac-
17 tivities eligible for funding under this subsection—

18 “(A) may include the costs of vehicle refuel-
19 ing infrastructure, including infrastructure that
20 would support the development, production, and
21 use of emerging technologies that reduce emis-
22 sions of air pollutants from motor vehicles, and
23 other capital investments associated with the
24 project;

1 “(B) shall include only the incremental cost
2 of an alternative fueled vehicle, as compared to
3 a conventionally fueled vehicle, that would other-
4 wise be borne by a private party; and

5 “(C) shall apply other governmental finan-
6 cial purchase contributions in the calculation of
7 net incremental cost.

8 “(5) PROHIBITION ON FEDERAL PARTICIPATION
9 WITH RESPECT TO REQUIRED ACTIVITIES.—A Federal
10 participation payment under this subsection may not
11 be made to an entity to fund an obligation imposed
12 under the Clean Air Act (42 U.S.C. 7401 et seq.) or
13 any other Federal law.

14 “(f) PRIORITY CONSIDERATION.—States and metro-
15 politan planning organizations shall give priority in areas
16 designated as nonattainment or maintenance for PM_{2.5}
17 under the Clean Air Act (42 U.S.C. 7401 et seq.) in distrib-
18 uting funds received for congestion mitigation and air qual-
19 ity projects and programs from apportionments under sec-
20 tion 104(b)(4) not required to be reserved under subsection
21 (l) to projects that are proven to reduce PM_{2.5}, including
22 diesel retrofits.

23 “(g) INTERAGENCY CONSULTATION.—The Secretary
24 shall encourage States and metropolitan planning organi-
25 zations to consult with State and local air quality agencies

1 *in nonattainment and maintenance areas on the estimated*
2 *emission reductions from proposed congestion mitigation*
3 *and air quality improvement programs and projects.*

4 “(h) *EVALUATION AND ASSESSMENT OF PROJECTS.*—

5 “(1) *DATABASE.*—

6 “(A) *IN GENERAL.*—*Using appropriate as-*
7 *sessments of projects funded under the congestion*
8 *mitigation and air quality program and results*
9 *from other research, the Secretary shall maintain*
10 *and disseminate a cumulative database describ-*
11 *ing the impacts of the projects, including specific*
12 *information about each project, such as the*
13 *project name, location, sponsor, cost, and, to the*
14 *extent already measured by the project sponsor,*
15 *cost-effectiveness, based on reductions in conges-*
16 *tion and emissions.*

17 “(B) *AVAILABILITY.*—*The database shall be*
18 *published or otherwise made readily available by*
19 *the Secretary in electronically accessible format*
20 *and means, such as the Internet, for public re-*
21 *view.*

22 “(2) *COST EFFECTIVENESS.*—

23 “(A) *IN GENERAL.*—*The Secretary, in con-*
24 *sultation with the Administrator of the Environ-*
25 *mental Protection Agency, shall evaluate projects*

1 on a periodic basis and develop a table or other
2 similar medium that illustrates the cost-effective-
3 ness of a range of project types eligible for fund-
4 ing under this section as to how the projects
5 mitigate congestion and improve air quality.

6 “(B) CONTENTS.—The table described in
7 subparagraph (A) shall show measures of cost-ef-
8 fectiveness, such as dollars per ton of emissions
9 reduced, and assess those measures over a variety
10 of timeframes to capture impacts on the plan-
11 ning timeframes outlined in section 134.

12 “(C) USE OF TABLE.—States and metro-
13 politan planning organizations shall consider the
14 information in the table when selecting projects
15 or developing performance plans under sub-
16 section (k).

17 “(i) OPTIONAL PROGRAMMATIC ELIGIBILITY.—

18 “(1) IN GENERAL.—At the discretion of a metro-
19 politan planning organization, a technical assessment
20 of a selected program of projects may be conducted
21 through modeling or other means to demonstrate the
22 emissions reduction projection required under this
23 section.

24 “(2) APPLICABILITY.—If an assessment described
25 in paragraph (1) successfully demonstrates an emis-

1 *sions reduction, all projects included in such assess-*
2 *ment shall be eligible for obligation under this section*
3 *without further demonstration of emissions reduction*
4 *of individual projects included in such assessment.*

5 “(j) *SUBALLOCATION TO NONATTAINMENT AND MAIN-*
6 *TENANCE AREAS.—*

7 “(1) *IN GENERAL.—An amount equal to 50 per-*
8 *cent of the amount of funds apportioned to each State*
9 *under section 104(b)(4) (excluding the amount of*
10 *funds reserved under subsection (l)) shall be suballo-*
11 *cated for projects within each area designated as non-*
12 *attainment or maintenance for the pollutants de-*
13 *scribed in subsection (b).*

14 “(2) *DISTRIBUTION OF FUNDS.—The distribution*
15 *within any State of funds required to be suballocated*
16 *under paragraph (1) to each nonattainment or main-*
17 *tenance area shall be in accordance with a formula*
18 *developed by each State and approved by the Sec-*
19 *retary, which shall consider the population of each*
20 *such nonattainment or maintenance area and shall be*
21 *weighted by the severity of pollution in the manner*
22 *described in paragraph (6).*

23 “(3) *PROJECT SELECTION.—Projects under this*
24 *subsection shall be selected by a State and shall be*

1 *consistent with the requirements of sections 134 and*
2 *135.*

3 “(4) *PRIORITY FOR USE OF SUBALLOCATED*
4 *FUNDS IN PM_{2.5} AREAS.—*

5 “(A) *IN GENERAL.—An amount equal to 50*
6 *percent of the funds suballocated under para-*
7 *graph (1) for a nonattainment or maintenance*
8 *area that are based all or in part on the weight-*
9 *ed population of such area in fine particulate*
10 *matter nonattainment shall be obligated to*
11 *projects that reduce such fine particulate matter*
12 *emissions in such area, including diesel retrofits.*

13 “(B) *CONSTRUCTION EQUIPMENT.—An*
14 *amount equal to 30 percent of the funds required*
15 *to be set aside under subparagraph (A) shall be*
16 *obligated to carry out the objectives of section*
17 *330.*

18 “(C) *OBLIGATION PROCESS.—*

19 “(i) *IN GENERAL.—Each State or met-*
20 *ropolitan planning organization required to*
21 *obligate funds in accordance with this para-*
22 *graph shall develop a process to provide*
23 *funding directly to eligible entities (as de-*
24 *fined under section 330) in order to achieve*
25 *the objectives of such section and ensure that*

1 *the bid proceeding and award of the con-*
2 *tract for any covered highway construction*
3 *project carried out under that section will*
4 *be—*

5 “(I) *made without regard to the*
6 *particulate matter emission levels of*
7 *the fleet of the eligible entity; and*

8 “(II) *consistent with existing re-*
9 *quirements for full and open competi-*
10 *tion under section 112.*

11 “(ii) *OBLIGATION.—A State may obli-*
12 *gate suballocated funds designated under*
13 *this paragraph without regard to any proc-*
14 *ess or other requirement established under*
15 *this section.*

16 “(5) *FUNDS NOT SUBALLOCATED.—Except as*
17 *provided in subsection (c), funds apportioned to a*
18 *State under section 104(b)(4) (excluding the amount*
19 *of funds reserved under subsection (l)) and not sub-*
20 *allocated under paragraph (1) shall be made available*
21 *to such State for programming in any nonattainment*
22 *or maintenance area in the State.*

23 “(6) *FACTORS FOR CALCULATION OF SUBALLOCA-*
24 *TION.—*

1 “(A) *IN GENERAL.*—*For the purposes of*
2 *paragraph (2), each State shall weight the popu-*
3 *lation of each such nonattainment or mainte-*
4 *nance area by a factor of—*

5 “(i) *1.0 if, at the time of the appor-*
6 *tionment, the area is a maintenance area*
7 *for ozone or carbon monoxide;*

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

13 “(iii) *1.1 if, at the time of the appor-*
14 *tionment, the area is classified as a mod-*
15 *erate ozone nonattainment area under sub-*
16 *part 2 of part D of title I of the Clean Air*
17 *Act (42 U.S.C. 7511 et seq.);*

18 “(iv) *1.2 if, at the time of the appor-*
19 *tionment, the area is classified as a serious*
20 *ozone nonattainment area under subpart 2*
21 *of part D of title I of the Clean Air Act (42*
22 *U.S.C. 7511 et seq.);*

23 “(v) *1.3 if, at the time of the appor-*
24 *tionment, the area is classified as a severe*
25 *ozone nonattainment area under subpart 2*

1 *of part D of title I of the Clean Air Act (42*
2 *U.S.C. 7511 et seq.);*

3 *“(vi) 1.5 if, at the time of the appor-*
4 *tionment, the area is classified as an ex-*
5 *treme ozone nonattainment area under sub-*
6 *part 2 of part D of title I of the Clean Air*
7 *Act (42 U.S.C. 7511 et seq.);*

8 *“(vii) 1.0 if, at the time of the appor-*
9 *tionment, the area is not a nonattainment*
10 *or maintenance area for ozone as described*
11 *in section 149(b), but is designated under*
12 *section 107 of the Clean Air Act (42 U.S.C.*
13 *7407) as a nonattainment area for carbon*
14 *monoxide;*

15 *“(viii) 1.0 if, at the time of the appor-*
16 *tionment, the area is designated as non-*
17 *attainment for ozone under section 107 of*
18 *the Clean Air Act (42 U.S.C. 7407); or*

19 *“(ix) 1.2 if, at the time of the appor-*
20 *tionment, the area is not a nonattainment*
21 *or maintenance area as described in section*
22 *149(b) for ozone, but is designated as a non-*
23 *attainment or maintenance area for fine*
24 *particulate matter, 2.5 micrometers or less,*

1 *under section 107 of the Clean Air Act (42*
2 *U.S.C. 7407).*

3 “(B) *OTHER FACTORS.—If, in addition to*
4 *being designated as a nonattainment or mainte-*
5 *nance area for ozone as described in section*
6 *149(b), any county within the area was also des-*
7 *ignated under section 107 of the Clean Air Act*
8 *(42 U.S.C. 7407) as a nonattainment or mainte-*
9 *nance area for carbon monoxide, or was des-*
10 *ignated under section 107 of the Clean Air Act*
11 *(42 U.S.C. 7407) as a nonattainment or mainte-*
12 *nance area for particulate matter, 2.5 microm-*
13 *eters or less, or both, the weighted nonattainment*
14 *or maintenance area population of the county,*
15 *as determined under clauses (i) through (vi), or*
16 *clause (viii), of subparagraph (A), shall be fur-*
17 *ther multiplied by a factor of 1.2, or a second*
18 *further factor of 1.2 if the area is designated as*
19 *a nonattainment or maintenance area for both*
20 *carbon monoxide and particulate matter, 2.5 mi-*
21 *crometers or less.*

22 “(7) *EXCEPTIONS FOR CERTAIN STATES.—*

23 “(A) *A State without a nonattainment or*
24 *maintenance area shall not be subject to the re-*
25 *quirements of this subsection.*

1 “(B) *The amount of funds required to be set*
2 *aside under paragraph (1) in a State that re-*
3 *ceived a minimum apportionment for fiscal year*
4 *2009 under section 104(b)(2)(D), as in effect on*
5 *the day before the date of enactment of the MAP-*
6 *21, shall be based on the amount of funds such*
7 *State would otherwise have been apportioned*
8 *under section 104(b)(4) (excluding the amount of*
9 *funds reserved under subsection (l)) but for the*
10 *minimum apportionment in fiscal year 2009.*

11 “(k) *PERFORMANCE PLAN.—*

12 “(1) *IN GENERAL.—Each tier I metropolitan*
13 *planning organization (as defined in section 134)*
14 *representing a nonattainment or maintenance area*
15 *shall develop a performance plan that—*

16 “(A) *includes an area baseline level for traf-*
17 *fic congestion and on-road mobile source emis-*
18 *sions for which the area is in nonattainment or*
19 *maintenance;*

20 “(B) *identifies air quality and traffic con-*
21 *gestion target levels based on measures estab-*
22 *lished by the Secretary; and*

23 “(C) *includes a description of projects iden-*
24 *tified for funding under this section and a de-*
25 *scription of how such projects will contribute to*

1 *achieving emission and traffic congestion reduc-*
2 *tion targets.*

3 “(2) *UPDATED PLANS.*—

4 “(A) *IN GENERAL.*—*Performance plans*
5 *shall be updated on the schedule required under*
6 *paragraph (3).*

7 “(B) *CONTENTS.*—*An updated plan shall*
8 *include a separate report that assesses the*
9 *progress of the program of projects under the*
10 *previous plan in achieving the air quality and*
11 *traffic congestion targets of the previous plan.*

12 “(3) *RULEMAKING.*—*Not later than 18 months*
13 *after the date of enactment of the MAP-21, the Sec-*
14 *retary shall promulgate regulations to implement this*
15 *subsection that identify performance measures for*
16 *traffic congestion and on-road mobile source emis-*
17 *sions, timelines for performance plans, and require-*
18 *ments under this section for assessing the implemen-*
19 *tation of projects carried out under this section.*

20 “(l) *ADDITIONAL ACTIVITIES.*—

21 “(1) *RESERVATION OF FUNDS.*—*Of the funds ap-*
22 *portioned to a State under section 104(b)(4), a State*
23 *shall reserve the amount of funds attributable to the*
24 *inclusion of the 10 percent of surface transportation*
25 *program funds apportioned to such State for fiscal*

1 *year 2009 in the formula under section 104(b)(4) for*
2 *projects under this subsection.*

3 “(2) *ELIGIBLE PROJECTS.*—*A State may obli-*
4 *gate the funds reserved under this subsection for any*
5 *of the following projects or activities:*

6 “(A) *Transportation enhancements, as de-*
7 *finied in section 101.*

8 “(B) *The recreational trails program under*
9 *section 206.*

10 “(C) *The safe routes to school program*
11 *under section 1404 of the SAFETEA–LU (23*
12 *U.S.C. 402 note; Public Law 109–59).*

13 “(D) *Planning, designing, or constructing*
14 *boulevards and other roadways largely in the*
15 *right-of-way of former Interstate System routes*
16 *or other divided highways.*

17 “(3) *ALLOCATIONS OF FUNDS.*—

18 “(A) *CALCULATION.*—*Of the funds reserved*
19 *in a State under this subsection—*

20 “(i) *50 percent for a fiscal year shall*
21 *be obligated under this subsection to any el-*
22 *igible entity in proportion to their relative*
23 *shares of the population of the State—*

1 “(I) in urbanized areas of the
2 State with an urbanized area popu-
3 lation of over 200,000;

4 “(II) in areas of the State other
5 than urban areas with a population
6 greater than 5,000; and

7 “(III) in other areas of the State;
8 and

9 “(ii) 50 percent shall be obligated in
10 any area of the State.

11 “(B) METROPOLITAN AREAS.—Funds at-
12 tributed to an urbanized area under subpara-
13 graph (A)(i)(I) may be obligated in the metro-
14 politan area established under section 134 that
15 encompasses the urbanized area.

16 “(C) DISTRIBUTION AMONG URBANIZED
17 AREAS OF OVER 200,000 POPULATION.—

18 “(i) IN GENERAL.—Except as provided
19 in subparagraph (A)(ii), the amount of
20 funds that a State is required to obligate
21 under subparagraph (A)(i)(I) shall be obli-
22 gated in urbanized areas described in sub-
23 paragraph (A)(i)(I) based on the relative
24 population of the areas.

1 “(i) *OTHER FACTORS.*—*The State*
2 *may obligate the funds described in clause*
3 *(i) based on other factors if the State and*
4 *the relevant metropolitan planning organi-*
5 *zations jointly apply to the Secretary for*
6 *the permission to base the obligation on*
7 *other factors and the Secretary grants the*
8 *request.*

9 “(D) *ACCESS TO FUNDS.*—

10 “(i) *IN GENERAL.*—*Each State or met-*
11 *ropolitan planning organization required to*
12 *obligate funds in accordance with subpara-*
13 *graph (A) shall develop a competitive proc-*
14 *ess to allow eligible entities to submit*
15 *projects for funding that achieve the objec-*
16 *tives of this subsection.*

17 “(ii) *DEFINITION OF ELIGIBLE ENTI-*
18 *TY.*—*In this subsection, the term ‘eligible*
19 *entity’ means—*

20 “(I) *a local government;*

21 “(II) *a regional transportation*
22 *authority;*

23 “(III) *a transit agency;*

24 “(IV) *a natural resource or public*
25 *land agency;*

1 “(V) a school district, local edu-
2 cation agency, or school;

3 “(VI) a tribal government; and

4 “(VII) any other local or regional
5 governmental entity with responsibility
6 for or oversight of transportation or
7 recreational trails (other than a tier I
8 metropolitan planning organization or
9 a State agency) that the State deter-
10 mines to be eligible, consistent with the
11 goals of this subsection.

12 “(E) *SELECTION OF PROJECTS.*—Each tier
13 I and tier II metropolitan planning organiza-
14 tion shall select projects carried out within the
15 boundaries of the applicable metropolitan plan-
16 ning area, in consultation with the relevant
17 State, for funds reserved in a State under this
18 subsection and suballocated to the metropolitan
19 planning area under subparagraph (A)(i).

20 “(4) *FLEXIBILITY OF EXCESS RESERVED FUND-*
21 *ING.*—Beginning in the second fiscal year after the
22 date of enactment of the MAP–21, if on August 1 of
23 that fiscal year the unobligated balance of available
24 funds apportioned to a State under section 104(b)(4)
25 and reserved by a State under this subsection exceeds

1 *150 percent of such reserved amount in such fiscal*
2 *year, the State may thereafter obligate the amount of*
3 *excess funds for any activity—*

4 *“(A) that is eligible to receive funding*
5 *under this subsection; or*

6 *“(B) for which the Secretary has approved*
7 *the obligation of funds for any State under this*
8 *section.*

9 *“(5) PROVISION OF ADEQUATE DATA, MODELING,*
10 *AND SUPPORT.—In any case in which a State re-*
11 *quests reasonable technical support or otherwise re-*
12 *quests data (including planning models and other*
13 *modeling), clarification, or guidance regarding the*
14 *content of any final rule or applicable regulation ma-*
15 *terial to State actions under this section, the Sec-*
16 *retary and any other agency shall provide that sup-*
17 *port, clarification, or guidance in a timely manner.*

18 *“(6) TREATMENT OF PROJECTS.—Notwith-*
19 *standing any other provision of law, projects funded*
20 *under this subsection shall be treated as projects on*
21 *a Federal-aid highway under this chapter.*

22 *“(7) CONTINUATION OF CERTAIN RECREATIONAL*
23 *TRAILS PROJECTS.—Each State that does not opt out*
24 *of this paragraph shall—*

1 “(A) obligate an amount of funds reserved
2 under this section equal to the amount of the
3 funds apportioned to the State for fiscal year
4 2009 under section 104(h)(2) for projects relating
5 to recreational trails under section 206;

6 “(B) return 1 percent of those funds to the
7 Secretary for the administration of that pro-
8 gram; and

9 “(C) comply with the provisions of the ad-
10 ministration of the recreational trails program
11 under section 206, including the use of appor-
12 tioned funds described under subsection (d)(3)(A)
13 of that section.

14 “(8) *STATE FLEXIBILITY*.—A State may opt out
15 of the recreational trails program under paragraph
16 (7) if the Governor of the State notifies the Secretary
17 not later than 30 days prior to apportionments being
18 made for any fiscal year.”.

19 **SEC. 1114. TERRITORIAL AND PUERTO RICO HIGHWAY PRO-**
20 **GRAM.**

21 (a) *IN GENERAL*.—Section 165 of title 23, United
22 States Code, is amended to read as follows:

1 **“§ 165. Territorial and Puerto Rico highway program**

2 “(a) *DIVISION OF FUNDS.*—Of funds made available
3 in a fiscal year for the territorial and Puerto Rico highway
4 program—

5 “(1) 75 percent shall be for the Puerto Rico high-
6 way program under subsection (b); and

7 “(2) 25 percent shall be for the territorial high-
8 way program under subsection (c).

9 “(b) *PUERTO RICO HIGHWAY PROGRAM.*—

10 “(1) *IN GENERAL.*—The Secretary shall allocate
11 funds made available to carry out this subsection to
12 the Commonwealth of Puerto Rico to carry out a
13 highway program in the Commonwealth.

14 “(2) *TREATMENT OF FUNDS.*—Amounts made
15 available to carry out this subsection for a fiscal year
16 shall be administered as follows:

17 “(A) *APPORTIONMENT.*—

18 “(i) *IN GENERAL.*—For the purpose of
19 imposing any penalty under this title or
20 title 49, the amounts shall be treated as
21 being apportioned to Puerto Rico under sec-
22 tions 104(b) and 144 (as in effect for fiscal
23 year 1997) for each program funded under
24 those sections in an amount determined by
25 multiplying—

1 “(I) *the aggregate of the amounts*
2 *for the fiscal year; by*

3 “(II) *the proportion that—*

4 “(aa) *the amount of funds*
5 *apportioned to Puerto Rico for*
6 *each such program for fiscal year*
7 *1997; bears to*

8 “(bb) *the total amount of*
9 *funds apportioned to Puerto Rico*
10 *for all such programs for fiscal*
11 *year 1997.*

12 “(ii) *EXCEPTION.—Funds identified*
13 *under clause (i) as having been apportioned*
14 *for the national highway system, the surface*
15 *transportation program, and the Interstate*
16 *maintenance program shall be deemed to*
17 *have been apportioned 50 percent for the*
18 *national highway performance program*
19 *and 50 percent for the transportation mo-*
20 *bility program for purposes of imposing*
21 *such penalties.*

22 “(B) *PENALTY.—The amounts treated as*
23 *being apportioned to Puerto Rico under each sec-*
24 *tion referred to in subparagraph (A) shall be*
25 *deemed to be required to be apportioned to Puer-*

1 to Rico under that section for purposes of the im-
2 position of any penalty under this title or title
3 49.

4 “(C) *ELIGIBLE USES OF FUNDS.*—Of
5 amounts allocated to Puerto Rico for the Puerto
6 Rico Highway Program for a fiscal year—

7 “(i) at least 50 percent shall be avail-
8 able only for purposes eligible under section
9 119;

10 “(ii) at least 25 percent shall be avail-
11 able only for purposes eligible under section
12 148; and

13 “(iii) any remaining funds may be ob-
14 ligated for activities eligible under chapter
15 1.

16 “(3) *EFFECT ON APPORTIONMENTS.*—Except as
17 otherwise specifically provided, Puerto Rico shall not
18 be eligible to receive funds apportioned to States
19 under this title.

20 “(c) *TERRITORIAL HIGHWAY PROGRAM.*—

21 “(1) *TERRITORY DEFINED.*—In this subsection,
22 the term ‘territory’ means any of the following terri-
23 tories of the United States:

24 “(A) American Samoa.

1 “(B) *The Commonwealth of the Northern*
2 *Mariana Islands.*

3 “(C) *Guam.*

4 “(D) *The United States Virgin Islands.*

5 “(2) *PROGRAM.—*

6 “(A) *IN GENERAL.—Recognizing the mutual*
7 *benefits that will accrue to the territories and the*
8 *United States from the improvement of highways*
9 *in the territories, the Secretary may carry out a*
10 *program to assist each government of a territory*
11 *in the construction and improvement of a system*
12 *of arterial and collector highways, and necessary*
13 *inter-island connectors, that is—*

14 “(i) *designated by the Governor or*
15 *chief executive officer of each territory; and*

16 “(ii) *approved by the Secretary.*

17 “(B) *FEDERAL SHARE.—The Federal share*
18 *of Federal financial assistance provided to terri-*
19 *tries under this subsection shall be in accord-*
20 *ance with section 120(g).*

21 “(3) *TECHNICAL ASSISTANCE.—*

22 “(A) *IN GENERAL.—To continue a long-*
23 *range highway development program, the Sec-*
24 *retary may provide technical assistance to the*

1 *governments of the territories to enable the terri-*
2 *tries, on a continuing basis—*

3 *“(i) to engage in highway planning;*

4 *“(ii) to conduct environmental evalua-*
5 *tions;*

6 *“(iii) to administer right-of-way ac-*
7 *quisition and relocation assistance pro-*
8 *grams; and*

9 *“(iv) to design, construct, operate, and*
10 *maintain a system of arterial and collector*
11 *highways, including necessary inter-island*
12 *connectors.*

13 *“(B) FORM AND TERMS OF ASSISTANCE.—*
14 *Technical assistance provided under subpara-*
15 *graph (A), and the terms for the sharing of in-*
16 *formation among territories receiving the tech-*
17 *nical assistance, shall be included in the agree-*
18 *ment required by paragraph (5).*

19 *“(4) NONAPPLICABILITY OF CERTAIN PROVI-*
20 *SIONS.—*

21 *“(A) IN GENERAL.—Except to the extent*
22 *that provisions of this chapter are determined by*
23 *the Secretary to be inconsistent with the needs of*
24 *the territories and the intent of this subsection,*
25 *this chapter (other than provisions of this chap-*

1 *ter relating to the apportionment and allocation*
2 *of funds) shall apply to funds made available*
3 *under this subsection.*

4 “(B) *APPLICABLE PROVISIONS.*—*The agree-*
5 *ment required by paragraph (5) for each terri-*
6 *tory shall identify the sections of this chapter*
7 *that are applicable to that territory and the ex-*
8 *tent of the applicability of those sections.*

9 “(5) *AGREEMENT.*—

10 “(A) *IN GENERAL.*—*Except as provided in*
11 *subparagraph (D), none of the funds made avail-*
12 *able under this subsection shall be available for*
13 *obligation or expenditure with respect to any ter-*
14 *ritory until the chief executive officer of the terri-*
15 *tory has entered into an agreement (including*
16 *an agreement entered into under section 215 as*
17 *in effect on the day before the enactment of this*
18 *section) with the Secretary providing that the*
19 *government of the territory shall—*

20 “(i) *implement the program in accord-*
21 *ance with applicable provisions of this*
22 *chapter and paragraph (4);*

23 “(ii) *design and construct a system of*
24 *arterial and collector highways, including*

1 *necessary inter-island connectors, in accord-*
2 *ance with standards that are—*

3 *“(I) appropriate for each terri-*
4 *tory; and*

5 *“(II) approved by the Secretary;*

6 *“(iii) provide for the maintenance of*
7 *facilities constructed or operated under this*
8 *subsection in a condition to adequately*
9 *serve the needs of present and future traffic;*
10 *and*

11 *“(iv) implement standards for traffic*
12 *operations and uniform traffic control de-*
13 *vices that are approved by the Secretary.*

14 *“(B) TECHNICAL ASSISTANCE.—The agree-*
15 *ment required by subparagraph (A) shall—*

16 *“(i) specify the kind of technical assist-*
17 *ance to be provided under the program;*

18 *“(ii) include appropriate provisions*
19 *regarding information sharing among the*
20 *territories; and*

21 *“(iii) delineate the oversight role and*
22 *responsibilities of the territories and the*
23 *Secretary.*

24 *“(C) REVIEW AND REVISION OF AGREE-*
25 *MENT.—The agreement entered into under sub-*

1 *paragraph (A) shall be reevaluated and, as nec-*
2 *essary, revised, at least every 2 years.*

3 “(D) *EXISTING AGREEMENTS.*—*With respect*
4 *to an agreement under this subsection or an*
5 *agreement entered into under section 215 of this*
6 *title as in effect on the day before the date of en-*
7 *actment of this subsection—*

8 “(i) *the agreement shall continue in*
9 *force until replaced by an agreement entered*
10 *into in accordance with subparagraph (A);*
11 *and*

12 “(ii) *amounts made available under*
13 *this subsection under the existing agreement*
14 *shall be available for obligation or expendi-*
15 *ture so long as the agreement, or the exist-*
16 *ing agreement entered into under subpara-*
17 *graph (A), is in effect.*

18 “(6) *ELIGIBLE USES OF FUNDS.*—

19 “(A) *IN GENERAL.*—*Funds made available*
20 *under this subsection may be used only for the*
21 *following projects and activities carried out in a*
22 *territory:*

23 “(i) *Eligible transportation mobility*
24 *program projects described in section*
25 *133(c).*

1 “(ii) *Cost-effective, preventive maintenance*
2 *consistent with section 116(d).*

3 “(iii) *Ferry boats, terminal facilities,*
4 *and approaches, in accordance with sub-*
5 *sections (b) and (c) of section 129.*

6 “(iv) *Engineering and economic sur-*
7 *veys and investigations for the planning,*
8 *and the financing, of future highway pro-*
9 *grams.*

10 “(v) *Studies of the economy, safety,*
11 *and convenience of highway use.*

12 “(vi) *The regulation and equitable tax-*
13 *ation of highway use.*

14 “(vii) *Such research and development*
15 *as are necessary in connection with the*
16 *planning, design, and maintenance of the*
17 *highway system.*

18 “(B) *PROHIBITION ON USE OF FUNDS FOR*
19 *ROUTINE MAINTENANCE.—None of the funds*
20 *made available under this subsection shall be ob-*
21 *ligated or expended for routine maintenance.*

22 “(7) *LOCATION OF PROJECTS.—Territorial high-*
23 *way program projects (other than those described in*
24 *paragraphs (2), (4), (7), (8), (14), and (19) of section*

1 133(c) may not be undertaken on roads functionally
2 classified as local.”.

3 (b) CONFORMING AMENDMENTS.—

4 (1) CLERICAL AMENDMENT.—The analysis for
5 chapter 1 of title 23, United States Code, is amended
6 by striking the item relating to section 165 and in-
7 serting the following:

 “165. Territorial and Puerto Rico highway program.”.

8 (2) OBSOLETE TEXT.—Section 215 of that title,
9 and the item relating to that section in the analysis
10 for chapter 2, are repealed.

11 **SEC. 1115. NATIONAL FREIGHT PROGRAM.**

12 (a) IN GENERAL.—Chapter 1 of title 23, United States
13 Code, is amended by adding at the end the following:

14 **“§ 167. National freight program**

15 “(a) NATIONAL FREIGHT PROGRAM.—It is the policy
16 of the United States to improve the condition and perform-
17 ance of the national freight network to ensure that the na-
18 tional freight network provides the foundation for the
19 United States to compete in the global economy and achieve
20 each goal described in subsection (b).

21 “(b) GOALS.—The goals of the national freight pro-
22 gram are—

23 “(1) to invest in infrastructure improvements
24 and to implement operational improvements that—

1 “(A) *strengthen the contribution of the na-*
2 *tional freight network to the economic competi-*
3 *tiveness of the United States;*

4 “(B) *reduce congestion; and*

5 “(C) *increase productivity, particularly for*
6 *domestic industries and businesses that create*
7 *high-value jobs;*

8 “(2) *to reduce the environmental impacts of*
9 *freight movement on the national freight network;*

10 “(3) *to improve the safety, security, and resil-*
11 *ience of freight transportation;*

12 “(4) *to improve the state of good repair of the*
13 *national freight network;*

14 “(5) *to use advanced technology to improve the*
15 *safety and efficiency of the national freight network;*

16 “(6) *to incorporate concepts of performance, in-*
17 *novation, competition, and accountability into the op-*
18 *eration and maintenance of the national freight net-*
19 *work; and*

20 “(7) *to improve the economic efficiency of the*
21 *national freight network.*

22 “(c) *ESTABLISHMENT OF PROGRAM.—*

23 “(1) *IN GENERAL.—The Secretary shall establish*
24 *and implement a national freight program in accord-*
25 *ance with this section to strategically direct Federal*

1 *resources toward improved system performance for ef-*
2 *ficient movement of freight on highways, including*
3 *national highway system freight intermodal connec-*
4 *tors and aerotropolis transportation systems.*

5 “(2) *NETWORK COMPONENTS.—The national*
6 *freight network shall consist of—*

7 “(A) *the primary freight network, as des-*
8 *ignated by the Secretary under subsection (f) (re-*
9 *ferred to in this section as the ‘primary freight*
10 *network’) as most critical to the movement of*
11 *freight;*

12 “(B) *the portions of the Interstate System*
13 *not designated as part of the primary freight*
14 *network; and*

15 “(C) *critical rural freight corridors estab-*
16 *lished under subsection (g).*

17 “(d) *USE OF APPORTIONED FUNDS.—*

18 “(1) *PROJECTS ON THE NATIONAL FREIGHT NET-*
19 *WORK.—At a minimum, following designation of the*
20 *primary freight network under subsection (f), a State*
21 *shall obligate funds apportioned under section*
22 *104(b)(5) to improve the movement of freight on the*
23 *national freight network.*

1 “(2) *LOCATION OF PROJECTS.*—A project carried
2 out using funds apportioned under paragraph (1)
3 shall be located—

4 “(A) on the primary freight network as de-
5 scribed under subsection (f);

6 “(B) on a portion of the Interstate System
7 not designated as primary freight network;

8 “(C) on roads off of the Interstate System or
9 primary freight network, if that use of funds will
10 provide—

11 “(i) a more significant improvement to
12 freight movement on the Interstate System
13 or the primary freight network;

14 “(ii) critical freight access to the Inter-
15 state System or the primary freight net-
16 work; or

17 “(iii) mitigation of the congestion im-
18 pacts from freight movement;

19 “(D) on a national highway system freight
20 intermodal connector;

21 “(E) on critical rural freight corridors, as
22 designated under subsection (g) (except that not
23 more than 20 percent of the total anticipated ap-
24 portionment of a State under section 104(b)(5)

1 *during fiscal years 2012 and 2013 may be used*
2 *for projects on critical rural freight corridors); or*

3 *“(F) within the boundaries of public and*
4 *private intermodal facilities, but shall only in-*
5 *clude surface infrastructure necessary to facili-*
6 *tate direct intermodal interchange, transfer, and*
7 *access into and out of the facility.*

8 *“(3) PRIMARY FREIGHT NETWORK FUNDING.—*
9 *Beginning for each fiscal year after the Secretary des-*
10 *ignates the primary freight network, a State shall ob-*
11 *ligate from funds apportioned under section 104(b)(5)*
12 *for the primary freight network the lesser of—*

13 *“(A) an amount equal to the product ob-*
14 *tained by multiplying—*

15 *“(i) an amount equal to 110 percent of*
16 *the apportionment of the State for the fiscal*
17 *year under section 104(b)(5); and*

18 *“(ii) the proportion that—*

19 *“(I) the total designated primary*
20 *freight network mileage of the State;*
21 *bears to*

22 *“(II) the sum of the designated*
23 *primary freight network mileage of the*
24 *State and the total Interstate system*
25 *mileage of the State that is not des-*

1 *ignated as part of the primary freight*
2 *network; or*

3 “(B) *an amount equal to the total appor-*
4 *tionment of the State under section 104(b)(5).*

5 “(e) *ELIGIBILITY.—*

6 “(1) *ELIGIBLE PROJECTS.—To be eligible for*
7 *funding under this section, a project shall dem-*
8 *onstrate the improvement made by the project to the*
9 *efficient movement of freight on the national freight*
10 *network.*

11 “(2) *FREIGHT RAIL AND MARITIME PROJECTS.—*

12 “(A) *IN GENERAL.—A State may obligate*
13 *an amount equal to not more than 10 percent of*
14 *the total apportionment to the State under sec-*
15 *tion 104(b)(5) over the period of fiscal years*
16 *2012 and 2013 for public or private freight rail*
17 *or maritime projects.*

18 “(B) *ELIGIBILITY.—For a State to be eligi-*
19 *ble to obligate funds in the manner described in*
20 *subparagraph (A), the Secretary shall concur*
21 *with the State that—*

22 “(i) *the project for which the State*
23 *seeks to obligate funds under this paragraph*
24 *would make freight rail improvements to*
25 *enhance cross-border commerce within 5*

1 *miles of the international border between*
2 *the United States and Canada or Mexico or*
3 *make significant improvement to freight*
4 *movements on the national freight network;*
5 *and*

6 *“(ii) the public benefit of the project—*

7 *“(I) exceeds the Federal invest-*
8 *ment; and*

9 *“(II) provides a better return*
10 *than a highway project on a segment*
11 *of the primary freight network.*

12 *“(3) ELIGIBLE PROJECT COSTS.—A State may*
13 *obligate funds apportioned to the State under section*
14 *104(b)(5) for the national freight program for any of*
15 *the following costs of an eligible project:*

16 *“(A) Development phase activities, includ-*
17 *ing planning, feasibility analysis, revenue fore-*
18 *casting, environmental review, preliminary engi-*
19 *neering and design work, and other*
20 *preconstruction activities.*

21 *“(B) Construction, reconstruction, rehabili-*
22 *tation, acquisition of real property (including*
23 *land relating to the project and improvements to*
24 *land), construction contingencies, acquisition of*
25 *equipment, and operational improvements di-*

1 *rectly relating to improving system performance,*
2 *including but not limited to any segment of the*
3 *primary freight network that falls below the*
4 *minimum level established pursuant to section*
5 *119(f).*

6 *“(C) Intelligent transportation systems and*
7 *other technology to improve the flow of freight.*

8 *“(D) Efforts to reduce the environmental*
9 *impacts of freight movement on the national*
10 *freight network.*

11 *“(E) Environmental mitigation.*

12 *“(F) Railway-highway grade separation.*

13 *“(G) Geometric improvements to inter-*
14 *changes and ramps.*

15 *“(H) Truck-only lanes.*

16 *“(I) Climbing and runaway truck lanes.*

17 *“(J) Adding or widening of shoulders.*

18 *“(K) Truck parking facilities eligible for*
19 *funding under section 1401 of the MAP-21.*

20 *“(L) Real-time traffic, truck parking, road-*
21 *way condition, and multimodal transportation*
22 *information systems.*

23 *“(M) Electronic screening and credentialing*
24 *systems for vehicles, including weigh-in-motion*
25 *truck inspection technologies.*

1 “(N) *Traffic signal optimization including*
2 *synchronized and adaptive signals.*

3 “(O) *Work zone management and informa-*
4 *tion systems.*

5 “(P) *Highway ramp metering.*

6 “(Q) *Electronic cargo and border security*
7 *technologies that improve truck freight move-*
8 *ment.*

9 “(R) *Intelligent transportation systems that*
10 *would increase truck freight efficiencies inside*
11 *the boundaries of intermodal facilities.*

12 “(S) *Any other activities to improve the*
13 *flow of freight on the national freight network.*

14 “(4) *OTHER ELIGIBLE COSTS.—In addition to*
15 *eligible project costs, a State may use funds appor-*
16 *tioned under section 104(b)(5) for—*

17 “(A) *carrying out diesel retrofit or alter-*
18 *native fuel projects defined in section 149 for*
19 *class 8 vehicles; or*

20 “(B) *the necessary costs of—*

21 “(i) *conducting analyses and data col-*
22 *lection;*

23 “(ii) *developing and updating perform-*
24 *ance targets to carry out this section; or*

1 “(iii) reporting to the Secretary to
2 comply with subsection (i).

3 “(5) *ELIGIBLE PROJECT COSTS PRIOR TO DES-*
4 *IGNATION OF THE PRIMARY FREIGHT NETWORK.—*
5 *Prior to the date of designation of the primary freight*
6 *network, a State may obligate funds apportioned to*
7 *the State under section 104(b)(5) to improve freight*
8 *movement on the Interstate System for—*

9 “(A) *construction, reconstruction, resur-*
10 *facing, restoration, and rehabilitation of seg-*
11 *ments of the Interstate System;*

12 “(B) *operational improvements for segments*
13 *of the Interstate System;*

14 “(C) *construction of, and operational im-*
15 *provements for, a Federal-aid highway not on*
16 *the Interstate System, and construction of a*
17 *transit project eligible for assistance under chap-*
18 *ter 53 of title 49, United States Code, if—*

19 “(i) *the highway or transit project is*
20 *in the same corridor as, and in proximity*
21 *to a highway designated as a part of, the*
22 *Interstate System;*

23 “(ii) *the construction or improvements*
24 *would improve the level of service on the*
25 *Interstate System described in subpara-*

1 *graph (A) and improve freight traffic flow;*

2 *and*

3 *“(iii) the construction or improvements*
4 *are more cost-effective for freight movement*
5 *than an improvement to the Interstate Sys-*
6 *tem described in subparagraph (A);*

7 *“(D) highway safety improvements for seg-*
8 *ments of the Interstate System;*

9 *“(E) transportation planning in accordance*
10 *with sections 134 and 135;*

11 *“(F) the costs of conducting analysis and*
12 *data collection to comply with this section;*

13 *“(G) truck parking facilities eligible for*
14 *funding under section 1401 of the MAP-21;*

15 *“(H) infrastructure-based intelligent trans-*
16 *portation systems capital improvements;*

17 *“(I) environmental restoration and pollu-*
18 *tion abatement in accordance with section 328;*

19 *and*

20 *“(J) in accordance with all applicable Fed-*
21 *eral law (including regulations), participation*
22 *in natural habitat and wetlands mitigation ef-*
23 *forts relating to projects funded under this title,*
24 *which may include participation in natural*
25 *habitat and wetlands mitigation banks, contribu-*

1 *tions to statewide and regional efforts to con-*
2 *serve, restore, enhance, and create natural habi-*
3 *tats and wetlands, and development of statewide*
4 *and regional natural habitat and wetlands con-*
5 *servation and mitigation plans, including any*
6 *such banks, efforts, and plans developed in ac-*
7 *cordance with applicable Federal law (including*
8 *regulations), on the conditions that—*

9 *“(i) contributions to those mitigation*
10 *efforts may—*

11 *“(I) take place concurrent with or*
12 *in advance of project construction; and*

13 *“(II) occur in advance of project*
14 *construction only if the efforts are con-*
15 *sistent with all applicable requirements*
16 *of Federal law (including regulations)*
17 *and State transportation planning*
18 *processes; and*

19 *“(ii) with respect to participation in a*
20 *natural habitat or wetland mitigation effort*
21 *relating to a project funded under this title*
22 *that has an impact that occurs within the*
23 *service area of a mitigation bank, preference*
24 *is given, to the maximum extent prac-*
25 *ticable, to the use of the mitigation bank if*

1 *the bank contains sufficient available cred-*
2 *its to offset the impact and the bank is ap-*
3 *proved in accordance with applicable Fed-*
4 *eral law (including regulations).*

5 “(f) *DESIGNATION OF PRIMARY FREIGHT NETWORK.—*

6 “(1) *INITIAL DESIGNATION OF PRIMARY FREIGHT*
7 *NETWORK.—*

8 “(A) *DESIGNATION.—Not later than 1 year*
9 *after the date of enactment of this section, the*
10 *Secretary shall designate a primary freight net-*
11 *work—*

12 “(i) *based on an inventory of national*
13 *freight volume conducted by the Adminis-*
14 *trator of the Federal Highway Administra-*
15 *tion, in consultation with stakeholders, in-*
16 *cluding system users, transport providers,*
17 *and States; and*

18 “(ii) *that shall be comprised of not*
19 *more than 27,000 centerline miles of exist-*
20 *ing roadways that are most critical to the*
21 *movement of freight.*

22 “(B) *FACTORS FOR DESIGNATION.—In des-*
23 *ignating the primary freight network, the Sec-*
24 *retary shall consider—*

1 “(i) *the origins and destinations of*
2 *freight movement in the United States;*

3 “(ii) *the total freight tonnage and*
4 *value of freight moved by all modes of*
5 *transportation;*

6 “(iii) *the percentage of annual average*
7 *daily truck traffic in the annual average*
8 *daily traffic on principal arterials;*

9 “(iv) *the annual average daily truck*
10 *traffic on principal arterials;*

11 “(v) *land and maritime ports of entry;*

12 “(vi) *population centers; and*

13 “(vii) *network connectivity.*

14 “(2) *ADDITIONAL MILES ON PRIMARY FREIGHT*
15 *NETWORK.—In addition to the miles initially des-*
16 *ignated under paragraph (1), the Secretary may in-*
17 *crease the number of miles designated as part of the*
18 *primary freight network by not more than 3,000 ad-*
19 *ditional centerline miles of roadways (which may in-*
20 *clude existing or planned roads) critical to future effi-*
21 *cient movement of goods on the primary freight net-*
22 *work.*

23 “(3) *REDESIGNATION OF PRIMARY FREIGHT NET-*
24 *WORK.—During calendar year 2015 and every 10*
25 *years thereafter, using the designation factors de-*

1 *scribed in paragraph (1), the Secretary shall redesign-*
2 *nate the primary freight network (including addi-*
3 *tional mileage described in subsection (f)(2)).*

4 *“(g) CRITICAL RURAL FREIGHT CORRIDORS.—A State*
5 *may designate a road within the borders of the State as*
6 *a critical rural freight corridor if the road—*

7 *“(1) is a rural principal arterial roadway and*
8 *has a minimum of 25 percent of the annual average*
9 *daily traffic of the road measured in passenger vehicle*
10 *equivalent units from trucks (FHWA vehicle class 8*
11 *to 13); or*

12 *“(2) connects the primary freight network, a*
13 *roadway described in paragraph (1), or Interstate*
14 *System to facilities that handle more than—*

15 *“(A) 50,000 20-foot equivalent units per*
16 *year; or*

17 *“(B) 500,000 tons per year of bulk commod-*
18 *ities.*

19 *“(h) NATIONAL FREIGHT STRATEGIC PLAN.—*

20 *“(1) INITIAL DEVELOPMENT OF NATIONAL*
21 *FREIGHT STRATEGIC PLAN.—Not later than 3 years*
22 *after the date of enactment of this section, the Sec-*
23 *retary shall, in consultation with appropriate public*
24 *and private transportation stakeholders, develop and*
25 *post on the Department of Transportation public*

1 *website a national freight strategic plan that shall in-*
2 *clude—*

3 *“(A) an assessment of the condition and*
4 *performance of the national freight network;*

5 *“(B) an identification of highway bottle-*
6 *necks on the national freight network that create*
7 *significant freight congestion problems, based on*
8 *a quantitative methodology developed by the Sec-*
9 *retary, which shall, at a minimum, include in-*
10 *formation from the Freight Analysis Network of*
11 *the Federal Highway Administration;*

12 *“(C) forecasts of freight volumes for the 20-*
13 *year period beginning in the year during which*
14 *the plan is issued;*

15 *“(D) an identification of major trade gate-*
16 *ways and national freight corridors that connect*
17 *major population centers, trade gateways, and*
18 *other major freight generators for current and*
19 *forecasted traffic and freight volumes, the identi-*
20 *fication of which shall be revised, as appropriate,*
21 *in subsequent plans;*

22 *“(E) an assessment of statutory, regulatory,*
23 *technological, institutional, financial, and other*
24 *barriers to improved freight transportation per-*

1 *formance (including opportunities for over-*
2 *coming the barriers);*

3 *“(F) best practices for improving the per-*
4 *formance of the national freight network;*

5 *“(G) best practices to mitigate the impacts*
6 *of freight movement on communities;*

7 *“(H) a process for addressing multistate*
8 *projects and encouraging jurisdictions to collabo-*
9 *rate; and*

10 *“(I) strategies to improve maritime, freight*
11 *rail, and freight intermodal connectivity.*

12 *“(2) UPDATES TO NATIONAL FREIGHT STRA-*
13 *TEGIC PLAN.—Not later than 5 years after the date of*
14 *completion of the first national freight strategic plan*
15 *under paragraph (1), and every 5 years thereafter,*
16 *the Secretary shall update and repost on the Depart-*
17 *ment of Transportation public website a revised na-*
18 *tional freight strategic plan.*

19 *“(i) FREIGHT PERFORMANCE TARGETS.—*

20 *“(1) RULEMAKING.—Not later than 2 years after*
21 *the date of enactment of this section, the Secretary, in*
22 *consultation with State departments of transportation*
23 *and other appropriate public and private transpor-*
24 *tation stakeholders, shall publish a rulemaking that*

1 *establishes performance measures for freight move-*
2 *ment on the primary freight network.*

3 “(2) *STATE TARGETS AND REPORTING.*—*Not*
4 *later than 1 year after the date on which the Sec-*
5 *retary publishes the rulemaking under paragraph (1),*
6 *each State shall—*

7 “(A) *develop and periodically update State*
8 *performance targets for freight movement on the*
9 *primary freight network—*

10 “(i) *in consultation with appropriate*
11 *public and private stakeholders; and*

12 “(ii) *using measures determined by the*
13 *Secretary; and*

14 “(B) *for every 2-year period, submit to the*
15 *Secretary a report that contains a description*
16 *of—*

17 “(i) *the progress of the State toward*
18 *meeting the targets; and*

19 “(ii) *the ways in which the State is*
20 *addressing congestion at freight bottlenecks*
21 *within the State.*

22 “(3) *COMPLIANCE.*—

23 “(A) *PERFORMANCE TARGETS.*—*To obligate*
24 *funding apportioned under section 104(b)(5),*

1 *each State shall develop performance targets in*
2 *accordance with paragraph (2).*

3 *“(B) DETERMINATION OF SECRETARY.—If*
4 *the Secretary determines that a State has not*
5 *met or made significant progress toward meeting*
6 *the performance targets of the State by the date*
7 *that is 2 years after the date of establishment of*
8 *the performance targets, until the date on which*
9 *the Secretary determines that the State has met*
10 *(or has made significant progress towards meet-*
11 *ing) the State performance targets, the State*
12 *shall submit to the Secretary, on a biennial*
13 *basis, a freight performance improvement plan*
14 *that includes—*

15 *“(i) an identification of significant*
16 *freight system trends, needs, and issues*
17 *within the State;*

18 *“(ii) a description of the freight poli-*
19 *cies and strategies that will guide the*
20 *freight-related transportation investments of*
21 *the State;*

22 *“(iii) an inventory of freight bottle-*
23 *necks within the State and a description of*
24 *the ways in which the State is allocating*
25 *funds to improve those bottlenecks; and*

1 “(iv) a description of the actions the
2 State will undertake to meet the perform-
3 ance targets of the State.

4 “(j) *FREIGHT TRANSPORTATION CONDITIONS AND*
5 *PERFORMANCE REPORTS.*—Not later than 2 years after the
6 date of enactment of this section, and biennially thereafter,
7 the Secretary shall prepare a report that contains a descrip-
8 tion of the conditions and performance of the national
9 freight network in the United States.

10 “(k) *TRANSPORTATION INVESTMENT DATA AND PLAN-*
11 *NING TOOLS.*—

12 “(1) *IN GENERAL.*—Not later than 1 year after
13 the date of enactment of this section, the Secretary
14 shall—

15 “(A) begin development of new tools and
16 improvement of existing tools or improve exist-
17 ing tools to support an outcome-oriented, per-
18 formance-based approach to evaluate proposed
19 freight-related and other transportation projects,
20 including—

21 “(i) methodologies for systematic anal-
22 ysis of benefits and costs;

23 “(ii) tools for ensuring that the evalua-
24 tion of freight-related and other transpor-
25 tation projects could consider safety, eco-

1 *conomic competitiveness, environmental sus-*
2 *tainability, and system condition in the*
3 *project selection process; and*

4 *“(iii) other elements to assist in effec-*
5 *tive transportation planning;*

6 *“(B) identify transportation-related model*
7 *data elements to support a broad range of eval-*
8 *uation methods and techniques to assist in mak-*
9 *ing transportation investment decisions; and*

10 *“(C) at a minimum, in consultation with*
11 *other relevant Federal agencies, consider any im-*
12 *provements to existing freight flow data collec-*
13 *tion efforts that could reduce identified freight*
14 *data gaps and deficiencies and help improve*
15 *forecasts of freight transportation demand.*

16 *“(2) CONSULTATION.—The Secretary shall con-*
17 *sult with Federal, State, and other stakeholders to de-*
18 *velop, improve, and implement the tools and collect*
19 *the data in paragraph (1).*

20 *“(l) DEFINITION OF AEROTROPOLIS TRANSPORTATION*
21 *SYSTEM.—For the purposes of this section, the term*
22 *‘aerotropolis transportation system’ means a planned and*
23 *coordinated multimodal freight and passenger transpor-*
24 *tation network that, as determined by the Secretary, pro-*
25 *vides efficient, cost-effective, sustainable, and intermodal*

1 *connectivity to a defined region of economic significance*
 2 *centered around a major airport.*

3 “(m) *TREATMENT OF PROJECTS.*—*Notwithstanding*
 4 *any other provision of law, projects funded under this sec-*
 5 *tion shall be treated as projects on a Federal-aid highway*
 6 *under this chapter.”.*

7 (b) *CONFORMING AMENDMENT.*—*The analysis for*
 8 *chapter 1 of title 23, United States Code, is amended by*
 9 *adding at the end the following:*

“167. National freight program.”.

10 **SEC. 1116. FEDERAL LANDS AND TRIBAL TRANSPORTATION**
 11 **PROGRAMS.**

12 (a) *IN GENERAL.*—*Chapter 2 of title 23, United States*
 13 *Code, is amended by striking sections 201 through 204 and*
 14 *inserting the following:*

15 **“§201. Federal lands and tribal transportation pro-**
 16 **grams**

17 “(a) *PURPOSE.*—*Recognizing the need for all public*
 18 *Federal and tribal transportation facilities to be treated*
 19 *under uniform policies similar to the policies that apply*
 20 *to Federal-aid highways and other public transportation fa-*
 21 *cilities, the Secretary of Transportation, in collaboration*
 22 *with the Secretaries of the appropriate Federal land man-*
 23 *agement agencies, shall coordinate a uniform policy for all*
 24 *public Federal and tribal transportation facilities that shall*
 25 *apply to Federal lands transportation facilities, tribal*

1 *transportation facilities, and Federal lands access transpor-*
2 *tation facilities.*

3 “(b) *AVAILABILITY OF FUNDS.*—

4 “(1) *AVAILABILITY.*—*Funds authorized for the*
5 *tribal transportation program, the Federal lands*
6 *transportation program, and the Federal lands access*
7 *program shall be available for contract upon appor-*
8 *tionment, or on October 1 of the fiscal year for which*
9 *the funds were authorized if no apportionment is re-*
10 *quired.*

11 “(2) *AMOUNT REMAINING.*—*Any amount re-*
12 *maining unexpended for a period of 3 years after the*
13 *close of the fiscal year for which the funds were au-*
14 *thorized shall lapse.*

15 “(3) *OBLIGATIONS.*—*The Secretary of the de-*
16 *partment responsible for the administration of funds*
17 *under this subsection may incur obligations, approve*
18 *projects, and enter into contracts under such author-*
19 *izations, which shall be considered to be contractual*
20 *obligations of the United States for the payment of*
21 *the cost thereof, the funds of which shall be considered*
22 *to have been expended when obligated.*

23 “(4) *EXPENDITURE.*—

24 “(A) *IN GENERAL.*—*Any funds authorized*
25 *for any fiscal year after the date of enactment of*

1 *this section under the Federal lands transpor-*
2 *tation program, the Federal lands access pro-*
3 *gram, and the tribal transportation program*
4 *shall be considered to have been expended if a*
5 *sum equal to the total of the sums authorized for*
6 *the fiscal year and previous fiscal years have*
7 *been obligated.*

8 *“(B) CREDITED FUNDS.—Any funds de-*
9 *scribed in subparagraph (A) that are released by*
10 *payment of final voucher or modification of*
11 *project authorizations shall be—*

12 *“(i) credited to the balance of unobli-*
13 *gated authorizations; and*

14 *“(ii) immediately available for expend-*
15 *iture.*

16 *“(5) APPLICABILITY.—This section shall not*
17 *apply to funds authorized before the date of enactment*
18 *of this paragraph.*

19 *“(6) CONTRACTUAL OBLIGATION.—*

20 *“(A) IN GENERAL.—Notwithstanding any*
21 *other provision of law (including regulations),*
22 *the authorization by the Secretary, or the Sec-*
23 *retary of the appropriate Federal land manage-*
24 *ment agency if the agency is the contracting of-*
25 *fice, of engineering and related work for the de-*

1 *velopment, design, and acquisition associated*
2 *with a construction project, whether performed*
3 *by contract or agreement authorized by law, or*
4 *the approval by the Secretary of plans, specifica-*
5 *tions, and estimates for construction of a project,*
6 *shall be considered to constitute a contractual ob-*
7 *ligation of the Federal Government to pay the*
8 *total eligible cost of—*

9 *“(i) any project funded under this*
10 *title; and*

11 *“(ii) any project funded pursuant to*
12 *agreements authorized by this title or any*
13 *other title.*

14 *“(B) EFFECT.—Nothing in this para-*
15 *graph—*

16 *“(i) affects the application of the Fed-*
17 *eral share associated with the project being*
18 *undertaken under this section; or*

19 *“(ii) modifies the point of obligation*
20 *associated with Federal salaries and ex-*
21 *penses.*

22 *“(7) FEDERAL SHARE.—*

23 *“(A) TRIBAL AND FEDERAL LANDS TRANS-*
24 *PORTATION PROGRAM.—The Federal share of the*
25 *cost of a project carried out under the Federal*

1 *lands transportation program or the tribal*
2 *transportation program shall be 100 percent.*

3 “(B) *FEDERAL LANDS ACCESS PROGRAM.—*
4 *The Federal share of the cost of a project carried*
5 *out under the Federal lands access program shall*
6 *be determined in accordance with section 120.*

7 “(c) *TRANSPORTATION PLANNING.—*

8 “(1) *TRANSPORTATION PLANNING PROCE-*
9 *DURES.—In consultation with the Secretary of each*
10 *appropriate Federal land management agency, the*
11 *Secretary shall implement transportation planning*
12 *procedures for Federal lands and tribal transpor-*
13 *tation facilities that are consistent with the planning*
14 *processes required under sections 134 and 135.*

15 “(2) *APPROVAL OF TRANSPORTATION IMPROVE-*
16 *MENT PROGRAM.—The transportation improvement*
17 *program developed as a part of the transportation*
18 *planning process under this section shall be approved*
19 *by the Secretary.*

20 “(3) *INCLUSION IN OTHER PLANS.—Each region-*
21 *ally significant tribal transportation program, Fed-*
22 *eral lands transportation program, and Federal lands*
23 *access program project shall be—*

24 “(A) *developed in cooperation with State*
25 *and metropolitan planning organizations; and*

1 “(B) included in appropriate tribal trans-
2 portation program plans, Federal lands trans-
3 portation program plans, Federal lands access
4 program plans, State and metropolitan plans,
5 and transportation improvement programs.

6 “(4) *INCLUSION IN STATE PROGRAMS.*—The ap-
7 proved tribal transportation program, Federal lands
8 transportation program, and Federal lands access
9 program transportation improvement programs shall
10 be included in appropriate State and metropolitan
11 planning organization plans and programs without
12 further action on the transportation improvement
13 program.

14 “(5) *ASSET MANAGEMENT.*—The Secretary and
15 the Secretary of each appropriate Federal land man-
16 agement agency shall, to the extent appropriate, im-
17 plement safety, bridge, pavement, and congestion
18 management systems for facilities funded under the
19 tribal transportation program and the Federal lands
20 transportation program in support of asset manage-
21 ment.

22 “(6) *DATA COLLECTION.*—

23 “(A) *DATA COLLECTION.*—The Secretaries
24 of the appropriate Federal land management
25 agencies shall collect and report data necessary

1 to implement the Federal lands transportation
2 program, the Federal lands access program, and
3 the tribal transportation program, including—

4 “(i) inventory and condition informa-
5 tion on Federal lands transportation facili-
6 ties and tribal transportation facilities; and

7 “(ii) bridge inspection and inventory
8 information on any Federal bridge open to
9 the public.

10 “(B) STANDARDS.—The Secretary, in co-
11 ordination with the Secretaries of the appro-
12 priate Federal land management agencies, shall
13 define the collection and reporting data stand-
14 ards.

15 “(7) ADMINISTRATIVE EXPENSES.—To imple-
16 ment the activities described in this subsection, in-
17 cluding direct support of transportation planning ac-
18 tivities among Federal land management agencies, the
19 Secretary may use not more than 5 percent for each
20 fiscal year of the funds authorized for programs under
21 sections 203 and 204.

22 “(d) REIMBURSABLE AGREEMENTS.—In carrying out
23 work under reimbursable agreements with any State, local,
24 or tribal government under this title, the Secretary—

1 “(1) may, without regard to any other provision
2 of law (including regulations), record obligations
3 against accounts receivable from the entity; and

4 “(2) shall credit amounts received from the enti-
5 ty to the appropriate account, which shall occur not
6 later than 90 days after the date of the original re-
7 quest by the Secretary for payment.

8 “(e) TRANSFERS.—

9 “(1) IN GENERAL.—To enable the efficient use of
10 funds made available for the Federal lands transpor-
11 tation program and the Federal lands access pro-
12 gram, the funds may be transferred by the Secretary
13 within and between each program with the concur-
14 rence of, as appropriate—

15 “(A) the Secretary;

16 “(B) the affected Secretaries of the respec-
17 tive Federal land management agencies;

18 “(C) State departments of transportation;
19 and

20 “(D) local government agencies.

21 “(2) CREDIT.—The funds described in paragraph
22 (1) shall be credited back to the loaning entity with
23 funds that are currently available for obligation at
24 the time of the credit.

1 **“§ 202. Tribal transportation program**

2 “(a) *USE OF FUNDS.—*

3 “(1) *IN GENERAL.—Funds made available under*
4 *the tribal transportation program shall be used by the*
5 *Secretary of Transportation and the Secretary of the*
6 *Interior to pay the costs of—*

7 “(A)(i) *transportation planning, research,*
8 *maintenance, engineering, rehabilitation, res-*
9 *toration, construction, and reconstruction of trib-*
10 *al transportation facilities;*

11 “(ii) *adjacent vehicular parking areas;*

12 “(iii) *interpretive signage;*

13 “(iv) *acquisition of necessary scenic ease-*
14 *ments and scenic or historic sites;*

15 “(v) *provisions for pedestrians and bicycles;*

16 “(vi) *environmental mitigation in or adja-*
17 *cent to tribal land—*

18 “(I) *to improve public safety and re-*
19 *duce vehicle-caused wildlife mortality while*
20 *maintaining habitat connectivity; and*

21 “(II) *to mitigate the damage to wild-*
22 *life, aquatic organism passage, habitat, and*
23 *ecosystem connectivity, including the costs*
24 *of constructing, maintaining, replacing, or*
25 *removing culverts and bridges, as appro-*
26 *priate;*

1 “(vii) construction and reconstruction of
2 roadside rest areas, including sanitary and
3 water facilities; and

4 “(viii) other appropriate public road facili-
5 ties as determined by the Secretary;

6 “(B) operation and maintenance of transit
7 programs and facilities that are located on, or
8 provide access to, tribal land, or are adminis-
9 tered by a tribal government; and

10 “(C) any transportation project eligible for
11 assistance under this title that is located within,
12 or that provides access to, tribal land, or is asso-
13 ciated with a tribal government.

14 “(2) CONTRACT.—In connection with an activity
15 described in paragraph (1), the Secretary and the
16 Secretary of the Interior may enter into a contract or
17 other appropriate agreement with respect to the activ-
18 ity with—

19 “(A) a State (including a political subdivi-
20 sion of a State); or

21 “(B) an Indian tribe.

22 “(3) INDIAN LABOR.—Indian labor may be em-
23 ployed, in accordance with such rules and regulations
24 as may be promulgated by the Secretary of the Inte-

1 rior, to carry out any construction or other activity
2 described in paragraph (1).

3 “(4) *FEDERAL EMPLOYMENT.*—No maximum
4 limitation on Federal employment shall be applicable
5 to the construction or improvement of tribal transpor-
6 tation facilities.

7 “(5) *FUNDS FOR CONSTRUCTION AND IMPROVE-*
8 *MENT.*—All funds made available for the construction
9 and improvement of tribal transportation facilities
10 shall be administered in conformity with regulations
11 and agreements jointly approved by the Secretary
12 and the Secretary of the Interior.

13 “(6) *TRIBAL TECHNICAL ASSISTANCE CEN-*
14 *TERS.*—The Secretary of the Interior may reserve
15 amounts from administrative funds of the Bureau of
16 Indian Affairs that are associated with the tribal
17 transportation program to fund tribal technical as-
18 sistance centers under section 504(b).

19 “(7) *MAINTENANCE.*—

20 “(A) *USE OF FUNDS.*—Notwithstanding
21 any other provision of this title, of the amount
22 of funds allocated to an Indian tribe from the
23 tribal transportation program, for the purpose of
24 maintenance (excluding road sealing, which shall
25 not be subject to any limitation), the Secretary

1 *shall not use an amount more than the greater*
2 *of—*

3 “(i) *an amount equal to 25 percent; or*

4 “(ii) *\$500,000.*

5 “(B) *RESPONSIBILITY OF BUREAU OF IN-*
6 *DIAN AFFAIRS AND SECRETARY OF THE INTE-*
7 *RIOR.—*

8 “(i) *BUREAU OF INDIAN AFFAIRS.—*

9 *The Bureau of Indian Affairs shall retain*
10 *primary responsibility, including annual*
11 *funding request responsibility, for Bureau*
12 *of Indian Affairs road maintenance pro-*
13 *grams on Indian reservations.*

14 “(ii) *SECRETARY OF THE INTERIOR.—*

15 *The Secretary of the Interior shall ensure*
16 *that funding made available under this sub-*
17 *section for maintenance of tribal transpor-*
18 *tation facilities for each fiscal year is sup-*
19 *plementary to, and not in lieu of, any obli-*
20 *gation of funds by the Bureau of Indian Af-*
21 *airs for road maintenance programs on In-*
22 *dian reservations.*

23 “(C) *TRIBAL-STATE ROAD MAINTENANCE*
24 *AGREEMENTS.—*

1 “(i) *IN GENERAL.*—*An Indian tribe*
2 *and a State may enter into a road mainte-*
3 *nance agreement under which an Indian*
4 *tribe shall assume the responsibility of the*
5 *State for—*

6 “(I) *tribal transportation facili-*
7 *ties; and*

8 “(II) *roads providing access to*
9 *tribal transportation facilities.*

10 “(ii) *REQUIREMENTS.*—*Agreements en-*
11 *tered into under clause (i) shall—*

12 “(I) *be negotiated between the*
13 *State and the Indian tribe; and*

14 “(II) *not require the approval of*
15 *the Secretary.*

16 “(8) *COOPERATION.*—

17 “(A) *IN GENERAL.*—*The cooperation of*
18 *States, counties, or other local subdivisions may*
19 *be accepted in construction and improvement.*

20 “(B) *FUNDS RECEIVED.*—*Any funds re-*
21 *ceived from a State, county, or local subdivision*
22 *shall be credited to appropriations available for*
23 *the tribal transportation program.*

24 “(9) *COMPETITIVE BIDDING.*—

25 “(A) *CONSTRUCTION.*—

1 “(i) *IN GENERAL.*—Subject to clause
2 (ii) and subparagraph (B), construction of
3 each project shall be performed by contract
4 awarded by competitive bidding.

5 “(ii) *EXCEPTION.*—Clause (i) shall not
6 apply if the Secretary or the Secretary of
7 the Interior affirmatively finds that, under
8 the circumstances relating to the project, a
9 different method is in the public interest.

10 “(B) *APPLICABILITY.*—Notwithstanding
11 subparagraph (A), section 23 of the Act of June
12 25, 1910 (25 U.S.C. 47) and section 7(b) of the
13 Indian Self-Determination and Education As-
14 sistance Act (25 U.S.C. 450e(b)) shall apply to
15 all funds administered by the Secretary of the
16 Interior that are appropriated for the construc-
17 tion and improvement of tribal transportation
18 facilities.

19 “(b) *FUNDS DISTRIBUTION.*—

20 “(1) *NATIONAL TRIBAL TRANSPORTATION FACIL-*
21 *ITY INVENTORY.*—

22 “(A) *IN GENERAL.*—The Secretary of the
23 Interior, in cooperation with the Secretary, shall
24 maintain a comprehensive national inventory of
25 tribal transportation facilities that are eligible

1 *for assistance under the tribal transportation*
2 *program.*

3 “(B) *TRANSPORTATION FACILITIES IN-*
4 *CLUDED IN THE INVENTORY.—For purposes of*
5 *identifying the tribal transportation system and*
6 *determining the relative transportation needs*
7 *among Indian tribes, the Secretary shall include,*
8 *at a minimum, transportation facilities that are*
9 *eligible for assistance under the tribal transpor-*
10 *tation program that an Indian tribe has re-*
11 *quested, including facilities that—*

12 “(i) *were included in the Bureau of In-*
13 *dian Affairs system inventory prior to Octo-*
14 *ber 1, 2004;*

15 “(ii) *are owned by an Indian tribal*
16 *government;*

17 “(iii) *are owned by the Bureau of In-*
18 *dian Affairs;*

19 “(iv) *were constructed or reconstructed*
20 *with funds from the Highway Account of*
21 *the Transportation Trust Fund under the*
22 *Indian reservation roads program since*
23 *1983;*

24 “(v) *are public roads or bridges within*
25 *the exterior boundary of Indian reserva-*

1 *tions, Alaska Native villages, and other rec-*
2 *ognized Indian communities (including*
3 *communities in former Indian reservations*
4 *in the State of Oklahoma) in which the ma-*
5 *ajority of residents are American Indians or*
6 *Alaska Natives;*

7 *“(vi) are public roads within or pro-*
8 *viding access to an Indian reservation or*
9 *Indian trust land or restricted Indian land*
10 *that is not subject to fee title alienation*
11 *without the approval of the Federal Govern-*
12 *ment, or Indian or Alaska Native villages,*
13 *groups, or communities in which Indians*
14 *and Alaska Natives reside, whom the Sec-*
15 *retary of the Interior has determined are el-*
16 *igible for services generally available to In-*
17 *dians under Federal laws specifically appli-*
18 *cable to Indians; or*

19 *“(vii) are primary access routes pro-*
20 *posed by tribal governments, including*
21 *roads between villages, roads to landfills,*
22 *roads to drinking water sources, roads to*
23 *natural resources identified for economic de-*
24 *velopment, and roads that provide access to*

1 *intermodal terminals, such as airports, har-*
2 *bors, or boat landings.*

3 “(C) *LIMITATION ON PRIMARY ACCESS*
4 *ROUTES.—For purposes of this paragraph, a*
5 *proposed primary access route is the shortest*
6 *practicable route connecting 2 points of the pro-*
7 *posed route.*

8 “(D) *ADDITIONAL FACILITIES.—Nothing in*
9 *this paragraph precludes the Secretary from in-*
10 *cluding additional transportation facilities that*
11 *are eligible for funding under the tribal trans-*
12 *portation program in the inventory used for the*
13 *national funding allocation if such additional*
14 *facilities are included in the inventory in a uni-*
15 *form and consistent manner nationally.*

16 “(E) *BRIDGES.—All bridges in the inven-*
17 *tory shall be recorded in the national bridge in-*
18 *ventory administered by the Secretary under sec-*
19 *tion 144.*

20 “(2) *REGULATIONS.—Notwithstanding sections*
21 *563(a) and 565(a) of title 5, the Secretary of the Inte-*
22 *rior shall maintain any regulations governing the*
23 *tribal transportation program.*

24 “(3) *BASIS FOR FUNDING FORMULA.—*

25 “(A) *BASIS.—*

1 “(i) *IN GENERAL.*—*After making the*
2 *set asides authorized under subsections (c),*
3 *(d), and (e) on October 1 of each fiscal year,*
4 *the Secretary shall distribute the remainder*
5 *authorized to be appropriated for the tribal*
6 *transportation program under this section*
7 *among Indian tribes as follows:*

8 “(I) *For fiscal year 2012—*

9 “(aa) *for each Indian tribe,*
10 *80 percent of the total relative*
11 *need distribution factor and popu-*
12 *lation adjustment factor for the*
13 *fiscal year 2011 funding amount*
14 *made available to that Indian*
15 *tribe; and*

16 “(bb) *the remainder using*
17 *tribal shares as described in sub-*
18 *paragraphs (B) and (C).*

19 “(II) *For fiscal year 2013—*

20 “(aa) *for each Indian tribe,*
21 *60 percent of the total relative*
22 *need distribution factor and popu-*
23 *lation adjustment factor for the*
24 *fiscal year 2011 funding amount*

1 *made available to that Indian*
2 *tribe; and*

3 *“(bb) the remainder using*
4 *tribal shares as described in sub-*
5 *paragraphs (B) and (C).*

6 *“(III) For fiscal year 2014—*

7 *“(aa) for each Indian tribe,*
8 *40 percent of the total relative*
9 *need distribution factor and popu-*
10 *lation adjustment factor for the*
11 *fiscal year 2011 funding amount*
12 *made available to that Indian*
13 *tribe; and*

14 *“(bb) the remainder using*
15 *tribal shares as described in sub-*
16 *paragraphs (B) and (C).*

17 *“(IV) For fiscal year 2015—*

18 *“(aa) for each Indian tribe,*
19 *20 percent of the total relative*
20 *need distribution factor and popu-*
21 *lation adjustment factor for the*
22 *fiscal year 2011 funding amount*
23 *made available to that Indian*
24 *tribe; and*

1 “(bb) *the remainder using*
2 *tribal shares as described in sub-*
3 *paragraphs (B) and (C).*

4 “(V) *For fiscal year 2016 and*
5 *thereafter, using tribal shares as de-*
6 *scribed in subparagraphs (B) and (C).*

7 “(ii) *TRIBAL HIGH PRIORITY*
8 *PROJECTS.—The High Priority Projects*
9 *program as included in the Tribal Trans-*
10 *portation Allocation Methodology of part*
11 *170 of title 25, Code of Federal Regulations*
12 *(as in effect on the date of enactment of the*
13 *MAP–21), shall not continue in effect.*

14 “(B) *TRIBAL SHARES.—Tribal shares under*
15 *this program shall be determined using the na-*
16 *tional tribal transportation facility inventory as*
17 *calculated for fiscal year 2012, and the most re-*
18 *cent data on American Indian and Alaska Na-*
19 *tive population within each Indian tribe’s Amer-*
20 *ican Indian/Alaska Native Reservation or Statis-*
21 *tical Area, as computed under the Native Amer-*
22 *ican Housing Assistance and Self-Determination*
23 *Act of 1996 (25 U.S.C. 4101 et seq.), in the fol-*
24 *lowing manner:*

1 “(i) 30 percent in the ratio that the
2 total eligible lane mileage in each tribe
3 bears to the total eligible lane mileage of all
4 American Indians and Alaskan Natives.
5 For the purposes of this calculation—

6 “(I) eligible lane mileage shall be
7 computed based on the inventory de-
8 scribed in paragraph (1), using only
9 facilities included in the inventory de-
10 scribed in clause (i), (ii), or (iii) of
11 paragraph (1)(B); and

12 “(II) paved roads and gravel sur-
13 faced roads are deemed to equal 2 lane
14 miles per mile of inventory, and earth
15 surfaced roads and unimproved roads
16 shall be deemed to equal 1 lane mile
17 per mile of inventory.

18 “(ii) 35 percent in the ratio that the
19 total population in each tribe bears to the
20 total population of all American Indians
21 and Alaskan Natives.

22 “(iii) 35 percent shall be divided
23 equally among each Bureau of Indian Af-
24 fairs region for distribution of tribal shares
25 as follows:

1 “(I) $\frac{1}{4}$ of 1 percent shall be dis-
2 tributed equally among Indian tribes
3 with populations of 1 to 25.

4 “(II) $\frac{3}{4}$ of 1 percent shall be dis-
5 tributed equally among Indian tribes
6 with populations of 26 to 100.

7 “(III) $3\frac{3}{4}$ percent shall be distrib-
8 uted equally among Indian tribes with
9 populations of 101 to 1,000.

10 “(IV) 20 percent shall be distrib-
11 uted equally among Indian tribes with
12 populations of 1,001 to 10,000.

13 “(V) $74\frac{3}{4}$ percent shall be distrib-
14 uted equally among Indian tribes with
15 populations of 10,001 to 60,000 where
16 3 or more Indian tribes occupy this
17 category in a single Bureau of Indian
18 Affairs region, and Bureau of Indian
19 Affairs regions containing less than 3
20 Indian tribes in this category shall re-
21 ceive funding in accordance with sub-
22 clause (IV) and clause (iv).

23 “(VI) $\frac{1}{2}$ of 1 percent shall be dis-
24 tributed equally among Indian tribes
25 with populations of 60,001 or more.

1 “(iv) *For a Bureau of Indian Affairs*
2 *region that has no Indian tribes meeting the*
3 *population criteria under 1 or more of sub-*
4 *clauses (I) through (VI) of clause (iii), the*
5 *region shall redistribute any funds subject*
6 *to such clause or clauses among any such*
7 *clauses for which the region has Indian*
8 *tribes meeting such criteria proportionally*
9 *in accordance with the percentages listed in*
10 *such clauses until such funds are completely*
11 *distributed.*

12 “(C) *TRIBAL SUPPLEMENTAL FUNDING.—*

13 “(i) *TRIBAL SUPPLEMENTAL FUNDING*
14 *AMOUNT.—Of funds made available for each*
15 *fiscal year for the tribal transportation pro-*
16 *gram, the Secretary shall set aside the fol-*
17 *lowing amount for a tribal supplemental*
18 *program:*

19 “(I) *If the amount made available*
20 *for the tribal transportation program*
21 *is less than or equal to \$275,000,000,*
22 *30 percent of such amount.*

23 “(II) *If the amount made avail-*
24 *able for the tribal transportation pro-*
25 *gram exceeds \$275,000,000—*

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“(aa) \$82,500,000; plus

“(bb) 12.5 percent of the amount made available for the tribal transportation program in excess of \$275,000,000.

“(ii) *TRIBAL SUPPLEMENTAL ALLOCATION.*—The Secretary shall distribute tribal supplemental funds as follows:

“(I) *DISTRIBUTION AMONG REGIONS.*—Of the amounts set aside under clause (i), the Secretary shall distribute to each region of the Bureau of Indian Affairs a share of tribal supplemental funds in proportion to the regional total of tribal shares based on the cumulative tribal shares of all Indian tribes within such region under subparagraph (B).

“(II) *DISTRIBUTION WITHIN A REGION.*—Of the amount that a region receives under subclause (I), the Secretary shall distribute tribal supplemental funding among Indian tribes within such region as follows:

1 “(aa) *TRIBAL SUPPLE-*
2 *MENTAL AMOUNTS.—The Sec-*
3 *retary shall determine—*

4 “(AA) *which such In-*
5 *dian tribes would be entitled*
6 *under subparagraph (A) to*
7 *receive in a fiscal year less*
8 *funding than they would re-*
9 *ceive in fiscal year 2011 pur-*
10 *suant to the Tribal Trans-*
11 *portation Allocation Method-*
12 *ology described in subpart C*
13 *of part 170 of title 25, Code*
14 *of Federal Regulations (as in*
15 *effect on the date of enact-*
16 *ment of the MAP–21); and*

17 “(BB) *the combined*
18 *amount that such Indian*
19 *tribes would be entitled to re-*
20 *ceive in fiscal year 2011 pur-*
21 *suant to such Tribal Trans-*
22 *portation Allocation Method-*
23 *ology in excess of the amount*
24 *that they would be entitled to*

1 receive in the fiscal year
2 under subparagraph (B); and
3 “(bb) Subject to subclause
4 (III), distribute to each Indian
5 tribe that meets the criteria de-
6 scribed in item (aa)(AA) a share
7 of funding under this subpara-
8 graph in proportion to the share
9 of the combined amount deter-
10 mined under item (aa)(BB) at-
11 tributable to such Indian tribe.

12 “(III) CEILING.—An Indian tribe
13 may not receive under subclause (II)
14 and based on its tribal share under
15 subparagraph (A) a combined amount
16 that exceeds the amount that such In-
17 dian tribe would be entitled to receive
18 in fiscal year 2011 pursuant to the
19 Tribal Transportation Allocation
20 Methodology described in subpart C of
21 part 170 of title 25, Code of Federal
22 Regulations (as in effect on the date of
23 enactment of the MAP-21).

24 “(IV) OTHER AMOUNTS.—If the
25 amount made available for a region

1 *under subclause (I) exceeds the amount*
2 *distributed among Indian tribes within*
3 *that region under subclause (II), the*
4 *Secretary shall distribute the remain-*
5 *der of such region's funding under such*
6 *subclause among all Indian tribes in*
7 *that region in proportion to the com-*
8 *bined amount that each such Indian*
9 *tribe received under subparagraph (A)*
10 *and subclauses (I), (II), and (III).*

11 *“(4) TRANSFERRED FUNDS.—*

12 *“(A) IN GENERAL.—Not later than 30 days*
13 *after the date on which funds are made available*
14 *to the Secretary of the Interior under this para-*
15 *graph, the funds shall be distributed to, and*
16 *made available for immediate use by, eligible In-*
17 *dian tribes, in accordance with the formula for*
18 *distribution of funds under the tribal transpor-*
19 *tation program.*

20 *“(B) USE OF FUNDS.—Notwithstanding*
21 *any other provision of this section, funds made*
22 *available to Indian tribes for tribal transpor-*
23 *tation facilities shall be expended on projects*
24 *identified in a transportation improvement pro-*
25 *gram approved by the Secretary.*

1 “(5) *HEALTH AND SAFETY ASSURANCES.*—*Not-*
2 *withstanding any other provision of law, an Indian*
3 *tribal government may approve plans, specifications,*
4 *and estimates and commence road and bridge con-*
5 *struction with funds made available from the tribal*
6 *transportation program through a contract or agree-*
7 *ment under Indian Self-Determination and Edu-*
8 *cation Assistance Act (25 U.S.C. 450 et seq.), if the*
9 *Indian tribal government—*

10 “(A) *provides assurances in the contract or*
11 *agreement that the construction will meet or ex-*
12 *ceed applicable health and safety standards;*

13 “(B) *obtains the advance review of the*
14 *plans and specifications from a State-licensed*
15 *civil engineer that has certified that the plans*
16 *and specifications meet or exceed the applicable*
17 *health and safety standards; and*

18 “(C) *provides a copy of the certification*
19 *under subparagraph (A) to the Deputy Assistant*
20 *Secretary for Tribal Government Affairs, De-*
21 *partment of Transportation, or the Assistant*
22 *Secretary for Indian Affairs, Department of the*
23 *Interior, as appropriate.*

24 “(6) *CONTRACTS AND AGREEMENTS WITH INDIAN*
25 *TRIBES.*—

1 “(A) *IN GENERAL.*—Notwithstanding any
2 *other provision of law or any interagency agree-*
3 *ment, program guideline, manual, or policy di-*
4 *rective, all funds made available through the Sec-*
5 *retary of the Interior under this chapter and sec-*
6 *tion 125(e) for tribal transportation facilities to*
7 *pay for the costs of programs, services, functions,*
8 *and activities, or portions of programs, services,*
9 *functions, or activities, that are specifically or*
10 *functionally related to the cost of planning, re-*
11 *search, engineering, and construction of any*
12 *tribal transportation facility shall be made*
13 *available, upon request of the Indian tribal gov-*
14 *ernment, to the Indian tribal government for*
15 *contracts and agreements for such planning, re-*
16 *search, engineering, and construction in accord-*
17 *ance with Indian Self-Determination and Edu-*
18 *cation Assistance Act (25 U.S.C. 450 et seq.).*

19 “(B) *EXCLUSION OF AGENCY PARTICIPA-*
20 *TION.*—All funds, including contract support
21 costs, for programs, functions, services, or activi-
22 ties, or portions of programs, services, functions,
23 or activities, including supportive administra-
24 tive functions that are otherwise contractible to
25 which subparagraph (A) applies, shall be paid in

1 *accordance with subparagraph (A), without re-*
2 *gard to the organizational level at which the De-*
3 *partment of the Interior has previously carried*
4 *out such programs, functions, services, or activi-*
5 *ties.*

6 “(7) *CONTRACTS AND AGREEMENTS WITH INDIAN*
7 *TRIBES.—*

8 “(A) *IN GENERAL.—Notwithstanding any*
9 *other provision of law or any interagency agree-*
10 *ment, program guideline, manual, or policy di-*
11 *rective, all funds made available through the Sec-*
12 *retary of the Interior to an Indian tribal govern-*
13 *ment under this chapter for a tribal transpor-*
14 *tation facility program or project shall be made*
15 *available, on the request of the Indian tribal gov-*
16 *ernment, to the Indian tribal government for use*
17 *in carrying out, in accordance with the Indian*
18 *Self-Determination and Education Assistance*
19 *Act (25 U.S.C. 450 et seq.), contracts and agree-*
20 *ments for the planning, research, design, engi-*
21 *neering, construction, and maintenance relating*
22 *to the program or project.*

23 “(B) *EXCLUSION OF AGENCY PARTICIPA-*
24 *TION.—In accordance with subparagraph (A),*
25 *all funds, including contract support costs, for a*

1 *program or project to which subparagraph (A)*
2 *applies shall be paid to the Indian tribal govern-*
3 *ment without regard to the organizational level*
4 *at which the Department of the Interior has pre-*
5 *viously carried out, or the Department of Trans-*
6 *portation has previously carried out under the*
7 *tribal transportation program, the programs,*
8 *functions, services, or activities involved.*

9 “(C) *CONSORTIA.*—*Two or more Indian*
10 *tribes that are otherwise eligible to participate in*
11 *a program or project to which this chapter ap-*
12 *plies may form a consortium to be considered as*
13 *a single Indian tribe for the purpose of partici-*
14 *parting in the project under this section.*

15 “(D) *SECRETARY AS SIGNATORY.*—*Notwith-*
16 *standing any other provision of law, the Sec-*
17 *retary is authorized to enter into a funding*
18 *agreement with an Indian tribal government to*
19 *carry out a tribal transportation facility pro-*
20 *gram or project under subparagraph (A) that is*
21 *located on an Indian reservation or provides ac-*
22 *cess to the reservation or a community of the In-*
23 *Indian tribe.*

24 “(E) *FUNDING.*—*The amount an Indian*
25 *tribal government receives for a program or*

1 *project under subparagraph (A) shall equal the*
2 *sum of the funding that the Indian tribal gov-*
3 *ernment would otherwise receive for the program*
4 *or project in accordance with the funding for-*
5 *mula established under this subsection and such*
6 *additional amounts as the Secretary determines*
7 *equal the amounts that would have been withheld*
8 *for the costs of the Bureau of Indian Affairs for*
9 *administration of the program or project.*

10 “(F) *ELIGIBILITY.*—

11 “(i) *IN GENERAL.*—*Subject to clause*
12 *(ii) and the approval of the Secretary,*
13 *funds may be made available under sub-*
14 *paragraph (A) to an Indian tribal govern-*
15 *ment for a program or project in a fiscal*
16 *year only if the Indian tribal government*
17 *requesting such funds demonstrates to the*
18 *satisfaction of the Secretary financial sta-*
19 *bility and financial management capability*
20 *during the 3 fiscal years immediately pre-*
21 *ceding the fiscal year for which the request*
22 *is being made.*

23 “(ii) *CONSIDERATIONS.*—*An Indian*
24 *tribal government that had no uncorrected*
25 *significant and material audit exceptions in*

1 *the required annual audit of the contracts*
2 *or self-governance funding agreements made*
3 *by the Indian tribe with any Federal agen-*
4 *cy under the Indian Self-Determination*
5 *and Education Assistance Act (25 U.S.C.*
6 *450 et seq.) during the 3-fiscal year period*
7 *referred in clause (i) shall be conclusive evi-*
8 *dence of the financial stability and finan-*
9 *cial management capability of the Indian*
10 *tribe for purposes of clause (i).*

11 “(G) *ASSUMPTION OF FUNCTIONS AND DU-*
12 *TIES.—An Indian tribal government receiving*
13 *funding under subparagraph (A) for a program*
14 *or project shall assume all functions and duties*
15 *that the Secretary of the Interior would have*
16 *performed with respect to a program or project*
17 *under this chapter, other than those functions*
18 *and duties that inherently cannot be legally*
19 *transferred under the Indian Self-Determination*
20 *and Education Assistance Act (25 U.S.C. 450 et*
21 *seq.).*

22 “(H) *POWERS.—An Indian tribal govern-*
23 *ment receiving funding under subparagraph (A)*
24 *for a program or project shall have all powers*
25 *that the Secretary of the Interior would have ex-*

1 *exercised in administering the funds transferred to*
2 *the Indian tribal government for such program*
3 *or project under this section if the funds had not*
4 *been transferred, except to the extent that such*
5 *powers are powers that inherently cannot be le-*
6 *gally transferred under the Indian Self-Deter-*
7 *mination and Education Assistance Act (25*
8 *U.S.C. 450 et seq.).*

9 “(I) *DISPUTE RESOLUTION.*—*In the event of*
10 *a disagreement between the Secretary or the Sec-*
11 *retary of the Interior and an Indian tribe over*
12 *whether a particular function, duty, or power*
13 *may be lawfully transferred to the Indian tribe*
14 *under the Indian Self-Determination and Edu-*
15 *cation Assistance Act (25 U.S.C. 450 et seq.), the*
16 *Indian tribe shall have the right to pursue all al-*
17 *ternative dispute resolution and appeal proce-*
18 *dures authorized by that Act, including regula-*
19 *tions issued to carry out the Act.*

20 “(J) *TERMINATION OF CONTRACT OR*
21 *AGREEMENT.*—*On the date of the termination of*
22 *a contract or agreement under this section by an*
23 *Indian tribal government, the Secretary shall*
24 *transfer all funds that would have been allocated*
25 *to the Indian tribal government under the con-*

1 *tract or agreement to the Secretary of the Inte-*
2 *rior to provide continued transportation services*
3 *in accordance with applicable law.*

4 “(c) *PLANNING.*—

5 “(1) *IN GENERAL.*—*For each fiscal year, not*
6 *more than 2 percent of the funds made available for*
7 *the tribal transportation program shall be allocated*
8 *among Indian tribal governments that apply for*
9 *transportation planning pursuant to the Indian Self-*
10 *Determination and Education Assistance Act (25*
11 *U.S.C. 450 et seq.).*

12 “(2) *REQUIREMENT.*—*An Indian tribal govern-*
13 *ment, in cooperation with the Secretary of the Inte-*
14 *rior and, as appropriate, with a State, local govern-*
15 *ment, or metropolitan planning organization, shall*
16 *carry out a transportation planning process in ac-*
17 *cordance with section 201(c).*

18 “(3) *SELECTION AND APPROVAL OF PROJECTS.*—
19 *A project funded under this section shall be—*

20 “(A) *selected by the Indian tribal govern-*
21 *ment from the transportation improvement pro-*
22 *gram; and*

23 “(B) *subject to the approval of the Secretary*
24 *of the Interior and the Secretary.*

25 “(d) *TRIBAL TRANSPORTATION FACILITY BRIDGES.*—

1 “(1) *NATIONWIDE PRIORITY PROGRAM.*—*The Sec-*
2 *retary shall maintain a nationwide priority program*
3 *for improving deficient bridges eligible for the tribal*
4 *transportation program.*

5 “(2) *FUNDING.*—*Before making any distribution*
6 *under subsection (b), the Secretary shall set aside not*
7 *more than 2 percent of the funds made available*
8 *under the tribal transportation program for each fis-*
9 *cal year to be allocated—*

10 “(A) *to carry out any planning, design, en-*
11 *gineering, preconstruction, construction, and in-*
12 *spection of a project to replace, rehabilitate, seis-*
13 *mically retrofit, paint, apply calcium magne-*
14 *sium acetate, sodium acetate/formate, or other*
15 *environmentally acceptable, minimally corrosive*
16 *anti-icing and deicing composition; or*

17 “(B) *to implement any countermeasure for*
18 *deficient tribal transportation facility bridges,*
19 *including multiple-pipe culverts.*

20 “(3) *ELIGIBLE BRIDGES.*—*To be eligible to re-*
21 *ceive funding under this subsection, a bridge described*
22 *in paragraph (1) shall—*

23 “(A) *have an opening of not less than 20*
24 *feet;*

1 “(B) be classified as a tribal transportation
2 facility; and

3 “(C) be structurally deficient or function-
4 ally obsolete.

5 “(4) APPROVAL REQUIREMENT.—The Secretary
6 may make funds available under this subsection for
7 preliminary engineering, construction, and construc-
8 tion engineering activities after approval of required
9 documentation and verification of eligibility in ac-
10 cordance with this title.

11 “(e) SAFETY.—

12 “(1) FUNDING.—Before making any distribution
13 under subsection (b), the Secretary shall set aside not
14 more than 2 percent of the funds made available
15 under the tribal transportation program for each fis-
16 cal year to be allocated based on an identification
17 and analysis of highway safety issues and opportuni-
18 ties on tribal land, as determined by the Secretary,
19 on application of the Indian tribal governments for
20 eligible projects described in section 148(a)(4).

21 “(2) PROJECT SELECTION.—An Indian tribal
22 government, in cooperation with the Secretary of the
23 Interior and, as appropriate, with a State, local gov-
24 ernment, or metropolitan planning organization,
25 shall select projects from the transportation improve-

1 *ment program, subject to the approval of the Sec-*
2 *retary and the Secretary of the Interior.*

3 “(f) *FEDERAL-AID ELIGIBLE PROJECTS.*—*Before ap-*
4 *proving as a project on a tribal transportation facility any*
5 *project eligible for funds apportioned under section 104 in*
6 *a State, the Secretary shall, for projects on tribal transpor-*
7 *tation facilities, determine that the obligation of funds for*
8 *the project is supplementary to and not in lieu of the obliga-*
9 *tion of a fair and equitable share of funds apportioned to*
10 *the State under section 104.*

11 **“§ 203. Federal lands transportation program**

12 “(a) *USE OF FUNDS.*—

13 “(1) *IN GENERAL.*—*Funds made available under*
14 *the Federal lands transportation program shall be*
15 *used by the Secretary of Transportation and the Sec-*
16 *retary of the appropriate Federal land management*
17 *agency to pay the costs of—*

18 “(A) *program administration, transpor-*
19 *tation planning, research, preventive mainte-*
20 *nance, engineering, rehabilitation, restoration,*
21 *construction, and reconstruction of Federal lands*
22 *transportation facilities, and—*

23 “(i) *adjacent vehicular parking areas;*

24 “(ii) *acquisition of necessary scenic*
25 *easements and scenic or historic sites;*

1 “(iii) provision for pedestrians and bi-
2 cycles;

3 “(iv) environmental mitigation in or
4 adjacent to Federal land open to the pub-
5 lic—

6 “(I) to improve public safety and
7 reduce vehicle-caused wildlife mortality
8 while maintaining habitat
9 connectivity; and

10 “(II) to mitigate the damage to
11 wildlife, aquatic organism passage,
12 habitat, and ecosystem connectivity,
13 including the costs of constructing,
14 maintaining, replacing, or removing
15 culverts and bridges, as appropriate;

16 “(v) construction and reconstruction of
17 roadside rest areas, including sanitary and
18 water facilities;

19 “(vi) congestion mitigation; and

20 “(vii) other appropriate public road
21 facilities, as determined by the Secretary;

22 “(B) operation and maintenance of transit
23 facilities; and

24 “(C) any transportation project eligible for
25 assistance under this title that is on a public

1 road within or adjacent to, or that provides ac-
2 cess to, Federal lands open to the public.

3 “(2) *CONTRACT.*—In connection with an activity
4 described in paragraph (1), the Secretary and the
5 Secretary of the appropriate Federal land manage-
6 ment agency may enter into a contract or other ap-
7 propriate agreement with respect to the activity
8 with—

9 “(A) a State (including a political subdivi-
10 sion of a State); or

11 “(B) an Indian tribe.

12 “(3) *ADMINISTRATION.*—All appropriations for
13 the construction and improvement of Federal lands
14 transportation facilities shall be administered in con-
15 formity with regulations and agreements jointly ap-
16 proved by the Secretary and the Secretary of the ap-
17 propriate Federal land managing agency.

18 “(4) *COOPERATION.*—

19 “(A) *IN GENERAL.*—The cooperation of
20 States, counties, or other local subdivisions may
21 be accepted in construction and improvement.

22 “(B) *FUNDS RECEIVED.*—Any funds re-
23 ceived from a State, county, or local subdivision
24 shall be credited to appropriations available for

1 *the class of Federal lands transportation facili-*
2 *ties to which the funds were contributed.*

3 “(5) *COMPETITIVE BIDDING.*—

4 “(A) *IN GENERAL.*—*Subject to subpara-*
5 *graph (B), construction of each project shall be*
6 *performed by contract awarded by competitive*
7 *bidding.*

8 “(B) *EXCEPTION.*—*Subparagraph (A) shall*
9 *not apply if the Secretary or the Secretary of the*
10 *appropriate Federal land management agency*
11 *affirmatively finds that, under the circumstances*
12 *relating to the project, a different method is in*
13 *the public interest.*

14 “(b) *AGENCY PROGRAM DISTRIBUTIONS.*—

15 “(1) *IN GENERAL.*—*On October 1, 2011, and on*
16 *October 1 of each fiscal year thereafter, the Secretary*
17 *shall allocate the sums authorized to be appropriated*
18 *for the fiscal year for the Federal lands transpor-*
19 *tation program on the basis of applications of need,*
20 *as determined by the Secretary—*

21 “(A) *in consultation with the Secretaries of*
22 *the applicable Federal land management agen-*
23 *cies; and*

1 “(B) *in coordination with the transpor-*
2 *tation plans required under section 201 of the re-*
3 *spective transportation systems of—*

4 “(i) *the National Park Service;*

5 “(ii) *the Forest Service;*

6 “(iii) *the United States Fish and*
7 *Wildlife Service;*

8 “(iv) *the Corps of Engineers; and*

9 “(v) *the Bureau of Land Management.*

10 “(2) *APPLICATIONS.—*

11 “(A) *REQUIREMENTS.—Each application*
12 *submitted by a Federal land management agency*
13 *shall include proposed programs at various po-*
14 *tential funding levels, as defined by the Sec-*
15 *retary following collaborative discussions with*
16 *applicable Federal land management agencies.*

17 “(B) *CONSIDERATION BY SECRETARY.—In*
18 *evaluating an application submitted under sub-*
19 *paragraph (A), the Secretary shall consider the*
20 *extent to which the programs support—*

21 “(i) *the transportation goals of—*

22 “(I) *a state of good repair of*
23 *transportation facilities;*

24 “(II) *a reduction of bridge defi-*
25 *ciencies, and*

1 “(III) *an improvement of safety;*
2 “(ii) *high-use Federal recreational sites*
3 *or Federal economic generators; and*
4 “(iii) *the resource and asset manage-*
5 *ment goals of the Secretary of the respective*
6 *Federal land management agency.*

7 “(C) *PERMISSIVE CONTENTS.—Applications*
8 *may include proposed programs the duration of*
9 *which extend over a multiple-year period to sup-*
10 *port long-term transportation planning and re-*
11 *source management initiatives.*

12 “(c) *NATIONAL FEDERAL LANDS TRANSPORTATION*
13 *FACILITY INVENTORY.—*

14 “(1) *IN GENERAL.—The Secretaries of the appro-*
15 *priate Federal land management agencies, in co-*
16 *operation with the Secretary, shall maintain a com-*
17 *prehensive national inventory of public Federal lands*
18 *transportation facilities.*

19 “(2) *TRANSPORTATION FACILITIES INCLUDED IN*
20 *THE INVENTORIES.—To identify the Federal lands*
21 *transportation system and determine the relative*
22 *transportation needs among Federal land manage-*
23 *ment agencies, the inventories shall include, at a min-*
24 *imum, facilities that—*

1 “(A) provide access to high-use Federal
2 recreation sites or Federal economic generators,
3 as determined by the Secretary in coordination
4 with the respective Secretaries of the appropriate
5 Federal land management agencies; and

6 “(B) are owned by 1 of the following agen-
7 cies:

8 “(i) The National Park Service.

9 “(ii) The Forest Service.

10 “(iii) The United States Fish and
11 Wildlife Service.

12 “(iv) The Bureau of Land Manage-
13 ment.

14 “(v) The Corps of Engineers.

15 “(3) AVAILABILITY.—The inventories shall be
16 made available to the Secretary.

17 “(4) UPDATES.—The Secretaries of the appro-
18 priate Federal land management agencies shall up-
19 date the inventories of the appropriate Federal land
20 management agencies, as determined by the Secretary
21 after collaborative discussions with the Secretaries of
22 the appropriate Federal land management agencies.

23 “(5) REVIEW.—A decision to add or remove a fa-
24 cility from the inventory shall not be considered a
25 Federal action for purposes of review under the Na-

1 *tional Environmental Policy Act of 1969 (42 U.S.C.*
2 *4321 et seq.).*

3 “(d) *BICYCLE SAFETY.*—*The Secretary of the appro-*
4 *priate Federal land management agency shall prohibit the*
5 *use of bicycles on each federally owned road that has a speed*
6 *limit of 30 miles per hour or greater and an adjacent paved*
7 *path for use by bicycles within 100 yards of the road unless*
8 *the Secretary determines that the bicycle level of service on*
9 *that roadway is rated B or higher.*

10 **“§ 204. Federal lands access program**

11 “(a) *USE OF FUNDS.*—

12 “(1) *IN GENERAL.*—*Funds made available under*
13 *the Federal lands access program shall be used by the*
14 *Secretary of Transportation and the Secretary of the*
15 *appropriate Federal land management agency to pay*
16 *the cost of—*

17 “(A) *transportation planning, research, en-*
18 *gineering, preventive maintenance, rehabilita-*
19 *tion, restoration, construction, and reconstruc-*
20 *tion of Federal lands access transportation fa-*
21 *cilities located on or adjacent to, or that provide*
22 *access to, Federal land, and—*

23 “(i) *adjacent vehicular parking areas;*

24 “(ii) *acquisition of necessary scenic*
25 *easements and scenic or historic sites;*

1 “(iii) provisions for pedestrians and
2 *bicycles;*

3 “(iv) environmental mitigation in or
4 adjacent to Federal land—

5 “(I) to improve public safety and
6 reduce vehicle-caused wildlife mortality
7 while maintaining habitat
8 connectivity; and

9 “(II) to mitigate the damage to
10 wildlife, aquatic organism passage,
11 habitat, and ecosystem connectivity,
12 including the costs of constructing,
13 maintaining, replacing, or removing
14 culverts and bridges, as appropriate;

15 “(v) construction and reconstruction of
16 roadside rest areas, including sanitary and
17 water facilities; and

18 “(vi) other appropriate public road fa-
19 cilities, as determined by the Secretary;

20 “(B) operation and maintenance of transit
21 facilities; and

22 “(C) any transportation project eligible for
23 assistance under this title that is within or adja-
24 cent to, or that provides access to, Federal land.

1 “(2) *CONTRACT.*—*In connection with an activity*
2 *described in paragraph (1), the Secretary and the*
3 *Secretary of the appropriate Federal land manage-*
4 *ment agency may enter into a contract or other ap-*
5 *propriate agreement with respect to the activity*
6 *with—*

7 “(A) *a State (including a political subdivi-*
8 *sion of a State); or*

9 “(B) *an Indian tribe.*

10 “(3) *ADMINISTRATION.*—*All appropriations for*
11 *the construction and improvement of Federal lands*
12 *access transportation facilities shall be administered*
13 *in conformity with regulations and agreements ap-*
14 *proved by the Secretary.*

15 “(4) *COOPERATION.*—

16 “(A) *IN GENERAL.*—*The cooperation of*
17 *States, counties, or other local subdivisions may*
18 *be accepted in construction and improvement.*

19 “(B) *FUNDS RECEIVED.*—*Any funds re-*
20 *ceived from a State, county, or local subdivision*
21 *for a Federal lands access transportation facility*
22 *project shall be credited to appropriations avail-*
23 *able under the Federal lands access program.*

24 “(5) *COMPETITIVE BIDDING.*—

1 “(A) *IN GENERAL.*—Subject to subpara-
2 graph (B), construction of each project shall be
3 performed by contract awarded by competitive
4 bidding.

5 “(B) *EXCEPTION.*—Subparagraph (A) shall
6 not apply if the Secretary or the Secretary of the
7 appropriate Federal land management agency
8 affirmatively finds that, under the circumstances
9 relating to the project, a different method is in
10 the public interest.

11 “(b) *PROGRAM DISTRIBUTIONS.*—

12 “(1) *IN GENERAL.*—Funding made available to
13 carry out the Federal lands access program shall be
14 allocated among those States that have Federal land,
15 in accordance with the following formula:

16 “(A) 80 percent of the available funding for
17 use in those States that contain at least 1 1/2
18 percent of the total public land in the United
19 States managed by the agencies described in
20 paragraph (2), to be distributed as follows:

21 “(i) 30 percent in the ratio that—

22 “(I) recreational visitation within
23 each such State; bears to

24 “(II) the recreational visitation
25 within all such States.

1 “(ii) 5 percent in the ratio that—

2 “(I) the Federal land area within
3 each such State; bears to

4 “(II) the Federal land area in all
5 such States.

6 “(iii) 55 percent in the ratio that—

7 “(I) the Federal public road miles
8 within each such State; bears to

9 “(II) the Federal public road
10 miles in all such States.

11 “(iv) 10 percent in the ratio that—

12 “(I) the number of Federal public
13 bridges within each such State; bears
14 to

15 “(II) the number of Federal public
16 bridges in all such States.

17 “(B) 20 percent of the available funding for
18 use in those States that do not contain at least
19 $1\frac{1}{2}$ percent of the total public land in the
20 United States managed by the agencies described
21 in paragraph (2), to be distributed as follows:

22 “(i) 30 percent in the ratio that—

23 “(I) recreational visitation within
24 each such State; bears to

1 “(II) *the recreational visitation*
2 *within all such States.*

3 “(ii) *5 percent in the ratio that—*

4 “(I) *the Federal land area within*
5 *each such State; bears to*

6 “(II) *the Federal land area in all*
7 *such States.*

8 “(iii) *55 percent in the ratio that—*

9 “(I) *the Federal public road miles*
10 *within each such State; bears to*

11 “(II) *the Federal public road*
12 *miles in all such States.*

13 “(iv) *10 percent in the ratio that—*

14 “(I) *the number of Federal public*
15 *bridges within each such State; bears*
16 *to*

17 “(II) *the number of Federal public*
18 *bridges in all such States.*

19 “(2) *DATA SOURCE.—Data necessary to dis-*
20 *tribute funding under paragraph (1) shall be pro-*
21 *vided by the following Federal land management*
22 *agencies:*

23 “(A) *The National Park Service.*

24 “(B) *The Forest Service.*

1 “(C) *The United States Fish and Wildlife*
2 *Service.*

3 “(D) *The Bureau of Land Management.*

4 “(E) *The Corps of Engineers.*

5 “(c) *PROGRAMMING DECISIONS COMMITTEE.*—

6 “(1) *IN GENERAL.*—*Programming decisions shall*
7 *be made within each State by a committee comprised*
8 *of—*

9 “(A) *a representative of the Federal High-*
10 *way Administration;*

11 “(B) *a representative of the State Depart-*
12 *ment of Transportation; and*

13 “(C) *a representative of any appropriate*
14 *political subdivision of the State.*

15 “(2) *CONSULTATION REQUIREMENT.*—*The com-*
16 *mittee described in paragraph (1) shall consult with*
17 *each applicable Federal agency in each State before*
18 *any joint discussion or final programming decision.*

19 “(3) *PROJECT PREFERENCE.*—*In making a pro-*
20 *gramming decision under paragraph (1), the com-*
21 *mittee shall give preference to projects that provide*
22 *access to, are adjacent to, or are located within high-*
23 *use Federal recreation sites or Federal economic gen-*
24 *erators, as identified by the Secretaries of the appro-*
25 *priate Federal land management agencies.”.*

1 (b) *PUBLIC LANDS DEVELOPMENT ROADS AND*
 2 *TRAILS.*—Section 214 of title 23, United States Code, is
 3 *repealed.*

4 (c) *CONFORMING AMENDMENTS.*—

5 (1) *CHAPTER 2 ANALYSIS.*—The analysis for
 6 *chapter 2 of title 23, United States Code, is amended:*

7 (A) *By striking the items relating to sec-*
 8 *tions 201 through 204 and inserting the fol-*
 9 *lowing:*

“201. Federal lands and tribal transportation programs.

“202. Tribal transportation program.

“203. Federal lands transportation program.

“204. Federal lands access program.”.

10 (B) *By striking the item relating to section*
 11 *214.*

12 (2) *DEFINITION.*—Section 138(a) of title 23,
 13 *United States Code, is amended in the third sentence*
 14 *by striking “park road or parkway under section 204*
 15 *of this title” and inserting “Federal lands transpor-*
 16 *tation facility”.*

17 (3) *RULES, REGULATIONS, AND RECOMMENDA-*
 18 *TIONS.*—Section 315 of title 23, United States Code,
 19 *is amended by striking “204(f)” and inserting*
 20 *“202(a)(5), 203(a)(3),”.*

21 **SEC. 1117. ALASKA HIGHWAY.**

22 Section 218 of title 23, United States Code, is amended
 23 *to read as follows:*

1 **“§218. Alaska Highway**

2 “(a) *DEFINITION OF ALASKA MARINE HIGHWAY SYS-*
3 *TEM.—In this section, the term ‘Alaska Marine Highway*
4 *System’ includes each existing or planned transportation*
5 *facility and equipment in the State of Alaska relating to*
6 *the ferry system of the State, including the lease, purchase,*
7 *or construction of vessels, terminals, docks, floats, ramps,*
8 *staging areas, parking lots, bridges, and approaches thereto,*
9 *and necessary roads.*

10 “(b) *AUTHORIZATION OF SECRETARY.—*

11 “(1) *IN GENERAL.—Recognizing the benefits that*
12 *will accrue to the State of Alaska and to the United*
13 *States from the reconstruction of the Alaska Highway*
14 *from the Alaskan border to Haines Junction in Can-*
15 *ada and the Haines Cutoff Highway from Haines*
16 *Junction in Canada to Haines, the Secretary is au-*
17 *thorized, upon agreement with the State of Alaska, to*
18 *expend on such highway or the Alaska Marine High-*
19 *way System any Federal-aid highway funds appor-*
20 *tioned to the State of Alaska under this title to pro-*
21 *vide for necessary reconstruction of such highway.*

22 “(2) *LIMITATION.—No expenditures shall be*
23 *made for the construction of the portion of the high-*
24 *ways that are in located in Canada until the date on*
25 *which an agreement has been reached by the Govern-*
26 *ment of Canada and the Government of the United*

1 *States, which shall provide in part, that the Cana-*
2 *dian Government—*

3 “(A) will provide, without participation of
4 *funds authorized under this title, all necessary*
5 *right-of-way for the construction of the highways;*

6 “(B) will not impose any highway toll, or
7 *permit any toll to be charged for the use of the*
8 *highways by vehicles or persons;*

9 “(C) will not levy or assess, directly or in-
10 *directly, any fee, tax, or other charge for the use*
11 *of the highways by vehicles or persons from the*
12 *United States that does not apply equally to ve-*
13 *hicles or persons of Canada;*

14 “(D) will continue to grant reciprocal rec-
15 *ognition of vehicle registration and drivers’ li-*
16 *censes in accordance with agreements between the*
17 *United States and Canada; and*

18 “(E) will maintain the highways after the
19 *date of completion of the highways in proper*
20 *condition adequately to serve the needs of present*
21 *and future traffic.*

22 “(c) SUPERVISION OF SECRETARY.—*The survey and*
23 *construction work undertaken in Canada pursuant to this*
24 *section shall be under the general supervision of the Sec-*
25 *retary.”.*

1 **SEC. 1118. PROJECTS OF NATIONAL AND REGIONAL SIG-**
2 **NIFICANCE.**

3 (a) *ESTABLISHMENT OF PROGRAM.*—*The Secretary*
4 *shall establish a program in accordance with this section*
5 *to provide grants for projects of national and regional sig-*
6 *nificance.*

7 (b) *PURPOSE OF PROGRAM.*—*The purpose of the*
8 *projects of national and regional significance program shall*
9 *be to fund critical high-cost surface transportation infra-*
10 *structure projects that are difficult to complete with existing*
11 *Federal, State, local, and private funds and that will—*

12 (1) *generate national and regional economic ben-*
13 *efits and increase global economic competitiveness;*

14 (2) *reduce congestion and its impacts;*

15 (3) *improve roadways vital to national energy*
16 *security;*

17 (4) *improve movement of freight and people; and*

18 (5) *improve transportation safety.*

19 (c) *DEFINITIONS.*—*In this section:*

20 (1) *ELIGIBLE APPLICANT.*—*The term “eligible*
21 *applicant” means a State department of transpor-*
22 *tation or a group of State departments of transpor-*
23 *tation, a local government, a tribal government or*
24 *consortium of tribal governments, a transit agency, a*
25 *port authority, a metropolitan planning organiza-*
26 *tion, other political subdivisions of State or local gov-*

1 *ernments, or a multi-State or multi-jurisdictional*
2 *group of the aforementioned entities.*

3 (2) *ELIGIBLE PROJECT.—The term “eligible*
4 *project” means a surface transportation project or a*
5 *program of integrated surface transportation projects*
6 *closely related in the function they perform that—*

7 (A) *is a capital project or projects—*

8 (i) *eligible for Federal financial assist-*
9 *ance under title 23, United States Code, or*
10 *under chapter 53 of title 49, United States*
11 *Code; or*

12 (ii) *for surface transportation infra-*
13 *structure to facilitate intermodal inter-*
14 *change, transfer, and access into and out of*
15 *intermodal facilities, including ports; and*

16 (B) *has eligible project costs that are rea-*
17 *sonably anticipated to equal or exceed the lesser*
18 *of—*

19 (i) *\$500,000,000;*

20 (ii) *for a project located in a single*
21 *State, 30 percent of the amount of Federal-*
22 *aid highway funds apportioned for the most*
23 *recently completed fiscal year to the State;*
24 *or*

1 (iii) for a project located in more than
2 1 State, 75 percent of the amount of Fed-
3 eral-aid highway funds apportioned for the
4 most recently completed fiscal year to the
5 State in which the project is located that
6 has the largest apportionment.

7 (3) *ELIGIBLE PROJECT COSTS.*—The term “*eligi-*
8 *ble project costs*” means the costs of—

9 (A) *development phase activities, including*
10 *planning, feasibility analysis, revenue fore-*
11 *casting, environmental review, preliminary engi-*
12 *neering and design work, and other*
13 *preconstruction activities;*

14 (B) *construction, reconstruction, rehabilita-*
15 *tion, and acquisition of real property (including*
16 *land related to the project and improvements to*
17 *land), environmental mitigation, construction*
18 *contingencies, acquisition of equipment directly*
19 *related to improving system performance, and*
20 *operational improvements; and*

21 (C) *all financing costs, including subsidy*
22 *costs under the Transportation Infrastructure*
23 *Finance and Innovation Act program.*

24 (d) *SOLICITATIONS AND APPLICATIONS.*—

1 (1) *GRANT SOLICITATIONS.*—*The Secretary shall*
2 *establish criteria for project evaluation and conduct a*
3 *transparent and competitive national solicitation*
4 *process to select projects for funding to carry out the*
5 *purposes of this section.*

6 (2) *APPLICATIONS.*—

7 (A) *IN GENERAL.*—*An eligible applicant*
8 *seeking a grant under this section for an eligible*
9 *project shall submit an application to the Sec-*
10 *retary in such form and in accordance with such*
11 *requirements as the Secretary shall establish.*

12 (B) *CONTENTS.*—*An application under this*
13 *subsection shall, at a minimum, include data on*
14 *current system performance and estimated sys-*
15 *tem improvements that will result from comple-*
16 *tion of the eligible project, including projections*
17 *for 2, 7, and 15 years after completion.*

18 (C) *RESUBMISSION OF APPLICATIONS.*—*An*
19 *eligible applicant whose project is not selected by*
20 *the Secretary may resubmit an application in*
21 *any subsequent solicitation.*

22 (e) *CRITERIA FOR PROJECT EVALUATION AND SELEC-*
23 *TION.*—

1 (1) *IN GENERAL.*—*The Secretary may select a*
2 *project only if the Secretary determines that the*
3 *project—*

4 (A) *will significantly improve the perform-*
5 *ance of the national surface transportation net-*
6 *work, nationally or regionally;*

7 (B) *is based on the results of preliminary*
8 *engineering;*

9 (C) *cannot be readily and efficiently com-*
10 *pleted without Federal support from this pro-*
11 *gram;*

12 (D) *is justified based on the ability of the*
13 *project—*

14 (i) *to generate national economic bene-*
15 *fits that reasonably exceed its costs, includ-*
16 *ing increased access to jobs, labor, and other*
17 *critical economic inputs;*

18 (ii) *to reduce long-term congestion, in-*
19 *cluding impacts in the State, region, and*
20 *Nation, and increase speed, reliability, and*
21 *accessibility of the movement of people or*
22 *freight; and*

23 (iii) *to improve transportation safety,*
24 *including reducing transportation acci-*

1 *dents, and serious injuries and fatalities;*

2 *and*

3 *(E) is supported by an acceptable degree of*
4 *non-Federal financial commitments, including*
5 *evidence of stable and dependable financing*
6 *sources to construct, maintain, and operate the*
7 *infrastructure facility.*

8 (2) *ADDITIONAL CONSIDERATIONS.—In evalu-*
9 *ating a project under this section, in addition to the*
10 *criteria in paragraph (1), the Secretary shall consider*
11 *the extent to which the project—*

12 *(A) leverages Federal investment by encour-*
13 *aging non-Federal contributions to the project,*
14 *including contributions from public-private*
15 *partnerships;*

16 *(B) is able to begin construction within 18*
17 *months of being selected;*

18 *(C) incorporates innovative project delivery*
19 *and financing where practical;*

20 *(D) stimulates collaboration between States*
21 *and among State and local governments;*

22 *(E) helps maintain or protect the environ-*
23 *ment;*

24 *(F) improves roadways vital to national en-*
25 *ergy security;*

1 (G) uses innovative technologies, including
2 intelligent transportation systems, that enhance
3 the efficiency of the project; and

4 (H) contributes to an equitable geographic
5 distribution of funds under this section and an
6 appropriate balance in addressing the needs of
7 urban and rural communities.

8 (f) *GRANT REQUIREMENTS.*—

9 (1) *IN GENERAL.*—A grant for a project under
10 this section shall be subject to the following require-
11 ments:

12 (A) A qualifying highway project eligible
13 for funding under title 23, United States Code,
14 or public transportation project eligible under
15 chapter 53 of title 49, United States Code, shall
16 comply with all applicable requirements of such
17 title or chapter except that, if the project con-
18 tains elements or activities that are not eligible
19 for funding under such title or chapter but are
20 eligible for funding under this section, the ele-
21 ments or activities shall comply with the require-
22 ments described in subparagraph (B).

23 (B) A qualifying surface transportation
24 project not eligible under title 23, United States
25 Code, or chapter 53 of title 49, United States

1 Code, shall comply with the requirements of sub-
2 chapter IV of chapter 31 of title 40, United
3 States Code, section 10a–d of title 41, United
4 States Code, and such other terms, conditions,
5 and requirements as the Secretary determines
6 are necessary and appropriate for the type of
7 project.

8 (2) *DETERMINATION OF APPLICABLE MODAL RE-*
9 *QUIREMENTS.*—*In the event that a project has cross-*
10 *modal components, the Secretary shall have the dis-*
11 *cretion to designate the requirements that shall apply*
12 *to the project based on predominant components.*

13 (3) *OTHER TERMS AND CONDITIONS.*—*The Sec-*
14 *retary shall require that all grants under this section*
15 *be subject to all terms, conditions, and requirements*
16 *that the Secretary decides are necessary or appro-*
17 *priate for purposes of this section, including require-*
18 *ments for the disposition of net increases in value of*
19 *real property resulting from the project assisted under*
20 *this section.*

21 (g) *FEDERAL SHARE OF PROJECT COST.*—

22 (1) *IN GENERAL.*—*If a project funded under this*
23 *section is to construct or improve a privately owned*
24 *facility or would primarily benefit a private entity,*
25 *the Federal share shall be the lesser of 50 percent of*

1 *the total project cost or the quantified public benefit*
2 *of the project. For all other projects funded under this*
3 *section—*

4 *(A) the Federal share of funds under this*
5 *section shall be up to 50 percent of the project*
6 *cost; and*

7 *(B) the project sponsor may use other eligi-*
8 *ble Federal transportation funds to cover up to*
9 *an additional 30 percent of the project costs.*

10 *(2) PRE-APPROVAL COSTS.—The Secretary may*
11 *allow costs incurred prior to project approval to be*
12 *used as a credit toward the non-Federal share of the*
13 *cost of the project. Such costs must be adequately doc-*
14 *umented, necessary, reasonable, and allocable to the*
15 *current phase of the project and such costs may not*
16 *be included as a cost or used to meet cost-sharing or*
17 *matching requirements of any other federally-financed*
18 *project.*

19 *(h) REPORT TO THE SECRETARY.—For each project*
20 *funded under this section, the project sponsor shall reassess*
21 *system performance and report to the Secretary 2, 7, and*
22 *15 years after completion of the project to assess if the*
23 *project outcomes have met pre-construction projections.*

24 *(i) AUTHORIZATION OF APPROPRIATIONS.—There is*
25 *authorized to be appropriated to carry out this section, to*

1 *remain available until expended, \$1,000,000,000 for fiscal*
2 *year 2013.*

3 *(j) TREATMENT OF PROJECTS.—Notwithstanding any*
4 *other provision of law, projects funded under this section*
5 *shall be treated as projects on a Federal-aid highway under*
6 *chapter 1 of title 23, United States Code.*

7 *(k) REPORTS.—*

8 *(1) SECRETARY.—*

9 *(A) IN GENERAL.—Not later than 30 days*
10 *after the date on which the Secretary selects a*
11 *project for funding under this section, the Sec-*
12 *retary shall submit to the Committee on Envi-*
13 *ronment and Public Works of the Senate and the*
14 *Committee on Transportation and Infrastructure*
15 *of the House of Representatives a report that de-*
16 *scribes the reasons for selecting the project, based*
17 *on the criteria described in subsection (e).*

18 *(B) INCLUSIONS.—The report submitted*
19 *under subparagraph (A) shall specify each cri-*
20 *teria described in subsection (e) that the project*
21 *meets.*

22 *(C) AVAILABILITY.—The Secretary shall*
23 *make available on the website of the Department*
24 *the report submitted under subparagraph (A).*

25 *(2) COMPTROLLER GENERAL.—*

1 (A) *ASSESSMENT.*—*The Comptroller Gen-*
2 *eral of the United States shall conduct an assess-*
3 *ment of the establishment, solicitation, selection,*
4 *and justification process with respect to the*
5 *funding of projects under this section.*

6 (B) *REPORT.*—*Not later than 3 years after*
7 *the date of enactment of this Act, the Comptroller*
8 *General of the United States shall submit to the*
9 *Committee on Environment and Public Works of*
10 *the Senate and the Committee on Transportation*
11 *and Infrastructure of the House of Representa-*
12 *tives a report that describes—*

13 (i) *the process by which each project*
14 *was selected;*

15 (ii) *the factors that went into the selec-*
16 *tion of each project; and*

17 (iii) *the justification for the selection of*
18 *each project based on the criteria described*
19 *in subsection (e).*

20 (3) *INSPECTOR GENERAL.*—

21 (A) *ASSESSMENT.*—*The Inspector General*
22 *of the Department shall conduct an assessment of*
23 *the establishment, solicitation, selection, and jus-*
24 *tification process with respect to the funding of*
25 *projects under this section.*

1 (B) *INITIAL REPORT.*—Not later than 2
2 years after the date of enactment of this Act, the
3 Inspector General of the Department shall sub-
4 mit to the Committee on Environment and Pub-
5 lic Works of the Senate and the Committee on
6 Transportation and Infrastructure of the House
7 of Representatives a report that describes the ini-
8 tial results of the assessment conducted under
9 subparagraph (A).

10 (C) *FINAL REPORT.*—Not later than 4 years
11 after the date of enactment of this Act, the In-
12 spector General of the Department shall submit
13 to the Committee on Environment and Public
14 Works of the Senate and the Committee on
15 Transportation and Infrastructure of the House
16 of Representatives a final report that describes
17 the findings of the Inspector General of the De-
18 partment with respect to the assessment con-
19 ducted under subparagraph (A).

20 (l) *REGULATIONS.*—

21 (1) *IN GENERAL.*—Not later than 1 year after
22 the date of enactment of this Act, the Secretary shall
23 promulgate final regulations implementing the pro-
24 gram authorized under this section.

1 (2) *INTERIM PROVISIONS.*—Until the date on
2 which the Secretary promulgates final regulations
3 under paragraph (1), any amounts made available
4 under subsection (i) to carry out this section shall be
5 distributed in accordance with—

6 (A) the guidance and policies developed for
7 the distribution of grants under the program
8 using the notice of funding availability entitled
9 “Notice of Funding Availability for the Depart-
10 ment of Transportation’s National Infrastructure
11 Investments Under the Full-Year Continuing Ap-
12 propriations, 2012; and Request for Comments”
13 (77 Fed. Reg. 4863 (January 31, 2012)); or

14 (B) such guidance and policies as subse-
15 quently revised and updated.

16 **SEC. 1119. CONSTRUCTION OF FERRY BOATS AND FERRY**
17 **TERMINAL FACILITIES.**

18 (a) *CONSTRUCTION OF FERRY BOATS AND FERRY*
19 *TERMINAL FACILITIES.*—Section 147 of title 23, United
20 States Code, is amended—

21 (1) by striking subsections (c), (d), and (e);

22 (2) by redesignating subsection (f) as subsection
23 (g); and

24 (3) by inserting after subsection (b) the fol-
25 lowing:

1 “(c) *DISTRIBUTION OF FUNDS.*—Of the amounts made
2 available to ferry systems and public entities responsible for
3 developing ferries under this section for a fiscal year, 100
4 percent shall be allocated in accordance with the formula
5 set forth in subsection (d).

6 “(d) *FORMULA.*—Of the amounts allocated pursuant
7 to subsection (c)—

8 “(1) 20 percent shall be allocated among eligible
9 entities in the proportion that—

10 “(A) the number of ferry passengers carried
11 by each ferry system in the most recent fiscal
12 year; bears to

13 “(B) the number of ferry passengers carried
14 by all ferry systems in the most recent fiscal
15 year;

16 “(2) 50 percent shall be allocated among eligible
17 entities in the proportion that—

18 “(A) the number of vehicles carried by each
19 ferry system in the most recent fiscal year; bears
20 to

21 “(B) the number of vehicles carried by all
22 ferry systems in the most recent fiscal year; and

23 “(3) 30 percent shall be allocated among eligible
24 entities in the proportion that—

1 “(A) *the total route miles serviced by each*
2 *ferry system; bears to*

3 “(B) *the total route miles serviced by all*
4 *ferry systems.*

5 “(e) *FERRY BOAT COORDINATION TEAM.—*

6 “(1) *ESTABLISHMENT.—The Secretary shall es-*
7 *tablish within the Federal Highway Administration a*
8 *Ferry Boat Coordination Team to carry out para-*
9 *graph (2).*

10 “(2) *PURPOSES.—The purposes of the ferry boat*
11 *coordination team shall be—*

12 “(A) *to coordinate Federal programs affect-*
13 *ing ferry and ferry facility construction, mainte-*
14 *nance, operations, and security; and*

15 “(B) *to promote transportation by ferry as*
16 *a component of the United States transportation*
17 *system.*

18 “(3) *FUNCTIONS.—The ferry boat coordination*
19 *team shall—*

20 “(A) *coordinate programs relating to ferry*
21 *transportation carried out by—*

22 “(i) *the Department of Transportation,*
23 *including programs carried out by the Fed-*
24 *eral Highway Administration, the Federal*
25 *Transit Administration, the Maritime Ad-*

1 *ministration, and the Research and Innova-*
2 *tive Technology Administration;*

3 *“(ii) the Department of Homeland Se-*
4 *curity; and*

5 *“(iii) other Federal and State agencies,*
6 *as appropriate;*

7 *“(B) ensure resource accountability for pro-*
8 *grams carried out by the Secretary relating to*
9 *ferry transportation;*

10 *“(C) provide strategic leadership for re-*
11 *search, development, testing, and deployment of*
12 *technologies relating to ferry transportation; and*

13 *“(D) promote ferry transportation as a*
14 *means to reduce costs associated with traffic con-*
15 *gestion.*

16 *“(f) AUTHORIZATION OF APPROPRIATIONS.—There is*
17 *authorized to be appropriated to carry out this section*
18 *\$67,000,000 for each of fiscal years 2012 and 2013.”.*

19 *(b) NATIONAL FERRY DATABASE.—Section 1801(e) of*
20 *the SAFETEA-LU (23 U.S.C. 129 note; Public Law 109–*
21 *59) is amended—*

22 *(1) in paragraph (2), by inserting “, including*
23 *any Federal, State, and local government funding*
24 *sources,” after “sources”; and*

25 *(2) in paragraph (4)—*

1 (A) in subparagraph (B), by striking “and”
2 at the end;

3 (B) by redesignating subparagraph (C) as
4 subparagraph (D);

5 (C) by inserting after subparagraph (B),
6 the following:

7 “(C) ensure that the database is consistent
8 with the national transit database maintained
9 by the Federal Transit Administration; and”;
10 and

11 (D) in subparagraph (D) (as redesignated
12 by subparagraph (B)), by striking “2009” and
13 inserting “2013”.

14 **Subtitle B—Performance**
15 **Management**

16 **SEC. 1201. METROPOLITAN TRANSPORTATION PLANNING.**

17 Section 134 of title 23, United States Code, is amended
18 to read as follows:

19 **“§ 134. Metropolitan transportation planning**

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

21 “(1) to encourage and promote the safe, cost-ef-
22 fective, and efficient management, operation, and de-
23 velopment of surface transportation systems that will
24 serve efficiently the mobility needs of individuals and
25 freight, reduce transportation-related fatalities and

1 *serious injuries, and foster economic growth and de-*
2 *velopment within and between States and urbanized*
3 *areas, while fitting the needs and complexity of indi-*
4 *vidual communities, maximizing value for taxpayers,*
5 *leveraging cooperative investments, and minimizing*
6 *transportation-related fuel consumption and air pol-*
7 *lution through the metropolitan and statewide trans-*
8 *portation planning processes identified in this title;*

9 “(2) to encourage the continued improvement,
10 *evolution, and coordination of the metropolitan and*
11 *statewide transportation planning processes by and*
12 *among metropolitan planning organizations, State*
13 *departments of transportation, regional planning or-*
14 *ganizations, interstate partnerships, and public*
15 *transportation and intercity service operators as*
16 *guided by the planning factors identified in sub-*
17 *section (h) of this section and section 135(d);*

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

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

23 “(b) *DEFINITIONS.*—*In this section and section 135,*
24 *the following definitions shall apply:*

1 “(1) *EXISTING MPO.*—*The term ‘existing MPO’*
2 *means a metropolitan planning organization that*
3 *was designated as a metropolitan planning organiza-*
4 *tion on the day before the date of enactment of the*
5 *MAP–21.*

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

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

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

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

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

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

8 “(8) *NONMETROPOLITAN AREA.*—

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

13 “(B) *INCLUSIONS.*—*The term ‘nonmetro-*
14 *politan area’ includes—*

15 “(i) *a small urbanized area with a*
16 *population of more than 50,000, but fewer*
17 *than 200,000, individuals, as calculated ac-*
18 *ording to the most recent decennial census;*
19 *and*

20 “(ii) *a nonurbanized area.*

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

1 “(A) was designated as a metropolitan
2 planning organization as of the day before the
3 date of enactment of the MAP–21; and

4 “(B) is not designated as a tier I MPO or
5 tier II MPO.

6 “(10) REGIONALLY SIGNIFICANT.—The term ‘re-
7 gionally significant’, with respect to a transportation
8 project, program, service, or strategy, means a project,
9 program, service, or strategy that—

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

14 “(B) would normally be included in the
15 modeling of a transportation network of a metro-
16 politan area.

17 “(11) RURAL PLANNING ORGANIZATION.—The
18 term ‘rural planning organization’ means an organi-
19 zation that—

20 “(A) is responsible for the planning, coordi-
21 nation, and implementation of statewide trans-
22 portation plans and programs outside of a met-
23 ropolitan area, with an emphasis on addressing
24 the needs of rural areas of the State; and

1 “(B) is not designated as a tier I or tier II
2 metropolitan planning organization or a non-
3 metropolitan planning organization.

4 “(12) STATEWIDE TRANSPORTATION IMPROVE-
5 MENT PROGRAM.—The term ‘statewide transportation
6 improvement program’ means a statewide transpor-
7 tation improvement program developed by a State
8 under section 135(g).

9 “(13) STATEWIDE TRANSPORTATION PLAN.—The
10 term ‘statewide transportation plan’ means a plan
11 developed by a State under section 135(f).

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

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

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

22 “(17) URBANIZED AREA.—The term ‘urbanized
23 area’ means a geographical area with a population of
24 50,000 or more individuals, as calculated according
25 to the most recent decennial census.

1 “(c) *DESIGNATION OF METROPOLITAN PLANNING OR-*
2 *GANIZATIONS.*—

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

9 “(A) *by agreement between the applicable*
10 *Governor and local officials that, in the aggre-*
11 *gate, represent at least 75 percent of the affected*
12 *population (including the largest incorporated*
13 *city (based on population), as calculated accord-*
14 *ing to the most recent decennial census); or*

15 “(B) *in accordance with procedures estab-*
16 *lished by applicable State or local law.*

17 “(2) *SMALL URBANIZED AREAS.*—*To carry out*
18 *the metropolitan transportation planning process*
19 *under this section, a metropolitan planning organiza-*
20 *tion may be designated for any urbanized area with*
21 *a population of 50,000 or more individuals, but fewer*
22 *than 200,000 individuals, as calculated according to*
23 *the most recent decennial census—*

24 “(A) *by agreement between the applicable*
25 *Governor and local officials that, in the aggre-*

1 gate, represent at least 75 percent of the affected
2 population (including the largest incorporated
3 city (based on population), as calculated accord-
4 ing to the most recent decennial census); and

5 “(B) with the consent of the Secretary,
6 based on a finding that the resulting metropoli-
7 tan planning organization has met the min-
8 imum requirements under subsection (e)(4)(B).

9 “(3) *STRUCTURE*.—Not later than 1 year after
10 the date of enactment of the MAP–21, a metropolitan
11 planning organization shall consist of—

12 “(A) elected local officials in the relevant
13 metropolitan area;

14 “(B) officials of public agencies that admin-
15 ister or operate major modes of transportation in
16 the relevant metropolitan area, including pro-
17 viders of public transportation; and

18 “(C) appropriate State officials.

19 “(4) *EFFECT OF SUBSECTION*.—Nothing in this
20 subsection interferes with any authority under any
21 State law in effect on December 18, 1991, of a public
22 agency with multimodal transportation responsibil-
23 ities—

24 “(A) to develop the metropolitan transpor-
25 tation plans and transportation improvement

1 *programs for adoption by a metropolitan plan-*
2 *ning organization; or*

3 *“(B) to develop capital plans, coordinate*
4 *public transportation services and projects, or*
5 *carry out other activities pursuant to State law.*

6 *“(5) CONTINUING DESIGNATION.—*

7 *“(A) POPULATION OF 200,000 OR MORE.—A*
8 *designation of an existing MPO for an urbanized*
9 *area with a population of 200,000 or more indi-*
10 *viduals, as calculated according to the most re-*
11 *cent decennial census, shall remain in effect—*

12 *“(i) for the period during which the*
13 *structure of the existing MPO complies with*
14 *the requirements of paragraph (1); or*

15 *“(ii) until the date on which the exist-*
16 *ing MPO is redesignated under paragraph*
17 *(6); and*

18 *“(B) POPULATION OF FEWER THAN*
19 *200,000.—*

20 *“(i) IN GENERAL.—A designation of an*
21 *existing MPO for an urbanized area with a*
22 *population of fewer than 200,000 individ-*
23 *uals, as calculated according to the most re-*
24 *cent decennial census, shall remain in effect*

1 *until the date on which the existing MPO is*
2 *redesignated under paragraph (6) unless—*

3 “(I) *the existing MPO requests*
4 *that its planning responsibilities be*
5 *transferred to the State or to another*
6 *planning organization designated by*
7 *the State; or*

8 “(II) *the Secretary determines 3*
9 *years after the date on which the Sec-*
10 *retary issues a rule pursuant to sub-*
11 *section (e)(4)(B)(i), that the existing*
12 *MPO is not meeting the minimum re-*
13 *quirements established by the rule.*

14 “(ii) *JUSTIFICATION.—The Secretary*
15 *shall, in a timely manner, provide a sub-*
16 *stantive written justification to each metro-*
17 *politan planning organization that is the*
18 *subject of a negative determination of the*
19 *Secretary under clause (i)(II).*

20 “(C) *EXTENSION.—If a metropolitan plan-*
21 *ning organization for an urbanized area with a*
22 *population of less than 200,000 that would other-*
23 *wise be terminated under subparagraph (B), re-*
24 *quests a probationary continuation before the*

1 *termination of the metropolitan planning orga-*
2 *nization, the Secretary shall—*

3 “(i) *delay the termination of the met-*
4 *ropolitan planning organization under sub-*
5 *paragraph (B) for a period of 1 year;*

6 “(ii) *provide additional technical as-*
7 *stance to all metropolitan planning orga-*
8 *nizations provided an extension under this*
9 *paragraph to assist the metropolitan plan-*
10 *ning organization in meeting the minimum*
11 *requirements under subsection (e)(4)(B)(i);*
12 *and*

13 “(iii) *make a determination not later*
14 *than 1 year after the date on which the Sec-*
15 *retary issues an extension, regardless of*
16 *whether the metropolitan planning organi-*
17 *zation has met the minimum requirements*
18 *established under subsection (e)(4)(B)(ii).*

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

25 “(6) *REDESIGNATION.—*

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

8 “(i) *the applicable Governor; and*

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

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

20 “(7) *ABSENCE OF DESIGNATION.*—

21 “(A) *IN GENERAL.*—*A metropolitan plan-*
22 *ning organization that is the subject of a nega-*
23 *tive determination of the Secretary under para-*
24 *graph (5)(B)(ii) shall submit to the State in*
25 *which the metropolitan planning organization is*

1 *located, or to a planning organization designated*
2 *by the State, by not later than 180 days after the*
3 *date on which a notice of the negative deter-*
4 *mination is received, a 6-month plan that in-*
5 *cludes a description of a method—*

6 “(i) *to transfer the responsibilities of*
7 *the metropolitan planning organization to*
8 *the State; and*

9 “(ii) *to dissolve the metropolitan plan-*
10 *ning organization.*

11 “(B) *ACTION ON DISSOLUTION.—On sub-*
12 *mission of a plan under subparagraph (A), the*
13 *metropolitan planning area served by the appli-*
14 *cable metropolitan planning organization*
15 *shall—*

16 “(i) *continue to receive metropolitan*
17 *transportation planning funds until the*
18 *earlier of—*

19 “(I) *the date of dissolution of the*
20 *metropolitan planning organization;*
21 *and*

22 “(II) *the date that is 4 years after*
23 *the date of enactment of the MAP-21;*
24 *and*

1 “(ii) be treated by the State as a non-
2 metropolitan area for purposes of this title.

3 “(8) *DESIGNATION OF MULTIPLE MPOS.*—

4 “(A) *IN GENERAL.*—More than 1 metropoli-
5 tan planning organization may be designated
6 within an existing metropolitan planning area
7 only if the applicable Governor and an existing
8 MPO determine that the size and complexity of
9 the existing metropolitan planning area make
10 the designation of more than 1 metropolitan
11 planning organization for the metropolitan plan-
12 ning area appropriate.

13 “(B) *SERVICE JURISDICTIONS.*—If more
14 than 1 metropolitan planning organization is
15 designated for an existing metropolitan planning
16 area under subparagraph (A), the existing met-
17 ropolitan planning area shall be split into mul-
18 tiple metropolitan planning areas, each of which
19 shall be served by the existing MPO or a new
20 metropolitan planning organization.

21 “(C) *TIER DESIGNATION.*—The tier designa-
22 tion of each metropolitan planning organization
23 subject to a designation under this paragraph
24 shall be determined based on the size of each re-

1 *spective metropolitan planning area, in accord-*
2 *ance with subsection (e)(4).*

3 “(d) *METROPOLITAN PLANNING AREA BOUNDARIES.—*

4 *“(1) IN GENERAL.—For purposes of this section,*
5 *the boundaries of a metropolitan planning area shall*
6 *be determined by agreement between the applicable*
7 *metropolitan planning organization and the Governor*
8 *of the State in which the metropolitan planning area*
9 *is located.*

10 *“(2) INCLUDED AREA.—Each metropolitan plan-*
11 *ning area—*

12 *“(A) shall encompass at least the relevant*
13 *existing urbanized area and any contiguous area*
14 *expected to become urbanized within a 20-year*
15 *forecast period under the applicable metropolitan*
16 *transportation plan; and*

17 *“(B) may encompass the entire relevant*
18 *metropolitan statistical area, as defined by the*
19 *Office of Management and Budget.*

20 “(3) *IDENTIFICATION OF NEW URBANIZED*
21 *AREAS.—The designation by the Bureau of the Census*
22 *of a new urbanized area within the boundaries of an*
23 *existing metropolitan planning area shall not require*
24 *the redesignation of the relevant existing MPO.*

1 “(4) NONATTAINMENT AND MAINTENANCE
2 AREAS.—

3 “(A) EXISTING METROPOLITAN PLANNING
4 AREAS.—

5 “(i) IN GENERAL.—*Except as provided*
6 *in clause (ii), notwithstanding paragraph*
7 *(2), in the case of an urbanized area des-*
8 *ignated as a nonattainment area or mainte-*
9 *nance area as of the date of enactment of*
10 *the MAP–21, the boundaries of the existing*
11 *metropolitan planning area as of that date*
12 *of enactment shall remain in force and ef-*
13 *fect.*

14 “(ii) EXCEPTION.—*Notwithstanding*
15 *clause (i), the boundaries of an existing*
16 *metropolitan planning area described in*
17 *that clause may be adjusted by agreement of*
18 *the applicable Governor and the affected*
19 *metropolitan planning organizations in ac-*
20 *cordance with paragraph (1).*

21 “(B) NEW METROPOLITAN PLANNING
22 AREAS.—*In the case of an urbanized area des-*
23 *ignated as a nonattainment area or maintenance*
24 *area after the date of enactment of the MAP–21,*

1 *the boundaries of the applicable metropolitan*
2 *planning area—*

3 “(i) *shall be established in accordance*
4 *with subsection (c)(1);*

5 “(ii) *shall encompass the areas de-*
6 *scribed in paragraph (2)(A);*

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

9 “(iv) *may address any appropriate*
10 *nonattainment area or maintenance area.*

11 “(e) *REQUIREMENTS.—*

12 “(1) *DEVELOPMENT OF PLANS AND TIPS.—To*
13 *accomplish the policy objectives described in sub-*
14 *section (a), each metropolitan planning organization,*
15 *in cooperation with the applicable State and public*
16 *transportation operators, shall develop metropolitan*
17 *transportation plans and transportation improvement*
18 *programs for metropolitan planning areas of the*
19 *State through a performance-driven, outcome-based*
20 *approach to metropolitan transportation planning*
21 *consistent with subsection (h).*

22 “(2) *CONTENTS.—The metropolitan transpor-*
23 *tation plans and transportation improvement pro-*
24 *grams for each metropolitan area shall provide for the*
25 *development and integrated management and oper-*

1 *ation of transportation systems and facilities (includ-*
2 *ing accessible pedestrian walkways, bicycle transpor-*
3 *tation facilities, and intermodal facilities that sup-*
4 *port intercity transportation) that will function as—*

5 *“(A) an intermodal transportation system*
6 *for the metropolitan planning area; and*

7 *“(B) an integral part of an intermodal*
8 *transportation system for the applicable State*
9 *and the United States.*

10 *“(3) PROCESS OF DEVELOPMENT.—The process*
11 *for developing metropolitan transportation plans and*
12 *transportation improvement programs shall—*

13 *“(A) provide for consideration of all modes*
14 *of transportation; and*

15 *“(B) be continuing, cooperative, and com-*
16 *prehensive to the degree appropriate, based on*
17 *the complexity of the transportation needs to be*
18 *addressed.*

19 *“(4) TIERING.—*

20 *“(A) TIER I MPOS.—*

21 *“(i) IN GENERAL.—A metropolitan*
22 *planning organization shall be designated*
23 *as a tier I MPO if—*

24 *“(I) as certified by the Governor*
25 *of each applicable State, the metropoli-*

1 *tan planning organization operates*
2 *within, and primarily serves, a metro-*
3 *politan planning area with a popu-*
4 *lation of 1,000,000 or more individ-*
5 *uals, as calculated according to the*
6 *most recent decennial census; and*

7 *“(II) the Secretary determines the*
8 *metropolitan planning organization—*

9 *“(aa) meets the minimum*
10 *technical requirements under*
11 *clause (iv); and*

12 *“(bb) not later than 2 years*
13 *after the date of enactment of the*
14 *MAP–21, will fully implement the*
15 *processes described in subsections*
16 *(h) through (j).*

17 *“(ii) ABSENCE OF DESIGNATION.—In*
18 *the absence of designation as a tier I MPO*
19 *under clause (i), a metropolitan planning*
20 *organization shall operate as a tier II MPO*
21 *until the date on which the Secretary deter-*
22 *mines the metropolitan planning organiza-*
23 *tion can meet the minimum technical re-*
24 *quirements under clause (iv).*

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

17 “(iv) *MINIMUM TECHNICAL REQUIRE-*
18 *MENTS.*—Not later than 1 year after the
19 *date of enactment of the MAP–21, the Sec-*
20 *retary shall issue a rule that establishes the*
21 *minimum technical requirements necessary*
22 *for a metropolitan planning organization to*
23 *be designated as a tier I MPO, including, at*
24 *a minimum, modeling, data, staffing, and*
25 *other technical requirements.*

1 “(B) *TIER II MPOS.*—

2 “(i) *IN GENERAL.*—Not later than 1
3 year after the date of enactment of the
4 MAP-21, the Secretary shall issue a rule
5 that establishes minimum requirements nec-
6 essary for a metropolitan planning organi-
7 zation to be designated as a tier II MPO.

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

11 “(I) be limited to ensuring that
12 each metropolitan planning organiza-
13 tion has the capabilities necessary to
14 develop the metropolitan transpor-
15 tation plan and transportation im-
16 provement program under this section;
17 and

18 “(II) include—

19 “(aa) only the staffing capa-
20 bilities necessary to operate the
21 metropolitan planning organiza-
22 tion; and

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

1 *conduct the travel demand model*
2 *and forecasting necessary, as ap-*
3 *propriate based on the size and*
4 *resources of the metropolitan*
5 *planning organization, to fulfill*
6 *the requirements of this section,*
7 *except that in cases in which a*
8 *metropolitan planning organiza-*
9 *tion has a formal agreement with*
10 *a State to conduct the modeling*
11 *on behalf of the metropolitan*
12 *planning organization, the metro-*
13 *politan planning organization*
14 *shall be exempt from the technical*
15 *capacity requirement.*

16 “(iii) *LIMITATION.*—*The rule issued*
17 *pursuant to this subparagraph shall only*
18 *include the minimum requirements estab-*
19 *lished under clause (ii).*

20 “(iv) *INCLUSION.*—*A metropolitan*
21 *planning organization operating primarily*
22 *within an urbanized area with a popu-*
23 *lation of 200,000 or more individuals, as*
24 *calculated according to the most recent de-*
25 *cennial census, and that does not qualify as*

1 *a tier I MPO under subparagraph (A)(i),*
2 *shall—*

3 *“(I) be designated as a tier II*
4 *MPO; and*

5 *“(II) follow the processes under*
6 *subsection (k).*

7 *“(C) CONSOLIDATION.—*

8 *“(i) IN GENERAL.—Metropolitan plan-*
9 *ning organizations operating within contig-*
10 *uous, adjacent, or geographically linked ur-*
11 *banized areas may elect to consolidate in*
12 *order to meet the population thresholds re-*
13 *quired to achieve designation as a tier I or*
14 *tier II MPO under this paragraph.*

15 *“(ii) EFFECT OF SUBSECTION.—Noth-*
16 *ing in this subsection requires or prevents*
17 *consolidation among multiple metropolitan*
18 *planning organizations located within a*
19 *single urbanized area.*

20 *“(f) COORDINATION IN MULTISTATE AREAS.—*

21 *“(1) IN GENERAL.—The Secretary shall encour-*
22 *age each Governor with responsibility for a portion of*
23 *a multistate metropolitan area and the appropriate*
24 *metropolitan planning organizations to provide co-*

1 *ordinated transportation planning for the entire met-*
2 *ropolitan area.*

3 “(2) *COORDINATION ALONG DESIGNATED TRANS-*
4 *PORTATION CORRIDORS.—The Secretary shall encour-*
5 *age each Governor with responsibility for a portion of*
6 *a multistate metropolitan area and the appropriate*
7 *metropolitan planning organizations to provide co-*
8 *ordinated transportation planning for the entire des-*
9 *ignated transportation corridor.*

10 “(3) *COORDINATION WITH INTERSTATE COM-*
11 *PACTS.—The Secretary shall encourage metropolitan*
12 *planning organizations to take into consideration,*
13 *during the development of metropolitan transpor-*
14 *tation plans and transportation improvement pro-*
15 *grams, any relevant transportation studies concerning*
16 *planning for regional transportation (including high-*
17 *speed and intercity rail corridor studies, commuter*
18 *rail corridor studies, intermodal terminals, and inter-*
19 *state highways) in support of freight, intercity, or*
20 *multistate area projects and services that have been*
21 *developed pursuant to interstate compacts or agree-*
22 *ments, or by organizations established under section*
23 *135.*

24 “(g) *ENGAGEMENT IN METROPOLITAN TRANSPOR-*
25 *TATION PLAN AND TIP DEVELOPMENT.—*

1 “(1) *NONATTAINMENT AND MAINTENANCE*
2 *AREAS.—If more than 1 metropolitan planning orga-*
3 *nization has authority within a metropolitan area,*
4 *nonattainment area, or maintenance area, each met-*
5 *ropolitan planning organization shall consult with all*
6 *other metropolitan planning organizations designated*
7 *for the metropolitan area, nonattainment area, or*
8 *maintenance area and the State in the development*
9 *of metropolitan transportation plans and transpor-*
10 *tation improvement programs under this section.*

11 “(2) *TRANSPORTATION IMPROVEMENTS LOCATED*
12 *IN MULTIPLE METROPOLITAN PLANNING AREAS.—If a*
13 *transportation improvement project funded under this*
14 *title or chapter 53 of title 49 is located within the*
15 *boundaries of more than 1 metropolitan planning*
16 *area, the affected metropolitan planning organiza-*
17 *tions shall coordinate metropolitan transportation*
18 *plans and transportation improvement programs re-*
19 *garding the project.*

20 “(3) *COORDINATION OF ADJACENT PLANNING OR-*
21 *GANIZATIONS.—*

22 “(A) *IN GENERAL.—A metropolitan plan-*
23 *ning organization that is adjacent or located in*
24 *reasonably close proximity to another metropoli-*
25 *tan planning organization shall coordinate with*

1 *that metropolitan planning organization with*
2 *respect to planning processes, including prepara-*
3 *tion of metropolitan transportation plans and*
4 *transportation improvement programs, to the*
5 *maximum extent practicable.*

6 “(B) *NONMETROPOLITAN PLANNING ORGANI-*
7 *ZATIONS.—A metropolitan planning organiza-*
8 *tion that is adjacent or located in reasonably*
9 *close proximity to a nonmetropolitan planning*
10 *organization shall consult with that nonmetro-*
11 *politan planning organization with respect to*
12 *planning processes, to the maximum extent prac-*
13 *ticable.*

14 “(4) *RELATIONSHIP WITH OTHER PLANNING OF-*
15 *FICIALS.—*

16 “(A) *IN GENERAL.—The Secretary shall en-*
17 *courage each metropolitan planning organiza-*
18 *tion to cooperate with Federal, tribal, State, and*
19 *local officers and entities responsible for other*
20 *types of planning activities that are affected by*
21 *transportation in the relevant area (including*
22 *planned growth, economic development, infra-*
23 *structure services, housing, other public services,*
24 *nonmotorized users, environmental protection,*
25 *airport operations, high-speed and intercity pas-*

1 *senger rail, freight rail, port access, and freight*
2 *movements), to the maximum extent practicable,*
3 *to ensure that the metropolitan transportation*
4 *planning process, metropolitan transportation*
5 *plans, and transportation improvement pro-*
6 *grams are developed in cooperation with other*
7 *related planning activities in the area.*

8 “(B) *INCLUSION.*—*Cooperation under sub-*
9 *paragraph (A) shall include the design and de-*
10 *livery of transportation services within the met-*
11 *ropolitan area that are provided by—*

12 “(i) *recipients of assistance under sec-*
13 *tions 202, 203, and 204;*

14 “(ii) *recipients of assistance under*
15 *chapter 53 of title 49;*

16 “(iii) *government agencies and non-*
17 *profit organizations (including representa-*
18 *tives of the agencies and organizations) that*
19 *receive Federal assistance from a source*
20 *other than the Department of Transpor-*
21 *tation to provide nonemergency transpor-*
22 *tation services; and*

23 “(iv) *sponsors of regionally significant*
24 *programs, projects, and services that are re-*

1 *lated to transportation and receive assist-*
2 *ance from any public or private source.*

3 *“(5) COORDINATION OF OTHER FEDERALLY RE-*
4 *QUIRED PLANNING PROGRAMS.—The Secretary shall*
5 *encourage each metropolitan planning organization to*
6 *coordinate, to the maximum extent practicable, the*
7 *development of metropolitan transportation plans and*
8 *transportation improvement programs with other rel-*
9 *evant federally required planning programs.*

10 *“(h) SCOPE OF PLANNING PROCESS.—*

11 *“(1) IN GENERAL.—The metropolitan transpor-*
12 *tation planning process for a metropolitan planning*
13 *area under this section shall provide for consideration*
14 *of projects and strategies that will—*

15 *“(A) support the economic vitality of the*
16 *metropolitan area, especially by enabling global*
17 *competitiveness, travel and tourism (where ap-*
18 *plicable), productivity, and efficiency;*

19 *“(B) increase the safety of the transpor-*
20 *tation system for motorized and nonmotorized*
21 *users;*

22 *“(C) increase the security of the transpor-*
23 *tation system for motorized and nonmotorized*
24 *users;*

1 “(D) increase the accessibility and mobility
2 of individuals and freight;

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

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

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

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

16 “(2) *PERFORMANCE-BASED APPROACH.*—

17 “(A) *IN GENERAL.*—The metropolitan
18 transportation planning process shall provide for
19 the establishment and use of a performance-based
20 approach to transportation decisionmaking to
21 support the national goals described in section
22 150(b) of this title and in section 5301(c) of title
23 49.

24 “(B) *PERFORMANCE TARGETS.*—

1 “(i) *SURFACE TRANSPORTATION PER-*
2 *FORMANCE TARGETS.—*

3 “(I) *IN GENERAL.—Each metro-*
4 *politan planning organization shall es-*
5 *tablish performance targets that ad-*
6 *dress the performance measures de-*
7 *scribed in sections 119(f), 148(h),*
8 *149(k), where applicable, and 167(i) to*
9 *use in tracking attainment of critical*
10 *outcomes for the region of the metro-*
11 *politan planning organization.*

12 “(II) *COORDINATION.—Selection*
13 *of performance targets by a metropoli-*
14 *tan planning organization shall be co-*
15 *ordinated with the relevant State to*
16 *ensure consistency, to the maximum*
17 *extent practicable.*

18 “(ii) *PUBLIC TRANSPORTATION PER-*
19 *FORMANCE TARGETS.—Each metropolitan*
20 *planning organization shall adopt the per-*
21 *formance targets identified by providers of*
22 *public transportation pursuant to sections*
23 *5326(c) and 5329(d) of title 49, for use in*
24 *tracking attainment of critical outcomes for*

1 *the region of the metropolitan planning or-*
2 *ganization.*

3 “(C) *TIMING.*—*Each metropolitan planning*
4 *organization shall establish the performance tar-*
5 *gets under subparagraph (B) not later than 90*
6 *days after the date on which the relevant State*
7 *or provider of public transportation establishes*
8 *the performance targets.*

9 “(D) *INTEGRATION OF OTHER PERFORM-*
10 *ANCE-BASED PLANS.*—*A metropolitan planning*
11 *organization shall integrate in the metropolitan*
12 *transportation planning process, directly or by*
13 *reference, the goals, objectives, performance meas-*
14 *ures, and targets described in other State plans*
15 *and processes, as well as asset management and*
16 *safety plans developed by providers of public*
17 *transportation, required as part of a perform-*
18 *ance-based program, including plans such as—*

19 “(i) *the State National Highway Sys-*
20 *tem asset management plan;*

21 “(ii) *asset management plans devel-*
22 *oped by providers of public transportation;*

23 “(iii) *the State strategic highway safe-*
24 *ty plan;*

1 “(iv) safety plans developed by pro-
2 viders of public transportation;

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

5 “(vi) the national freight strategic
6 plan; and

7 “(vii) the statewide transportation
8 plan.

9 “(E) USE OF PERFORMANCE MEASURES
10 AND TARGETS.—The performance measures and
11 targets established under this paragraph shall be
12 used, at a minimum, by the relevant metropoli-
13 tan planning organization as the basis for devel-
14 opment of policies, programs, and investment
15 priorities reflected in the metropolitan transpor-
16 tation plan and transportation improvement
17 program.

18 “(3) FAILURE TO CONSIDER FACTORS.—The fail-
19 ure to take into consideration 1 or more of the factors
20 specified in paragraphs (1) and (2) shall not be sub-
21 ject to review by any court under this title, chapter
22 53 of title 49, subchapter II of chapter 5 of title 5,
23 or chapter 7 of title 5 in any matter affecting a met-
24 ropolitan transportation plan, a transportation im-

1 *provement program, a project or strategy, or the cer-*
2 *tification of a planning process.*

3 *“(4) PARTICIPATION BY INTERESTED PARTIES.—*

4 *“(A) IN GENERAL.—Each metropolitan*
5 *planning organization shall provide to affected*
6 *individuals, public agencies, and other interested*
7 *parties (including State representatives of non-*
8 *motorized users) notice and a reasonable oppor-*
9 *tunity to comment on the metropolitan transpor-*
10 *tation plan and transportation improvement*
11 *program and any relevant scenarios.*

12 *“(B) CONTENTS OF PARTICIPATION PLAN.—*
13 *Each metropolitan planning organization shall*
14 *establish a participation plan that—*

15 *“(i) is developed in consultation with*
16 *interested parties and local officials; and*

17 *“(ii) provides that interested parties*
18 *and local officials shall have reasonable op-*
19 *portunities to comment on the contents of*
20 *the metropolitan transportation plan of the*
21 *metropolitan planning organization.*

22 *“(C) METHODS.—In carrying out subpara-*
23 *graph (A), the metropolitan planning organiza-*
24 *tion shall, to the maximum extent practicable—*

1 “(i) develop the metropolitan transpor-
2 tation plan and transportation improve-
3 ment program in consultation with inter-
4 ested parties, as appropriate, including by
5 the formation of advisory groups represent-
6 ative of the community and interested par-
7 ties (including State representatives of non-
8 motorized users) that participate in the de-
9 velopment of the metropolitan transpor-
10 tation plan and transportation improve-
11 ment program;

12 “(ii) hold any public meetings at times
13 and locations that are, as applicable—

14 “(I) convenient; and

15 “(II) in compliance with the
16 Americans with Disabilities Act of
17 1990 (42 U.S.C. 12101 et seq.);

18 “(iii) employ visualization techniques
19 to describe metropolitan transportation
20 plans and transportation improvement pro-
21 grams; and

22 “(iv) make public information avail-
23 able in appropriate electronically accessible
24 formats and means, such as the Internet, to
25 afford reasonable opportunity for consider-

1 *ation of public information under subpara-*
2 *graph (A).*

3 “(i) *DEVELOPMENT OF METROPOLITAN TRANSPOR-*
4 *TATION PLAN.—*

5 “(1) *DEVELOPMENT.—*

6 “(A) *IN GENERAL.—Except as provided in*
7 *subparagraph (B), not later than 5 years after*
8 *the date of enactment of the MAP-21, and not*
9 *less frequently than once every 5 years thereafter,*
10 *each metropolitan planning organization shall*
11 *prepare and update, respectively, a metropolitan*
12 *transportation plan for the relevant metropolitan*
13 *planning area in accordance with this section.*

14 “(B) *EXCEPTIONS.—A metropolitan plan-*
15 *ning organization shall prepare or update, as*
16 *appropriate, the metropolitan transportation*
17 *plan not less frequently than once every 4 years*
18 *if the metropolitan planning organization is op-*
19 *erating within—*

20 “(i) *a nonattainment area; or*

21 “(ii) *a maintenance area.*

22 “(2) *OTHER REQUIREMENTS.—A metropolitan*
23 *transportation plan under this section shall—*

24 “(A) *be in a form that the Secretary deter-*
25 *mines to be appropriate;*

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

2 and

3 “(C) contain, at a minimum—

4 “(i) an identification of the existing
5 transportation infrastructure, including
6 highways, local streets and roads, bicycle
7 and pedestrian facilities, public transpor-
8 tation facilities and services, commuter rail
9 facilities and services, high-speed and inter-
10 city passenger rail facilities and services,
11 freight facilities (including freight railroad
12 and port facilities), multimodal and inter-
13 modal facilities, and intermodal connectors
14 that, evaluated in the aggregate, function as
15 an integrated metropolitan transportation
16 system;

17 “(ii) a description of the performance
18 measures and performance targets used in
19 assessing the existing and future perform-
20 ance of the transportation system in accord-
21 ance with subsection (h)(2);

22 “(iii) a description of the current and
23 projected future usage of the transportation
24 system, including a projection based on a
25 preferred scenario, and further including, to

1 *the extent practicable, an identification of*
2 *existing or planned transportation rights-of-*
3 *way, corridors, facilities, and related real*
4 *properties;*

5 “(iv) a system performance report eval-
6 uating the existing and future condition
7 and performance of the transportation sys-
8 tem with respect to the performance targets
9 described in subsection (h)(2) and updates
10 in subsequent system performance reports,
11 including—

12 “(I) progress achieved by the met-
13 ropolitan planning organization in
14 meeting the performance targets in
15 comparison with system performance
16 recorded in previous reports;

17 “(II) an accounting of the per-
18 formance of the metropolitan planning
19 organization on outlay of obligated
20 project funds and delivery of projects
21 that have reached substantial comple-
22 tion in relation to—

23 “(aa) the projects included in
24 the transportation improvement
25 program; and

1 “(bb) the projects that have
2 been removed from the previous
3 transportation improvement pro-
4 gram; and

5 “(III) when appropriate, an anal-
6 ysis of how the preferred scenario has
7 improved the conditions and perform-
8 ance of the transportation system and
9 how changes in local policies, invest-
10 ments, and growth have impacted the
11 costs necessary to achieve the identified
12 performance targets;

13 “(v) recommended strategies and in-
14 vestments for improving system perform-
15 ance over the planning horizon, including
16 transportation systems management and
17 operations strategies, maintenance strate-
18 gies, demand management strategies, asset
19 management strategies, capacity and en-
20 hancement investments, State and local eco-
21 nomic development and land use improve-
22 ments, intelligent transportation systems
23 deployment, and technology adoption strate-
24 gies, as determined by the projected support

1 *of the performance targets described in sub-*
2 *section (h)(2);*

3 *“(vi) recommended strategies and in-*
4 *vestments to improve and integrate dis-*
5 *ability-related access to transportation in-*
6 *frastructure, including strategies and in-*
7 *vestments based on a preferred scenario,*
8 *when appropriate;*

9 *“(vii) investment priorities for using*
10 *projected available and proposed revenues*
11 *over the short- and long-term stages of the*
12 *planning horizon, in accordance with the fi-*
13 *ancial plan required under paragraph (4);*

14 *“(viii) a description of interstate com-*
15 *pacts entered into in order to promote co-*
16 *ordinated transportation planning in*
17 *multistate areas, if applicable;*

18 *“(ix) an optional illustrative list of*
19 *projects containing investments that—*

20 *“(I) are not included in the met-*
21 *ropolitan transportation plan; but*

22 *“(II) would be so included if re-*
23 *sources in addition to the resources*
24 *identified in the financial plan under*
25 *paragraph (4) were available;*

1 “(x) a discussion (developed in con-
2 sultation with Federal, State, and tribal
3 wildlife, land management, and regulatory
4 agencies) of types of potential environ-
5 mental and stormwater mitigation activi-
6 ties and potential areas to carry out those
7 activities, including activities that may
8 have the greatest potential to restore and
9 maintain the environmental functions af-
10 fected by the metropolitan transportation
11 plan; and

12 “(xi) recommended strategies and in-
13 vestments, including those developed by the
14 State as part of interstate compacts, agree-
15 ments, or organizations, that support inter-
16 city transportation.

17 “(3) SCENARIO DEVELOPMENT.—

18 “(A) IN GENERAL.—When preparing the
19 metropolitan transportation plan, the metropoli-
20 tan planning organization may, while fitting the
21 needs and complexity of its community, develop
22 multiple scenarios for consideration as a part of
23 the development of the metropolitan transpor-
24 tation plan, in accordance with subparagraph
25 (B).

1 “(B) *COMPONENTS OF SCENARIOS.*—*The*
2 *scenarios—*

3 “(i) *shall include potential regional in-*
4 *vestment strategies for the planning horizon;*

5 “(ii) *shall include assumed distribu-*
6 *tion of population and employment;*

7 “(iii) *may include a scenario that, to*
8 *the maximum extent practicable, maintains*
9 *baseline conditions for the performance*
10 *measures identified in subsection (h)(2);*

11 “(iv) *may include a scenario that im-*
12 *proves the baseline conditions for as many*
13 *of the performance measures identified in*
14 *subsection (h)(2) as possible;*

15 “(v) *shall be revenue constrained based*
16 *on the total revenues expected to be avail-*
17 *able over the forecast period of the plan;*
18 *and*

19 “(vi) *may include estimated costs and*
20 *potential revenues available to support each*
21 *scenario.*

22 “(C) *METRICS.*—*In addition to the per-*
23 *formance measures identified in subsection*
24 *(h)(2), scenarios developed under this paragraph*

1 *may be evaluated using locally-developed metrics*
2 *for the following categories:*

3 “(i) *Congestion and mobility, includ-*
4 *ing transportation use by mode.*

5 “(ii) *Freight movement.*

6 “(iii) *Safety.*

7 “(iv) *Efficiency and costs to taxpayers.*

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

10 “(A) *be prepared by each metropolitan*
11 *planning organization to support the metropoli-*
12 *tan transportation plan; and*

13 “(B) *contain a description of each of the*
14 *following:*

15 “(i) *Projected resource requirements for*
16 *implementing projects, strategies, and serv-*
17 *ices recommended in the metropolitan*
18 *transportation plan, including existing and*
19 *projected system operating and mainte-*
20 *nance needs, proposed enhancement and ex-*
21 *pansions to the system, projected available*
22 *revenue from Federal, State, local, and pri-*
23 *vate sources, and innovative financing tech-*
24 *niques to finance projects and programs.*

1 “(ii) *The projected difference between*
2 *costs and revenues, and strategies for secur-*
3 *ing additional new revenue (such as by cap-*
4 *ture of some of the economic value created*
5 *by any new investment).*

6 “(iii) *Estimates of future funds, to be*
7 *developed cooperatively by the metropolitan*
8 *planning organization, any public trans-*
9 *portation agency, and the State, that are*
10 *reasonably expected to be available to sup-*
11 *port the investment priorities recommended*
12 *in the metropolitan transportation plan.*

13 “(iv) *Each applicable project only if*
14 *full funding can reasonably be anticipated*
15 *to be available for the project within the*
16 *time period contemplated for completion of*
17 *the project.*

18 “(5) *COORDINATION WITH CLEAN AIR ACT AGEN-*
19 *CIES.—The metropolitan planning organization for*
20 *any metropolitan area that is a nonattainment area*
21 *or maintenance area shall coordinate the development*
22 *of a transportation plan with the process for develop-*
23 *ment of the transportation control measures of the*
24 *State implementation plan required by the Clean Air*
25 *Act (42 U.S.C. 7401 et seq.).*

1 “(6) *PUBLICATION.*—*On approval by the rel-*
2 *evant metropolitan planning organization, a metro-*
3 *politan transportation plan involving Federal par-*
4 *ticipation shall be, at such times and in such manner*
5 *as the Secretary shall require—*

6 “(A) *published or otherwise made readily*
7 *available by the metropolitan planning organiza-*
8 *tion for public review, including (to the max-*
9 *imum extent practicable) in electronically acces-*
10 *sible formats and means, such as the Internet;*
11 *and*

12 “(B) *submitted for informational purposes*
13 *to the applicable Governor.*

14 “(7) *CONSULTATION.*—

15 “(A) *IN GENERAL.*—*In each metropolitan*
16 *area, the metropolitan planning organization*
17 *shall consult, as appropriate, with Federal, trib-*
18 *al, State, and local agencies responsible for land*
19 *use management, natural resources, environ-*
20 *mental protection, conservation, and historic*
21 *preservation concerning the development of a*
22 *metropolitan transportation plan.*

23 “(B) *ISSUES.*—*The consultation under sub-*
24 *paragraph (A) shall involve, as available, consid-*
25 *eration of—*

1 “(i) metropolitan transportation plans
2 with Federal, tribal, State, and local con-
3 servations plans or maps; and

4 “(ii) inventories of natural or historic
5 resources.

6 “(8) SELECTION OF PROJECTS FROM ILLU-
7 STRATIVE LIST.—Notwithstanding paragraph (4), a
8 State or metropolitan planning organization shall not
9 be required to select any project from the illustrative
10 list of additional projects included in the metropoli-
11 tan transportation plan under paragraph (2)(C)(ix).

12 “(j) TRANSPORTATION IMPROVEMENT PROGRAM.—

13 “(1) DEVELOPMENT.—

14 “(A) IN GENERAL.—In cooperation with the
15 applicable State and any affected public trans-
16 portation operator, the metropolitan planning
17 organization designated for a metropolitan area
18 shall develop a transportation improvement pro-
19 gram for the metropolitan planning area that—

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

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

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

5 “(B) OPPORTUNITY FOR PARTICIPATION.—
6 In developing the transportation improvement
7 program, the metropolitan planning organiza-
8 tion, in cooperation with the State and any af-
9 fected public transportation operator, shall pro-
10 vide an opportunity for participation by inter-
11 ested parties, in accordance with subsection
12 (h)(4).

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

15 “(i) updated not less frequently than
16 once every 4 years, on a cycle compatible
17 with the development of the relevant state-
18 wide transportation improvement program
19 under section 135; and

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

22 “(2) CONTENTS.—

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

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

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

15 “(C) *PERFORMANCE TARGET ACHIEVE-*
16 *MENT.*—*The transportation improvement pro-*
17 *gram shall include, to the maximum extent prac-*
18 *ticable, a description of the anticipated effect of*
19 *the transportation improvement program on at-*
20 *tainment of the performance targets established*
21 *in the metropolitan transportation plan, linking*
22 *investment priorities to those performance tar-*
23 *gets.*

24 “(D) *ILLUSTRATIVE LIST OF PROJECTS.*—*In*
25 *developing a transportation improvement pro-*

1 *gram, an optional illustrative list of projects*
2 *may be prepared containing additional invest-*
3 *ment priorities that—*

4 *“(i) are not included in the transpor-*
5 *tation improvement program; but*

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

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

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

15 *“(B) contain a description of each of the*
16 *following:*

17 *“(i) Projected resource requirements for*
18 *implementing projects, strategies, and serv-*
19 *ices recommended in the transportation im-*
20 *provement program, including existing and*
21 *projected system operating and mainte-*
22 *nance needs, proposed enhancement and ex-*
23 *pansions to the system, projected available*
24 *revenue from Federal, State, local, and pri-*

1 *vate sources, and innovative financing tech-*
2 *niques to finance projects and programs.*

3 *“(ii) The projected difference between*
4 *costs and revenues, and strategies for secur-*
5 *ing additional new revenue (such as by cap-*
6 *ture of some of the economic value created*
7 *by any new investment).*

8 *“(iii) Estimates of future funds, to be*
9 *developed cooperatively by the metropolitan*
10 *planning organization, any public trans-*
11 *portation agency, and the State, that are*
12 *reasonably expected to be available to sup-*
13 *port the investment priorities recommended*
14 *in the transportation improvement pro-*
15 *gram.*

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

21 *“(4) INCLUDED PROJECTS.—*

22 *“(A) PROJECTS UNDER THIS TITLE AND*
23 *CHAPTER 53 OF TITLE 49.—A transportation im-*
24 *provement program developed under this sub-*
25 *section for a metropolitan area shall include a*

1 *description of the projects within the area that*
2 *are proposed for funding under chapter 1 of this*
3 *title and chapter 53 of title 49.*

4 “(B) *PROJECTS UNDER CHAPTER 2.—*

5 “(i) *REGIONALLY SIGNIFICANT.—Each*
6 *regionally significant project proposed for*
7 *funding under chapter 2 shall be identified*
8 *individually in the transportation improve-*
9 *ment program.*

10 “(ii) *NONREGIONALLY SIGNIFICANT.—*

11 *A description of each project proposed for*
12 *funding under chapter 2 that is not deter-*
13 *mined to be regionally significant shall be*
14 *contained in 1 line item or identified indi-*
15 *vidually in the transportation improvement*
16 *program.*

17 “(5) *OPPORTUNITY FOR PARTICIPATION.—Before*
18 *approving a transportation improvement program, a*
19 *metropolitan planning organization, in cooperation*
20 *with the State and any affected public transportation*
21 *operator, shall provide an opportunity for participa-*
22 *tion by interested parties in the development of the*
23 *transportation improvement program, in accordance*
24 *with subsection (h)(4).*

25 “(6) *SELECTION OF PROJECTS.—*

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

11 “(B) *PROJECTS UNDER CHAPTER 53 OF*
12 *TITLE 49.*—In the case of projects under chapter
13 53 of title 49, the selection of federally funded
14 projects in metropolitan areas shall be carried
15 out, from the approved transportation improve-
16 ment program, by the designated recipients of
17 public transportation funding in cooperation
18 with the metropolitan planning organization.

19 “(C) *CMAQ PROJECTS.*—Each tier I MPO
20 shall select projects carried out within the bound-
21 aries of the applicable metropolitan planning
22 area from the transportation improvement pro-
23 gram, in consultation with the relevant State
24 and on concurrence of the affected facility owner,
25 for funds apportioned to the State under section

1 104(b)(4) and suballocated to the metropolitan
2 planning area under section 149(j).

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

10 “(7) *PUBLICATION.—*

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

17 “(B) *ANNUAL LIST OF PROJECTS.—An an-*
18 *annual list of projects, including investments in pe-*
19 *destrian walkways, bicycle transportation facili-*
20 *ties, and intermodal facilities that support inter-*
21 *city transportation, for which Federal funds*
22 *have been obligated during the preceding fiscal*
23 *year shall be published or otherwise made avail-*
24 *able by the cooperative effort of the State, public*
25 *transportation operator, and metropolitan plan-*

1 *ning organization in electronically accessible for-*
2 *mats and means, such as the Internet, in a man-*
3 *ner that is consistent with the categories identi-*
4 *fied in the relevant transportation improvement*
5 *program.*

6 “(k) *PLANNING REQUIREMENTS FOR TIER II MPOS.—*

7 “(1) *IN GENERAL.—The Secretary may provide*
8 *for the performance-based development of a metropoli-*
9 *tan transportation plan and transportation improve-*
10 *ment program for the metropolitan planning area of*
11 *a tier II MPO, as the Secretary determines to be ap-*
12 *propriate, taking into account—*

13 “(A) *the complexity of transportation needs*
14 *in the area; and*

15 “(B) *the technical capacity of the metropoli-*
16 *tan planning organization.*

17 “(2) *EVALUATION OF PERFORMANCE-BASED*
18 *PLANNING.—In reviewing a tier II MPO under sub-*
19 *section (m), the Secretary shall take into consider-*
20 *ation the effectiveness of the tier II MPO in imple-*
21 *menting and maintaining a performance-based plan-*
22 *ning process that—*

23 “(A) *addresses the performance targets de-*
24 *scribed in subsection (h)(2); and*

1 “(B) demonstrates progress on the achieve-
2 ment of those performance targets.

3 “(l) CERTIFICATION.—

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

5 “(A) ensure that the metropolitan transpor-
6 tation planning process of a metropolitan plan-
7 ning organization is being carried out in accord-
8 ance with applicable Federal law; and

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

14 “(2) REQUIREMENTS FOR CERTIFICATION.—The
15 Secretary may make a certification under paragraph
16 (1)(B) if—

17 “(A) the metropolitan transportation plan-
18 ning process complies with the requirements of
19 this section and other applicable Federal law;

20 “(B) representation on the metropolitan
21 planning organization board includes officials of
22 public agencies that administer or operate major
23 modes of transportation in the relevant metro-
24 politan area, including providers of public
25 transportation; and

1 “(C) a transportation improvement pro-
2 gram for the metropolitan planning area has
3 been approved by the relevant metropolitan plan-
4 ning organization and applicable Governor.

5 “(3) *DELEGATION OF AUTHORITY.*—The Sec-
6 retary may—

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

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

12 “(4) *EFFECT OF FAILURE TO CERTIFY.*—

13 “(A) *WITHHOLDING OF PROJECT FUNDS.*—
14 If a metropolitan transportation planning proc-
15 ess of a metropolitan planning organization is
16 not certified under paragraph (1), the Secretary
17 may withhold up to 20 percent of the funds at-
18 tributable to the metropolitan planning area of
19 the metropolitan planning organization for
20 projects funded under this title and chapter 53
21 of title 49.

22 “(B) *RESTORATION OF WITHHELD*
23 *FUNDS.*—Any funds withheld under subpara-
24 graph (A) shall be restored to the metropolitan
25 planning area on the date of certification of the

1 *metropolitan transportation planning process by*
2 *the Secretary.*

3 “(5) *PUBLIC INVOLVEMENT.*—*In making a deter-*
4 *mination regarding certification under this sub-*
5 *section, the Secretary shall provide for public involve-*
6 *ment appropriate to the metropolitan planning area*
7 *under review.*

8 “(m) *PERFORMANCE-BASED PLANNING PROCESSES*
9 *EVALUATION.*—

10 “(1) *IN GENERAL.*—*The Secretary shall establish*
11 *criteria to evaluate the effectiveness of the perform-*
12 *ance-based planning processes of metropolitan plan-*
13 *ning organizations under this section, taking into*
14 *consideration the following:*

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

22 “(B) *The extent to which the metropolitan*
23 *planning organization has used proven best*
24 *practices that help ensure transportation invest-*
25 *ment that is efficient and cost-effective.*

1 “(C) *The extent to which the metropolitan*
2 *planning organization—*

3 “(i) *has developed an investment proc-*
4 *ess that relies on public input and aware-*
5 *ness to ensure that investments are trans-*
6 *parent and accountable; and*

7 “(ii) *provides regular reports allowing*
8 *the public to access the information being*
9 *collected in a format that allows the public*
10 *to meaningfully assess the performance of*
11 *the metropolitan planning organization.*

12 “(2) *REPORT.—*

13 “(A) *IN GENERAL.—Not later than 5 years*
14 *after the date of enactment of the MAP–21, the*
15 *Secretary shall submit to Congress a report eval-*
16 *uating—*

17 “(i) *the overall effectiveness of perform-*
18 *ance-based planning as a tool for guiding*
19 *transportation investments; and*

20 “(ii) *the effectiveness of the perform-*
21 *ance-based planning process of each metro-*
22 *politan planning organization under this*
23 *section.*

24 “(B) *PUBLICATION.—The report under sub-*
25 *paragraph (A) shall be published or otherwise*

1 *made available in electronically accessible for-*
2 *formats and means, including on the Internet.*

3 “(n) *ADDITIONAL REQUIREMENTS FOR CERTAIN NON-*
4 *ATTAINMENT AREAS.—*

5 “(1) *IN GENERAL.—Notwithstanding any other*
6 *provision of this title or chapter 53 of title 49, Fed-*
7 *eral funds may not be advanced in any metropolitan*
8 *planning area classified as a nonattainment area or*
9 *maintenance area for any highway project that will*
10 *result in a significant increase in the carrying capac-*
11 *ity for single-occupant vehicles, unless the owner or*
12 *operator of the project demonstrates that the project*
13 *will achieve or make substantial progress toward*
14 *achieving the performance targets described in sub-*
15 *section (h)(2).*

16 “(2) *APPLICABILITY.—This subsection applies to*
17 *any nonattainment area or maintenance area within*
18 *the boundaries of a metropolitan planning area, as*
19 *determined under subsection (c).*

20 “(o) *EFFECT OF SECTION.—Nothing in this section*
21 *provides to any metropolitan planning organization the au-*
22 *thority to impose any legal requirement on any transpor-*
23 *tation facility, provider, or project not subject to the re-*
24 *quirements of this title or chapter 53 of title 49.*

1 “(p) *FUNDING.*—*Funds apportioned under section*
2 *104(b)(6) of this title and set aside under section 5305(g)*
3 *of title 49 shall be available to carry out this section.*

4 “(q) *CONTINUATION OF CURRENT REVIEW PRAC-*
5 *TICE.*—

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

13 “(2) *DESCRIPTION OF FACTORS.*—*The factors re-*
14 *ferred to in paragraph (1) are that—*

15 “(A) *metropolitan transportation plans and*
16 *transportation improvement programs are sub-*
17 *ject to a reasonable opportunity for public com-*
18 *ment;*

19 “(B) *the projects included in metropolitan*
20 *transportation plans and transportation im-*
21 *provement programs are subject to review under*
22 *the National Environmental Policy Act of 1969*
23 *(42 U.S.C. 4321 et seq.); and*

24 “(C) *decisions by the Secretary concerning*
25 *metropolitan transportation plans and transpor-*

1 “(A) *IN GENERAL.*—*To accomplish the pol-*
2 *icy objectives described in section 134(a), each*
3 *State shall develop a statewide transportation*
4 *plan and a statewide transportation improve-*
5 *ment program for all areas of the State in ac-*
6 *cordance with this section.*

7 “(B) *INCORPORATION OF METROPOLITAN*
8 *TRANSPORTATION PLANS AND TIPS.*—*Each State*
9 *shall incorporate in the statewide transportation*
10 *plan and statewide transportation improvement*
11 *program, without change or by reference, the*
12 *metropolitan transportation plans and transpor-*
13 *tation improvement programs, respectively, for*
14 *each metropolitan planning area in the State.*

15 “(C) *NONMETROPOLITAN AREAS.*—*Each*
16 *State shall consult with local officials in small*
17 *urbanized areas with a population of 50,000 or*
18 *more individuals, but fewer than 200,000 indi-*
19 *viduals, as calculated according to the most re-*
20 *cent decennial census, and nonurbanized areas of*
21 *the State in preparing the nonmetropolitan por-*
22 *tions of statewide transportation plans and*
23 *statewide transportation improvement programs.*

24 “(2) *CONTENTS.*—*The statewide transportation*
25 *plan and statewide transportation improvement pro-*

1 *gram developed for each State shall provide for the*
2 *development and integrated management and oper-*
3 *ation of transportation systems and facilities (includ-*
4 *ing accessible pedestrian walkways, bicycle transpor-*
5 *tation facilities, and intermodal facilities that sup-*
6 *port intercity transportation) that will function as—*

7 “(A) *an intermodal transportation system*
8 *for the State; and*

9 “(B) *an integral part of an intermodal*
10 *transportation system for the United States.*

11 “(3) *PROCESS.—The process for developing the*
12 *statewide transportation plan and statewide trans-*
13 *portation improvement program shall—*

14 “(A) *provide for consideration of all modes*
15 *of transportation; and*

16 “(B) *be continuing, cooperative, and com-*
17 *prehensive to the degree appropriate, based on*
18 *the complexity of the transportation needs to be*
19 *addressed.*

20 “(b) *COORDINATION AND CONSULTATION.—*

21 “(1) *IN GENERAL.—Each State shall—*

22 “(A) *coordinate planning carried out under*
23 *this section with—*

1 “(i) *the transportation planning ac-*
2 *tivities carried out under section 134 for*
3 *metropolitan areas of the State; and*

4 “(ii) *statewide trade and economic de-*
5 *velopment planning activities and related*
6 *multistate planning efforts;*

7 “(B) *coordinate planning carried out under*
8 *this section with the transportation planning ac-*
9 *tivities carried out by each nonmetropolitan*
10 *planning organization in the State, as applica-*
11 *ble;*

12 “(C) *consult on planning carried out under*
13 *this section with the transportation planning ac-*
14 *tivities carried out by each rural planning orga-*
15 *nization in the State, as applicable; and*

16 “(D) *develop the transportation portion of*
17 *the State implementation plan as required by*
18 *the Clean Air Act (42 U.S.C. 7401 et seq.).*

19 “(2) *MULTISTATE AREAS.—*

20 “(A) *IN GENERAL.—The Secretary shall en-*
21 *courage each Governor with responsibility for a*
22 *portion of a multistate metropolitan planning*
23 *area and the appropriate metropolitan planning*
24 *organizations to provide coordinated transpor-*
25 *tation planning for the entire metropolitan area.*

1 “(B) *COORDINATION ALONG DESIGNATED*
2 *TRANSPORTATION CORRIDORS.*—*The Secretary*
3 *shall encourage each Governor with responsi-*
4 *bility for a portion of a multistate transpor-*
5 *tation corridor to provide coordinated transpor-*
6 *tation planning for the entire designated cor-*
7 *ridor.*

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

10 “(i) *may enter into compacts, agree-*
11 *ments, or organizations not in conflict with*
12 *any Federal law for cooperative efforts and*
13 *mutual assistance in support of activities*
14 *authorized under this section, as the activi-*
15 *ties relate to interstate areas and localities*
16 *within the States;*

17 “(ii) *may establish such agencies (joint*
18 *or otherwise) as the States determine to be*
19 *appropriate for ensuring the effectiveness of*
20 *the agreements and compacts; and*

21 “(iii) *are encouraged to enter into such*
22 *compacts, agreements, or organizations as*
23 *are appropriate to develop planning docu-*
24 *ments in support of intercity or multistate*
25 *area projects, facilities, and services, the rel-*

1 *evant components of which shall be reflected*
2 *in statewide transportation improvement*
3 *programs and statewide transportation*
4 *plans.*

5 “(D) *RESERVATION OF RIGHTS.—The right*
6 *to alter, amend, or repeal any interstate compact*
7 *or agreement entered into under this subsection*
8 *is expressly reserved.*

9 “(c) *RELATIONSHIP WITH OTHER PLANNING OFFI-*
10 *CIALS.—*

11 “(1) *IN GENERAL.—The Secretary shall encour-*
12 *age each State to cooperate with Federal, tribal,*
13 *State, and local officers and entities responsible for*
14 *other types of planning activities that are affected by*
15 *transportation in the relevant area (including*
16 *planned growth, economic development, infrastructure*
17 *services, housing, other public services, environmental*
18 *protection, airport operations, high-speed and inter-*
19 *city passenger rail, freight rail, port access, and*
20 *freight movements), to the maximum extent prac-*
21 *ticable, to ensure that the statewide and nonmetro-*
22 *politan planning process, statewide transportation*
23 *plans, and statewide transportation improvement*
24 *programs are developed with due consideration for*
25 *other related planning activities in the State.*

1 “(2) *INCLUSION.*—Cooperation under paragraph
2 (1) shall include the design and delivery of transpor-
3 tation services within the State that are provided
4 by—

5 “(A) recipients of assistance under sections
6 202, 203, and 204;

7 “(B) recipients of assistance under chapter
8 53 of title 49;

9 “(C) government agencies and nonprofit or-
10 ganizations (including representatives of the
11 agencies and organizations) that receive Federal
12 assistance from a source other than the Depart-
13 ment of Transportation to provide nonemergency
14 transportation services; and

15 “(D) sponsors of regionally significant pro-
16 grams, projects, and services that are related to
17 transportation and receive assistance from any
18 public or private source.

19 “(d) *SCOPE OF PLANNING PROCESS.*—

20 “(1) *IN GENERAL.*—The statewide transportation
21 planning process for a State under this section shall
22 provide for consideration of projects, strategies, and
23 services that will—

24 “(A) support the economic vitality of the
25 United States, the State, nonmetropolitan areas,

1 *and metropolitan areas, especially by enabling*
2 *global competitiveness, travel and tourism (where*
3 *applicable), productivity, and efficiency;*

4 “(B) *increase the safety of the transpor-*
5 *tation system for motorized and nonmotorized*
6 *users;*

7 “(C) *increase the security of the transpor-*
8 *tation system for motorized and nonmotorized*
9 *users;*

10 “(D) *increase the accessibility and mobility*
11 *of individuals and freight;*

12 “(E) *protect and enhance the environment,*
13 *promote energy conservation, improve the qual-*
14 *ity of life, and promote consistency between*
15 *transportation improvements and State and*
16 *local planned growth and economic development*
17 *patterns;*

18 “(F) *enhance the integration and*
19 *connectivity of the transportation system, across*
20 *and between modes, for individuals and freight;*

21 “(G) *increase efficient system management*
22 *and operation; and*

23 “(H) *emphasize the preservation of the ex-*
24 *isting transportation system.*

25 “(2) *PERFORMANCE-BASED APPROACH.—*

1 “(A) *IN GENERAL.*—*The statewide transpor-*
2 *tation planning process shall provide for the es-*
3 *tablishment and use of a performance-based ap-*
4 *proach to transportation decisionmaking to sup-*
5 *port the national goals described in section*
6 *150(b) of this title and section 5301(c) of title*
7 *49.*

8 “(B) *SURFACE TRANSPORTATION PERFORM-*
9 *ANCE TARGETS.*—

10 “(i) *IN GENERAL.*—*Each State shall*
11 *establish performance targets that address*
12 *the performance measures described in sec-*
13 *tions 119(f), 148(h), and 167(i) to use in*
14 *tracking attainment of critical outcomes for*
15 *the region of the State.*

16 “(ii) *COORDINATION.*—*Selection of per-*
17 *formance targets by a State shall be coordi-*
18 *nated with relevant metropolitan planning*
19 *organizations to ensure consistency, to the*
20 *maximum extent practicable.*

21 “(C) *PUBLIC TRANSPORTATION PERFORM-*
22 *ANCE TARGETS.*—*For providers of public trans-*
23 *portation operating in urbanized areas with a*
24 *population of fewer than 200,000 individuals, as*
25 *calculated according to the most recent decennial*

1 *census, and not represented by a metropolitan*
2 *planning organization, each State shall adopt*
3 *the performance targets identified by such pro-*
4 *viders of public transportation pursuant to sec-*
5 *tions 5326(c) and 5329(d) of title 49 for use in*
6 *tracking attainment of critical outcomes for the*
7 *region of the metropolitan planning organiza-*
8 *tion.*

9 “(D) *INTEGRATION OF OTHER PERFORM-*
10 *ANCE-BASED PLANS.—A State shall integrate*
11 *into the statewide transportation planning proc-*
12 *ess, directly or by reference, the goals, objectives,*
13 *performance measures, and performance targets*
14 *described in this paragraph in other State plans*
15 *and processes, and asset management and safety*
16 *plans developed by providers of public transpor-*
17 *tation in urbanized areas with a population of*
18 *fewer than 200,000 individuals, as calculated ac-*
19 *cording to the most recent decennial census, and*
20 *not represented by a metropolitan planning or-*
21 *ganization, required as part of a performance-*
22 *based program, including plans such as—*

23 “(i) *the State National Highway Sys-*
24 *tem asset management plan;*

1 “(ii) *asset management plans devel-*
2 *oped by providers of public transportation;*

3 “(iii) *the State strategic highway safe-*
4 *ty plan;*

5 “(iv) *a congestion mitigation and air*
6 *quality performance plan developed under*
7 *section 149(k) by a tier I metropolitan*
8 *planning organization (as defined in sec-*
9 *tion 134) representing a nonattainment or*
10 *maintenance area;*

11 “(v) *safety plans developed by pro-*
12 *viders of public transportation; and*

13 “(vi) *the national freight strategic*
14 *plan.*

15 “(E) *USE OF PERFORMANCE MEASURES*
16 *AND TARGETS.—The performance measures and*
17 *targets established under this paragraph shall be*
18 *used, at a minimum, by a State as the basis for*
19 *development of policies, programs, and invest-*
20 *ment priorities reflected in the statewide trans-*
21 *portation plan and statewide transportation im-*
22 *provement program.*

23 “(3) *FAILURE TO CONSIDER FACTORS.—The fail-*
24 *ure to take into consideration 1 or more of the factors*
25 *specified in paragraphs (1) and (2) shall not be sub-*

1 *ject to review by any court under this title, chapter*
2 *53 of title 49, subchapter II of chapter 5 of title 5,*
3 *or chapter 7 of title 5 in any matter affecting a state-*
4 *wide transportation plan, a statewide transportation*
5 *improvement program, a project or strategy, or the*
6 *certification of a planning process.*

7 “(4) *PARTICIPATION BY INTERESTED PARTIES.—*

8 “(A) *IN GENERAL.—Each State shall pro-*
9 *vide to—*

10 “(i) *nonmetropolitan local elected offi-*
11 *cial s an opportunity to participate in ac-*
12 *cordance with subparagraph (B)(i); and*

13 “(ii) *affected individuals, public agen-*
14 *cies, and other interested parties notice and*
15 *a reasonable opportunity to comment on the*
16 *statewide transportation plan and statewide*
17 *transportation improvement program.*

18 “(B) *METHODS.—In carrying out this*
19 *paragraph, the State shall—*

20 “(i) *develop and document a consult-*
21 *ative process to carry out subparagraph*
22 *(A)(i) that is separate and discrete from the*
23 *public involvement process developed under*
24 *clause (ii);*

1 “(ii) develop the statewide transpor-
2 tation plan and statewide transportation
3 improvement program in consultation with
4 interested parties, as appropriate, including
5 by the formation of advisory groups rep-
6 resentative of the State and interested par-
7 ties that participate in the development of
8 the statewide transportation plan and state-
9 wide transportation improvement program;

10 “(iii) hold any public meetings at
11 times and locations that are, as applica-
12 ble—

13 “(I) convenient; and

14 “(II) in compliance with the
15 Americans with Disabilities Act of
16 1990 (42 U.S.C. 12101 et seq.);

17 “(iv) employ visualization techniques
18 to describe statewide transportation plans
19 and statewide transportation improvement
20 programs; and

21 “(v) make public information available
22 in appropriate electronically accessible for-
23 mats and means, such as the Internet, to af-
24 ford reasonable opportunity for consider-

1 *ation of public information under subpara-*
2 *graph (A).*

3 “(e) *COORDINATION AND CONSULTATION.—*

4 “(1) *METROPOLITAN AREAS.—*

5 “(A) *IN GENERAL.—Each State shall de-*
6 *velop a statewide transportation plan and state-*
7 *wide transportation improvement program for*
8 *each metropolitan area in the State by incor-*
9 *porating, without change or by reference, at a*
10 *minimum, as prepared by each metropolitan*
11 *planning organization designated for the metro-*
12 *politan area under section 134—*

13 “(i) *all regionally significant projects*
14 *to be carried out during the 10-year period*
15 *beginning on the effective date of the rel-*
16 *evant existing metropolitan transportation*
17 *plan; and*

18 “(ii) *all projects to be carried out dur-*
19 *ing the 4-year period beginning on the effec-*
20 *tive date of the relevant transportation im-*
21 *provement program.*

22 “(B) *PROJECTED COSTS.—Each metropoli-*
23 *tan planning organization shall provide to each*
24 *applicable State a description of the projected*
25 *costs of implementing the projects included in*

1 *the metropolitan transportation plan of the met-*
2 *ropolitan planning organization for purposes of*
3 *metropolitan financial planning and fiscal con-*
4 *straint.*

5 “(2) *NONMETROPOLITAN AREAS.*—*With respect*
6 *to nonmetropolitan areas in a State, the statewide*
7 *transportation plan and statewide transportation im-*
8 *provement program of the State shall be developed in*
9 *consultation with affected nonmetropolitan local offi-*
10 *cial with responsibility for transportation, including*
11 *providers of public transportation.*

12 “(3) *INDIAN TRIBAL AREAS.*—*With respect to*
13 *each area of a State under the jurisdiction of an In-*
14 *Indian tribe, the statewide transportation plan and*
15 *statewide transportation improvement program of the*
16 *State shall be developed in consultation with—*

17 “(A) *the tribal government; and*

18 “(B) *the Secretary of the Interior.*

19 “(4) *FEDERAL LAND MANAGEMENT AGENCIES.*—
20 *With respect to each area of a State under the juris-*
21 *isdiction of a Federal land management agency, the*
22 *statewide transportation plan and statewide trans-*
23 *portation improvement program of the State shall be*
24 *developed in consultation with the relevant Federal*
25 *land management agency.*

1 “(5) *CONSULTATION, COMPARISON, AND CONSID-*
2 *ERATION.*—

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

10 “(B) *COMPARISON AND CONSIDERATION.*—
11 *Consultation under subparagraph (A) shall in-*
12 *volve the comparison of statewide transportation*
13 *plans to, as available—*

14 “(i) *Federal, tribal, State, and local*
15 *conservation plans or maps; and*

16 “(ii) *inventories of natural or historic*
17 *resources.*

18 “(f) *STATEWIDE TRANSPORTATION PLAN.*—

19 “(1) *DEVELOPMENT.*—

20 “(A) *IN GENERAL.*—*Each State shall de-*
21 *velop a statewide transportation plan, the fore-*
22 *cast period of which shall be not less than 20*
23 *years for all areas of the State, that provides for*
24 *the development and implementation of the*
25 *intermodal transportation system of the State.*

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

10 “(C) *SUBSEQUENT PERIOD.*—For the second
11 10-year period of the statewide transportation
12 plan (referred to in this subsection as the ‘outer
13 years period’), a statewide transportation
14 plan—

15 “(i) may include identification of fu-
16 ture transportation facilities; and

17 “(ii) shall describe the policies and
18 strategies that provide for the development
19 and implementation of the intermodal
20 transportation system of the State.

21 “(D) *OTHER REQUIREMENTS.*—A statewide
22 transportation plan shall—

23 “(i) include, for the 20-year period
24 covered by the statewide transportation
25 plan, a description of—

1 “(I) the projected aggregate cost of
2 projects anticipated by a State to be
3 implemented; and

4 “(II) the revenues necessary to
5 support the projects;

6 “(ii) include, in such form as the Sec-
7 retary determines to be appropriate, a de-
8 scription of—

9 “(I) the existing transportation
10 infrastructure, including an identifica-
11 tion of highways, local streets and
12 roads, bicycle and pedestrian facilities,
13 public transportation facilities and
14 services, commuter rail facilities and
15 services, high-speed and intercity pas-
16 senger rail facilities and services,
17 freight facilities (including freight rail-
18 road and port facilities), multimodal
19 and intermodal facilities, and inter-
20 modal connectors that, evaluated in the
21 aggregate, function as an integrated
22 transportation system;

23 “(II) the performance measures
24 and performance targets used in assess-
25 ing the existing and future perform-

1 *ance of the transportation system de-*
2 *scribed in subsection (d)(2);*

3 *“(III) the current and projected*
4 *future usage of the transportation sys-*
5 *tem, including, to the maximum extent*
6 *practicable, an identification of exist-*
7 *ing or planned transportation rights-*
8 *of-way, corridors, facilities, and related*
9 *real properties;*

10 *“(IV) a system performance report*
11 *evaluating the existing and future con-*
12 *dition and performance of the trans-*
13 *portation system with respect to the*
14 *performance targets described in sub-*
15 *section (d)(2) and updates to subse-*
16 *quent system performance reports, in-*
17 *cluding—*

18 *“(aa) progress achieved by*
19 *the State in meeting performance*
20 *targets, as compared to system*
21 *performance recorded in previous*
22 *reports; and*

23 *“(bb) an accounting of the*
24 *performance by the State on out-*
25 *lay of obligated project funds and*

1 *delivery of projects that have*
2 *reached substantial completion, in*
3 *relation to the projects currently*
4 *on the statewide transportation*
5 *improvement program and those*
6 *projects that have been removed*
7 *from the previous statewide trans-*
8 *portation improvement program;*

9 “(V) *recommended strategies and*
10 *investments for improving system per-*
11 *formance over the planning horizon,*
12 *including transportation systems man-*
13 *agement and operations strategies,*
14 *maintenance strategies, demand man-*
15 *agement strategies, asset management*
16 *strategies, capacity and enhancement*
17 *investments, land use improvements,*
18 *intelligent transportation systems de-*
19 *ployment and technology adoption*
20 *strategies as determined by the pro-*
21 *jected support of performance targets*
22 *described in subsection (d)(2);*

23 “(VI) *recommended strategies and*
24 *investments to improve and integrate*

1 *disability-related access to transpor-*
2 *tation infrastructure;*

3 *“(VII) investment priorities for*
4 *using projected available and proposed*
5 *revenues over the short- and long-term*
6 *stages of the planning horizon, in ac-*
7 *cordance with the financial plan re-*
8 *quired under paragraph (2);*

9 *“(VIII) a description of interstate*
10 *compacts entered into in order to pro-*
11 *mote coordinated transportation plan-*
12 *ning in multistate areas, if applicable;*

13 *“(IX) an optional illustrative list*
14 *of projects containing investments*
15 *that—*

16 *“(aa) are not included in the*
17 *statewide transportation plan; but*

18 *“(bb) would be so included if*
19 *resources in addition to the re-*
20 *sources identified in the financial*
21 *plan under paragraph (2) were*
22 *available;*

23 *“(X) a discussion (developed in*
24 *consultation with Federal, State, and*
25 *tribal wildlife, land management, and*

1 *regulatory agencies) of types of poten-*
2 *tial environmental and stormwater*
3 *mitigation activities and potential*
4 *areas to carry out those activities, in-*
5 *cluding activities that may have the*
6 *greatest potential to restore and main-*
7 *tain the environmental functions af-*
8 *ected by the statewide transportation*
9 *plan; and*

10 *“(XI) recommended strategies and*
11 *investments, including those developed*
12 *by the State as part of interstate com-*
13 *pacts, agreements, or organizations,*
14 *that support intercity transportation;*
15 *and*

16 *“(iii) be updated by the State not less*
17 *frequently than once every 5 years.*

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

20 *“(A) be prepared by each State to support*
21 *the statewide transportation plan; and*

22 *“(B) contain a description of each of the*
23 *following:*

24 *“(i) Projected resource requirements*
25 *during the 20-year planning horizon for*

1 *implementing projects, strategies, and serv-*
2 *ices recommended in the statewide transpor-*
3 *tation plan, including existing and pro-*
4 *jected system operating and maintenance*
5 *needs, proposed enhancement and expan-*
6 *sions to the system, projected available rev-*
7 *enue from Federal, State, local, and private*
8 *sources, and innovative financing tech-*
9 *niques to finance projects and programs.*

10 *“(ii) The projected difference between*
11 *costs and revenues, and strategies for secur-*
12 *ing additional new revenue (such as by cap-*
13 *ture of some of the economic value created*
14 *by any new investment).*

15 *“(iii) Estimates of future funds, to be*
16 *developed cooperatively by the State, any*
17 *public transportation agency, and relevant*
18 *metropolitan planning organizations, that*
19 *are reasonably expected to be available to*
20 *support the investment priorities rec-*
21 *ommended in the statewide transportation*
22 *plan.*

23 *“(iv) Each applicable project, only if*
24 *full funding can reasonably be anticipated*
25 *to be available for the project within the*

1 *time period contemplated for completion of*
2 *the project.*

3 “(v) *For the outer years period of the*
4 *statewide transportation plan, a description*
5 *of the aggregate cost ranges or bands, sub-*
6 *ject to the condition that any future fund-*
7 *ing source shall be reasonably expected to be*
8 *available to support the projected cost*
9 *ranges or bands.*

10 “(3) *COORDINATION WITH CLEAN AIR ACT AGEN-*
11 *CIES.—For any nonmetropolitan area that is a non-*
12 *attainment area or maintenance area, the State shall*
13 *coordinate the development of the statewide transpor-*
14 *tation plan with the process for development of the*
15 *transportation control measures of the State imple-*
16 *mentation plan required by the Clean Air Act (42*
17 *U.S.C. 7401 et seq.).*

18 “(4) *PUBLICATION.—A statewide transportation*
19 *plan involving Federal and non-Federal participation*
20 *programs, projects, and strategies shall be published*
21 *or otherwise made readily available by the State for*
22 *public review, including (to the maximum extent*
23 *practicable) in electronically accessible formats and*
24 *means, such as the Internet, in such manner as the*
25 *Secretary shall require.*

1 “(5) *SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.*—Notwithstanding paragraph (2), a
2 State shall not be required to select any project from
3 the illustrative list of additional projects included in
4 the statewide transportation plan under paragraph
5 (1)(D)(ii)(IX).
6

7 “(6) *USE OF POLICY PLANS.*—Notwithstanding
8 any other provision of this section, a State that has
9 in effect, as of the date of enactment of the MAP–21,
10 a statewide transportation plan that follows a policy
11 plan approach—

12 “(A) may, for 4 years after the date of en-
13 actment of the MAP–21, continue to use a policy
14 plan approach to the statewide transportation
15 plan; and

16 “(B) shall be subject to the requirements of
17 this subsection only to the extent that such re-
18 quirements were applicable under this section (as
19 in effect on the day before the date of enactment
20 of the MAP–21).

21 “(g) *STATEWIDE TRANSPORTATION IMPROVEMENT*
22 *PROGRAMS.*—

23 “(1) *DEVELOPMENT.*—

24 “(A) *IN GENERAL.*—In consultation with
25 nonmetropolitan officials with responsibility for

1 *transportation and affected public transpor-*
2 *tation operators, the State shall develop a state-*
3 *wide transportation improvement program for*
4 *the State that—*

5 “(i) *includes projects consistent with*
6 *the statewide transportation plan;*

7 “(ii) *reflects the investment priorities*
8 *established in the statewide transportation*
9 *plan; and*

10 “(iii) *once implemented, makes signifi-*
11 *cant progress toward achieving the perform-*
12 *ance targets described in subsection (d)(2).*

13 “(B) *OPPORTUNITY FOR PARTICIPATION.—*
14 *In developing a statewide transportation im-*
15 *provement program, the State, in cooperation*
16 *with affected public transportation operators,*
17 *shall provide an opportunity for participation*
18 *by interested parties (including State representa-*
19 *tives of nonmotorized users) in the development*
20 *of the statewide transportation improvement pro-*
21 *gram, in accordance with subsection (e).*

22 “(C) *OTHER REQUIREMENTS.—*

23 “(i) *IN GENERAL.—A statewide trans-*
24 *portation improvement program shall—*

1 “(I) cover a period of not less
2 than 4 years; and

3 “(II) be updated not less fre-
4 quently than once every 4 years, or
5 more frequently, as the Governor deter-
6 mines to be appropriate.

7 “(ii) INCORPORATION OF TIPS.—A
8 statewide transportation improvement pro-
9 gram shall incorporate any relevant trans-
10 portation improvement program developed
11 by a metropolitan planning organization
12 under section 134, without change.

13 “(iii) PROJECTS.—Each project in-
14 cluded in a statewide transportation im-
15 provement program shall be—

16 “(I) consistent with the statewide
17 transportation plan developed under
18 this section for the State;

19 “(II) identical to a project or
20 phase of a project described in a rel-
21 evant transportation improvement pro-
22 gram; and

23 “(III) for any project located in a
24 nonattainment area or maintenance
25 area, carried out in accordance with

1 *the applicable State air quality imple-*
2 *mentation plan developed under the*
3 *Clean Air Act (42 U.S.C. 7401 et seq.).*

4 “(2) CONTENTS.—

5 “(A) PRIORITY LIST.—A statewide trans-
6 portation improvement program shall include a
7 priority list of proposed federally supported
8 projects and strategies, to be carried out during
9 the 4-year period beginning on the date of adop-
10 tion of the statewide transportation improvement
11 program, and during each 4-year period there-
12 after, using existing and reasonably available
13 revenues in accordance with the financial plan
14 under paragraph (3).

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

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

22 “(ii) the effect that the project or
23 project phase will have in addressing the
24 performance targets described in subsection
25 (d)(2).

1 “(C) *PERFORMANCE TARGET ACHIEVE-*
2 *MENT.*—*A statewide transportation improvement*
3 *program shall include, to the maximum extent*
4 *practicable, a discussion of the anticipated effect*
5 *of the statewide transportation improvement pro-*
6 *gram toward achieving the performance targets*
7 *established in the statewide transportation plan,*
8 *linking investment priorities to those perform-*
9 *ance targets.*

10 “(D) *ILLUSTRATIVE LIST OF PROJECTS.*—
11 *An optional illustrative list of projects may be*
12 *prepared containing additional investment pri-*
13 *orities that—*

14 “(i) *are not included in the statewide*
15 *transportation improvement program; but*

16 “(ii) *would be so included if resources*
17 *in addition to the resources identified in the*
18 *financial plan under paragraph (3) were*
19 *available.*

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

22 “(A) *be prepared by each State to support*
23 *the statewide transportation improvement pro-*
24 *gram; and*

1 “(B) contain a description of each of the
2 following:

3 “(i) Projected resource requirements for
4 implementing projects, strategies, and serv-
5 ices recommended in the statewide transpor-
6 tation improvement program, including ex-
7 isting and projected system operating and
8 maintenance needs, proposed enhancement
9 and expansions to the system, projected
10 available revenue from Federal, State, local,
11 and private sources, and innovative financ-
12 ing techniques to finance projects and pro-
13 grams.

14 “(ii) The projected difference between
15 costs and revenues, and strategies for secur-
16 ing additional new revenue (such as by cap-
17 ture of some of the economic value created
18 by any new investment).

19 “(iii) Estimates of future funds, to be
20 developed cooperatively by the State and
21 relevant metropolitan planning organiza-
22 tions and public transportation agencies,
23 that are reasonably expected to be available
24 to support the investment priorities rec-

1 *ommended in the statewide transportation*
2 *improvement program.*

3 “(iv) *Each applicable project, only if*
4 *full funding can reasonably be anticipated*
5 *to be available for the project within the*
6 *time period contemplated for completion of*
7 *the project.*

8 “(4) *INCLUDED PROJECTS.—*

9 “(A) *PROJECTS UNDER THIS TITLE AND*
10 *CHAPTER 53 OF TITLE 49.—A statewide transpor-*
11 *tation improvement program developed under*
12 *this subsection for a State shall include the*
13 *projects within the State that are proposed for*
14 *funding under chapter 1 of this title and chapter*
15 *53 of title 49.*

16 “(B) *PROJECTS UNDER CHAPTER 2.—*

17 “(i) *REGIONALLY SIGNIFICANT.—Each*
18 *regionally significant project proposed for*
19 *funding under chapter 2 shall be identified*
20 *individually in the statewide transportation*
21 *improvement program.*

22 “(ii) *NONREGIONALLY SIGNIFICANT.—*
23 *A description of each project proposed for*
24 *funding under chapter 2 that is not deter-*
25 *mined to be regionally significant shall be*

1 *contained in 1 line item or identified indi-*
2 *vidually in the statewide transportation im-*
3 *provement program.*

4 “(5) *PUBLICATION.—*

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

10 “(B) *ANNUAL LIST OF PROJECTS.—An an-*
11 *nuual list of projects, including investments in pe-*
12 *destrian walkways, bicycle transportation facili-*
13 *ties, and intermodal facilities that support inter-*
14 *city transportation, for which Federal funds*
15 *have been obligated during the preceding fiscal*
16 *year shall be published or otherwise made avail-*
17 *able by the cooperative effort of the State, public*
18 *transportation operator, and relevant metropoli-*
19 *tan planning organizations in electronically ac-*
20 *cessible formats and means, such as the Internet,*
21 *in a manner that is consistent with the cat-*
22 *egories identified in the relevant statewide trans-*
23 *portation improvement program.*

24 “(6) *PROJECT SELECTION FOR URBANIZED*
25 *AREAS WITH POPULATIONS OF FEWER THAN 200,000*

1 *NOT REPRESENTED BY DESIGNATED MPOS.—Projects*
2 *carried out in urbanized areas with populations of*
3 *fewer than 200,000 individuals, as calculated accord-*
4 *ing to the most recent decennial census, and that are*
5 *not represented by designated metropolitan planning*
6 *organizations, shall be selected, from the approved*
7 *statewide transportation improvement program (in-*
8 *cluding projects carried out on the National Highway*
9 *System and other projects carried out under this title*
10 *or under sections 5310 and 5311 of title 49) by the*
11 *State, in cooperation with the affected nonmetropoli-*
12 *tan planning organization, if any exists, and in con-*
13 *sultation with the affected nonmetropolitan area local*
14 *officials with responsibility for transportation.*

15 “(7) *APPROVAL BY SECRETARY.—*

16 “(A) *IN GENERAL.—Not less frequently than*
17 *once every 4 years, a statewide transportation*
18 *improvement program developed under this sub-*
19 *section shall be reviewed and approved by the*
20 *Secretary, based on the current planning finding*
21 *of the Secretary under subparagraph (B).*

22 “(B) *PLANNING FINDING.—The Secretary*
23 *shall make a planning finding referred to in sub-*
24 *paragraph (A) not less frequently than once*
25 *every 5 years regarding whether the transpor-*

1 *tation planning process through which statewide*
2 *transportation plans and statewide transpor-*
3 *tation improvement programs are developed is*
4 *consistent with this section and section 134.*

5 “(8) *MODIFICATIONS TO PROJECT PRIORITY.—*

6 *Notwithstanding any other provision of law, approval*
7 *by the Secretary shall not be required to carry out a*
8 *project included in an approved statewide transpor-*
9 *tation improvement program in place of another*
10 *project in the statewide transportation improvement*
11 *program.*

12 “(h) *CERTIFICATION.—*

13 “(1) *IN GENERAL.—The Secretary shall—*

14 “(A) *ensure that the statewide transpor-*
15 *tation planning process of a State is being car-*
16 *ried out in accordance with this section and ap-*
17 *plicable Federal law (including rules and regula-*
18 *tions); and*

19 “(B) *subject to paragraph (2), certify, not*
20 *later than 180 days after the date of enactment*
21 *of the MAP–21 and not less frequently than once*
22 *every 5 years thereafter, that the requirements of*
23 *subparagraph (A) are met with respect to the*
24 *statewide transportation planning process.*

1 “(2) *REQUIREMENTS FOR CERTIFICATION.*—*The*
2 *Secretary may make a certification under paragraph*
3 *(1)(B) if—*

4 “(A) *the statewide transportation planning*
5 *process complies with the requirements of this*
6 *section and other applicable Federal law; and*

7 “(B) *a statewide transportation improve-*
8 *ment program for the State has been approved*
9 *by the Governor of the State.*

10 “(3) *EFFECT OF FAILURE TO CERTIFY.*—

11 “(A) *WITHHOLDING OF PROJECT FUNDS.*—
12 *If a statewide transportation planning process of*
13 *a State is not certified under paragraph (1), the*
14 *Secretary may withhold up to 20 percent of the*
15 *funds attributable to the State for projects fund-*
16 *ed under this title and chapter 53 of title 49.*

17 “(B) *RESTORATION OF WITHHELD*
18 *FUNDS.*—*Any funds withheld under subpara-*
19 *graph (A) shall be restored to the State on the*
20 *date of certification of the statewide transpor-*
21 *tation planning process by the Secretary.*

22 “(4) *PUBLIC INVOLVEMENT.*—*In making a deter-*
23 *mination regarding certification under this sub-*
24 *section, the Secretary shall provide for public involve-*
25 *ment appropriate to the State under review.*

1 “(i) *PERFORMANCE-BASED PLANNING PROCESSES*
2 *EVALUATION.*—

3 “(1) *IN GENERAL.*—*The Secretary shall establish*
4 *criteria to evaluate the effectiveness of the perform-*
5 *ance-based planning processes of States, taking into*
6 *consideration the following:*

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

13 “(B) *The extent to which the State has used*
14 *proven best practices that help ensure transpor-*
15 *tation investment that is efficient and cost-effec-*
16 *tive.*

17 “(C) *The extent to which the State—*

18 “(i) *has developed an investment proc-*
19 *ess that relies on public input and aware-*
20 *ness to ensure that investments are trans-*
21 *parent and accountable; and*

22 “(ii) *provides regular reports allowing*
23 *the public to access the information being*
24 *collected in a format that allows the public*

1 *to meaningfully assess the performance of*
2 *the State.*

3 “(2) *REPORT.—*

4 “(A) *IN GENERAL.—Not later than 5 years*
5 *after the date of enactment of the MAP–21, the*
6 *Secretary shall submit to Congress a report eval-*
7 *uating—*

8 “(i) *the overall effectiveness of perform-*
9 *ance-based planning as a tool for guiding*
10 *transportation investments; and*

11 “(ii) *the effectiveness of the perform-*
12 *ance-based planning process of each State.*

13 “(B) *PUBLICATION.—The report under sub-*
14 *paragraph (A) shall be published or otherwise*
15 *made available in electronically accessible for-*
16 *mats and means, including on the Internet.*

17 “(j) *FUNDING.—Funds apportioned under section*
18 *104(b)(6) of this title and set aside under section 5305(g)*
19 *of title 49 shall be available to carry out this section.*

20 “(k) *CONTINUATION OF CURRENT REVIEW PRAC-*
21 *TICE.—*

22 “(1) *IN GENERAL.—In consideration of the fac-*
23 *tors described in paragraph (2), any decision by the*
24 *Secretary concerning a statewide transportation plan*
25 *or statewide transportation improvement program*

1 *shall not be considered to be a Federal action subject*
2 *to review under the National Environmental Policy*
3 *Act of 1969 (42 U.S.C. 4321 et seq.).*

4 “(2) *DESCRIPTION OF FACTORS.*—*The factors re-*
5 *ferred to in paragraph (1) are that—*

6 “(A) *statewide transportation plans and*
7 *statewide transportation improvement programs*
8 *are subject to a reasonable opportunity for public*
9 *comment;*

10 “(B) *the projects included in statewide*
11 *transportation plans and statewide transpor-*
12 *tation improvement programs are subject to re-*
13 *view under the National Environmental Policy*
14 *Act of 1969 (42 U.S.C. 4321 et seq.); and*

15 “(C) *decisions by the Secretary concerning*
16 *statewide transportation plans and statewide*
17 *transportation improvement programs have not*
18 *been reviewed under the National Environmental*
19 *Policy Act of 1969 (42 U.S.C. 4321 et seq.) as*
20 *of January 1, 1997.*

21 “(l) *SCHEDULE FOR IMPLEMENTATION.*—*The Sec-*
22 *retary shall issue guidance on a schedule for implementa-*
23 *tion of the changes made by this section, taking into consid-*
24 *eration the established planning update cycle for States.*
25 *The Secretary shall not require a State to deviate from its*

1 *established planning update cycle to implement changes*
2 *made by this section. States shall reflect changes made to*
3 *their transportation plan or transportation improvement*
4 *program updates not later than 2 years after the date of*
5 *issuance of guidance by the Secretary under this sub-*
6 *section.”.*

7 **(b) CONFORMING AMENDMENT.**—*The analysis for*
8 *chapter 1 of title 23, United States Code, is amended by*
9 *striking the item relating to section 135 and inserting the*
10 *following:*

“135. Statewide and nonmetropolitan transportation planning.”.

11 **SEC. 1203. NATIONAL GOALS.**

12 **(a) IN GENERAL.**—*Section 150 of title 23, United*
13 *States Code, is amended to read as follows:*

14 **“§ 150. National goals**

15 **“(a) DECLARATION OF POLICY.**—*Performance man-*
16 *agement will transform the Federal-aid highway program*
17 *and provide a means to the most efficient investment of*
18 *Federal transportation funds by refocusing on national*
19 *transportation goals, increasing the accountability and*
20 *transparency of the Federal-aid highway program, and im-*
21 *proving project decisionmaking through performance-based*
22 *planning and programming.*

23 **“(b) NATIONAL GOALS.**—*It is in the interest of the*
24 *United States to focus the Federal-aid highway program on*
25 *the following national goals:*

1 “(1) *SAFETY*.—To achieve a significant reduc-
2 tion in traffic fatalities and serious injuries on all
3 public roads.

4 “(2) *INFRASTRUCTURE CONDITION*.—To main-
5 tain the highway infrastructure asset system in a
6 state of good repair.

7 “(3) *SYSTEM RELIABILITY*.—To improve the effi-
8 ciency of the surface transportation system.

9 “(4) *FREIGHT MOVEMENT AND ECONOMIC VITAL-*
10 *ITY*.—To improve the national freight network,
11 strengthen the ability of rural communities to access
12 national and international trade markets, and sup-
13 port regional economic development.

14 “(5) *ENVIRONMENTAL SUSTAINABILITY*.—To en-
15 hance the performance of the transportation system
16 while protecting and enhancing the natural environ-
17 ment.

18 “(6) *REDUCED PROJECT DELIVERY DELAYS*.—To
19 reduce project costs, promote jobs and the economy,
20 and expedite the movement of people and goods by ac-
21 celerating project completion through eliminating
22 delays in the project development and delivery proc-
23 ess, including reducing regulatory burdens and im-
24 proving agencies’ work practices.”.

1 (b) *CONFORMING AMENDMENT.*—*The analysis for*
2 *chapter 1 of title 23, United States Code, is amended by*
3 *striking the item relating to section 150 and inserting the*
4 *following:*

 “150. National goals.”.

5 ***Subtitle C—Acceleration of Project***
6 ***Delivery***

7 ***SEC. 1301. PROJECT DELIVERY INITIATIVE.***

8 (a) *DECLARATION OF POLICY.*—*It is the policy of the*
9 *United States that—*

10 (1) *it is in the national interest for the Depart-*
11 *ment, State departments of transportation, transit*
12 *agencies, and all other recipients of Federal transpor-*
13 *tation funds—*

14 (A) *to accelerate project delivery and reduce*
15 *costs; and*

16 (B) *to ensure that the planning, design, en-*
17 *gineering, construction, and financing of trans-*
18 *portation projects is done in an efficient and ef-*
19 *fective manner, promoting accountability for*
20 *public investments and encouraging greater pri-*
21 *vate sector involvement in project financing and*
22 *delivery while enhancing safety and protecting*
23 *the environment;*

24 (2) *delay in the delivery of transportation*
25 *projects increases project costs, harms the economy of*

1 *the United States, and impedes the travel of the peo-*
2 *ple of the United States and the shipment of goods for*
3 *the conduct of commerce; and*

4 *(3) the Secretary shall identify and promote the*
5 *deployment of innovation aimed at reducing the time*
6 *and money required to deliver transportation projects*
7 *while enhancing safety and protecting the environ-*
8 *ment.*

9 *(b) ESTABLISHMENT OF INITIATIVE.—*

10 *(1) IN GENERAL.—To advance the policy de-*
11 *scribed in subsection (a), the Secretary shall carry out*
12 *a project delivery initiative under this section.*

13 *(2) PURPOSES.—The purposes of the project de-*
14 *livery initiative shall be—*

15 *(A) to develop and advance the use of best*
16 *practices to accelerate project delivery and re-*
17 *duce costs across all modes of transportation and*
18 *expedite the deployment of technology and inno-*
19 *vation;*

20 *(B) to implement provisions of law designed*
21 *to accelerate project delivery; and*

22 *(C) to select eligible projects for applying*
23 *experimental features to test innovative project*
24 *delivery techniques.*

25 *(3) ADVANCING THE USE OF BEST PRACTICES.—*

1 (A) *IN GENERAL.*—*In carrying out the ini-*
2 *tiative under this section, the Secretary shall*
3 *identify and advance best practices to reduce de-*
4 *livery time and project costs, from planning*
5 *through construction, for transportation projects*
6 *and programs of projects regardless of mode and*
7 *project size.*

8 (B) *ADMINISTRATION.*—*To advance the use*
9 *of best practices, the Secretary shall—*

10 (i) *engage interested parties, affected*
11 *communities, resource agencies, and other*
12 *stakeholders to gather information regard-*
13 *ing opportunities for accelerating project*
14 *delivery and reducing costs;*

15 (ii) *establish a clearinghouse for the*
16 *collection, documentation, and advancement*
17 *of existing and new innovative approaches*
18 *and best practices;*

19 (iii) *disseminate information through*
20 *a variety of means to transportation stake-*
21 *holders on new innovative approaches and*
22 *best practices; and*

23 (iv) *provide technical assistance to as-*
24 *sist transportation stakeholders in the use of*

1 *flexibility authority to resolve project delays*
2 *and accelerate project delivery if feasible.*

3 (4) **IMPLEMENTATION OF ACCELERATED PROJECT**
4 **DELIVERY.**—*The Secretary shall ensure that the pro-*
5 *visions of this subtitle designed to accelerate project*
6 *delivery are fully implemented, including—*

7 (A) *expanding eligibility of early acquisi-*
8 *tion of property prior to completion of environ-*
9 *mental review under the National Environ-*
10 *mental Policy Act of 1969 (42 U.S.C. 4321 et*
11 *seq.);*

12 (B) *allowing the use of the construction*
13 *manager or general contractor method of con-*
14 *tracting in the Federal-aid highway system; and*

15 (C) *establishing a demonstration program*
16 *to streamline the relocation process by permit-*
17 *ting a lump-sum payment for acquisition and*
18 *relocation if elected by the displaced occupant.*

19 **SEC. 1302. CLARIFIED ELIGIBILITY FOR EARLY ACQUI-**
20 **SION ACTIVITIES PRIOR TO COMPLETION OF**
21 **NEPA REVIEW.**

22 (a) **IN GENERAL.**—*The acquisition of real property in*
23 *anticipation of a federally assisted or approved surface*
24 *transportation project that may use the property shall not*
25 *be prohibited prior to the completion of reviews of the sur-*

1 *face transportation project under the National Environ-*
 2 *mental Policy Act of 1969 (42 U.S.C. 4321 et seq.) if the*
 3 *acquisition does not—*

4 (1) *have an adverse environmental effect; or*

5 (2)(A) *limit the choice of reasonable alternatives*
 6 *for the proposed project; or*

7 (B) *prevent the lead agency from making an im-*
 8 *partial decision as to whether to select an alternative*
 9 *that is being considered during the environmental re-*
 10 *view process.*

11 (b) *EARLY ACQUISITION OF REAL PROPERTY INTER-*
 12 *ESTS FOR HIGHWAYS.—Section 108 of title 23, United*
 13 *States Code, is amended—*

14 (1) *in the section heading by inserting “**inter-***
 15 ***ests**” after “**real property**”;*

16 (2) *in subsection (a) by inserting “interests”*
 17 *after “real property” each place it appears; and*

18 (3) *in subsection (c)—*

19 (A) *in the subsection heading by striking*
 20 *“RIGHTS-OF-WAY” and inserting “REAL PROP-*
 21 *ERTY INTERESTS”;*

22 (B) *in paragraph (1)—*

23 (i) *in the matter preceding subpara-*
 24 *graph (A) by inserting “at any time” after*
 25 *“may be used”; and*

1 (ii) in subparagraph (A)—

2 (I) by striking “rights-of-way” the
3 first place it appears and inserting
4 “real property interests”; and

5 (II) by striking “, if the rights-of-
6 way are subsequently incorporated into
7 a project eligible for surface transpor-
8 tation program funds”; and

9 (C) by striking paragraph (2) and inserting
10 the following:

11 “(2) *TERMS AND CONDITIONS.*—

12 “(A) *ACQUISITION OF REAL PROPERTY IN-*
13 *TERESTS.*—

14 “(i) *IN GENERAL.*—Subject to the other
15 provisions of this section, prior to comple-
16 tion of the review process for the project re-
17 quired by the National Environmental Pol-
18 icy Act of 1969 (42 U.S.C. 4321 et seq.), a
19 public authority may carry out acquisition
20 of real property interests that may be used
21 for a project.

22 “(ii) *REQUIREMENTS.*—An acquisition
23 under clause (i) may be authorized by
24 project agreement and is eligible for Fed-

1 *eral-aid reimbursement as a project expense*
2 *if the Secretary finds that the acquisition—*

3 *“(I) will not cause any significant*
4 *adverse environmental impact;*

5 *“(II) will not limit the choice of*
6 *reasonable alternatives for the project*
7 *or otherwise influence the decision of*
8 *the Secretary on any approval re-*
9 *quired for the project;*

10 *“(III) does not prevent the lead*
11 *agency from making an impartial de-*
12 *cision as to whether to accept an alter-*
13 *native that is being considered in the*
14 *environmental review process;*

15 *“(IV) is consistent with the State*
16 *transportation planning process under*
17 *section 135;*

18 *“(V) complies with other applica-*
19 *ble Federal laws (including regula-*
20 *tions);*

21 *“(VI) will be acquired through ne-*
22 *gotiation, without the threat of con-*
23 *demnation; and*

24 *“(VII) will not result in a reduc-*
25 *tion or elimination of benefits or as-*

1 *sistance to a displaced person required*
2 *by the Uniform Relocation Assistance*
3 *and Real Property Acquisition Policies*
4 *Act of 1970 (42 U.S.C. 4601 et seq.)*
5 *and title VI of the Civil Rights Act of*
6 *1964 (42 U.S.C. 2000d et seq.).*

7 “(B) *DEVELOPMENT.*—*Real property inter-*
8 *ests acquired under this subsection may not be*
9 *developed in anticipation of a project until all*
10 *required environmental reviews for the project*
11 *have been completed.*

12 “(C) *REIMBURSEMENT.*—*If Federal-aid re-*
13 *imbursement is made for real property interests*
14 *acquired early under this section and the real*
15 *property interests are not subsequently incor-*
16 *porated into a project eligible for surface trans-*
17 *portation funds within the time allowed by sub-*
18 *section (a)(2), the Secretary shall offset the*
19 *amount reimbursed against funds apportioned to*
20 *the State.*

21 “(D) *OTHER CONDITIONS.*—*The Secretary*
22 *may establish such other conditions or restric-*
23 *tions on acquisitions as the Secretary determines*
24 *to be appropriate.”.*

1 **SEC. 1303. EFFICIENCIES IN CONTRACTING.**

2 (a) *AUTHORITY.*—Section 112(b) of title 23, United
3 States Code, is amended by adding at the end the following:

4 “(4) *CONSTRUCTION MANAGER; GENERAL CON-*
5 *TRACTOR.*—

6 “(A) *PROCEDURE.*—

7 “(i) *IN GENERAL.*—A contracting
8 agency may award a 2-phase contract to a
9 construction manager or general contractor
10 for preconstruction and construction serv-
11 ices.

12 “(ii) *PRECONSTRUCTION PHASE.*—In
13 the preconstruction phase of a contract
14 under this subparagraph, the construction
15 manager shall provide the contracting agen-
16 cy with advice relating to scheduling, work
17 sequencing, cost engineering,
18 constructability, cost estimating, and risk
19 identification.

20 “(iii) *AGREEMENT TO PRICE.*—

21 “(I) *IN GENERAL.*—Prior to the
22 start of the second phase of a contract
23 under this subparagraph, the owner
24 and the construction manager may
25 agree to a price for the construction of
26 the project or a portion of the project.

1 “(II) *RESULT.*—*If an agreement*
2 *is reached, the construction manager*
3 *shall become the general contractor for*
4 *the construction of the project at the*
5 *negotiated schedule and price.*

6 “(B) *SELECTION.*—*A contract shall be*
7 *awarded to a construction manager or general*
8 *contractor under this paragraph using a com-*
9 *petitive selection process under which the con-*
10 *tract is awarded on the basis of—*

11 “(i) *qualifications;*

12 “(ii) *experience;*

13 “(iii) *best value; or*

14 “(iv) *any other combination of factors*
15 *considered appropriate by the contracting*
16 *agency.*

17 “(C) *TIMING.*—

18 “(i) *IN GENERAL.*—*Prior to the com-*
19 *pletion of the environmental review process*
20 *required under section 102 of the National*
21 *Environmental Policy Act of 1969 (42*
22 *U.S.C. 4332), a contracting agency may*
23 *issue requests for proposals, proceed with*
24 *the award of the first phase of construction*
25 *manager or general contractor contract, and*

1 *issue notices to proceed with preliminary*
2 *design, to the extent that those actions do*
3 *not limit any reasonable range of alter-*
4 *natives.*

5 “(ii) *NEPA PROCESS.*—

6 “(I) *IN GENERAL.*—*A contracting*
7 *agency shall not proceed with the*
8 *award of the second phase, and shall*
9 *not proceed, or permit any consultant*
10 *or contractor to proceed, with final de-*
11 *sign or construction until completion*
12 *of the environmental review process re-*
13 *quired under section 102 of the Na-*
14 *tional Environmental Policy Act of*
15 *1969 (42 U.S.C. 4332).*

16 “(II) *REQUIREMENT.*—*The Sec-*
17 *retary shall require that a contract in-*
18 *clude appropriate provisions to ensure*
19 *achievement of the objectives of section*
20 *102 of the National Environmental*
21 *Policy Act of 1969 (42 U.S.C. 4332)*
22 *and compliance with other applicable*
23 *Federal laws and regulations occurs.*

1 “(iii) *SECRETARIAL APPROVAL.*—Prior
2 to authorizing construction activities, the
3 Secretary shall approve—

4 “(I) the estimate of the con-
5 tracting agency for the entire project;
6 and

7 “(II) any price agreement with
8 the general contractor for the project or
9 a portion of the project.

10 “(iv) *TERMINATION PROVISION.*—The
11 Secretary shall require a contract to include
12 an appropriate termination provision in
13 the event that a no-build alternative is se-
14 lected.”.

15 (b) *REGULATIONS.*—The Secretary shall promulgate
16 such regulations as are necessary to carry out the amend-
17 ment made by subsection (a).

18 (c) *EFFECT ON EXPERIMENTAL PROGRAM.*—Nothing
19 in this section or the amendment made by this section af-
20 fects the authority to carry out, or any project carried out
21 under, any experimental program concerning construction
22 manager risk that is being carried out by the Secretary as
23 of the date of enactment of this Act.

24 **SEC. 1304. INNOVATIVE PROJECT DELIVERY METHODS.**

25 (a) *DECLARATION OF POLICY.*—

1 (1) *IN GENERAL.*—Congress declares that it is in
2 the national interest to promote the use of innovative
3 technologies and practices that increase the efficiency
4 of construction of, improve the safety of, and extend
5 the service life of highways and bridges.

6 (2) *INCLUSIONS.*—The innovative technologies
7 and practices described in paragraph (1) include
8 state-of-the-art intelligent transportation system tech-
9 nologies, elevated performance standards, and new
10 highway construction business practices that improve
11 highway safety and quality, accelerate project deliv-
12 ery, and reduce congestion related to highway con-
13 struction.

14 (b) *FEDERAL SHARE.*—Section 120(c) of title 23,
15 United States Code, is amended by adding at the end the
16 following:

17 “(3) *INNOVATIVE PROJECT DELIVERY.*—

18 “(A) *IN GENERAL.*—Except as provided in
19 subparagraph (C), the Federal share payable on
20 account of a project or activity carried out with
21 funds apportioned under paragraph (1), (2), or
22 (5) of section 104(b) may, at the discretion of the
23 State, be up to 100 percent for any such project,
24 program, or activity that the Secretary deter-
25 mines—

1 “(i) contains innovative project deliv-
2 ery methods that improve work zone safety
3 for motorists or workers and the quality of
4 the facility;

5 “(ii) contains innovative technologies,
6 manufacturing processes, financing, or con-
7 tracting methods that improve the quality,
8 extend the service life, or decrease the long-
9 term costs of maintaining highways and
10 bridges;

11 “(iii) accelerates project delivery while
12 complying with other applicable Federal
13 laws (including regulations) and not caus-
14 ing any significant adverse environmental
15 impact; or

16 “(iv) reduces congestion related to
17 highway construction.

18 “(B) *EXAMPLES.*—Projects, programs, and
19 activities described in subparagraph (A) may in-
20 clude the use of—

21 “(i) prefabricated bridge elements and
22 systems and other technologies to reduce
23 bridge construction time;

24 “(ii) innovative construction equip-
25 ment, materials, or techniques, including

1 *the use of in-place recycling technology and*
2 *digital 3-dimensional modeling technologies;*

3 “*(iii) innovative contracting methods,*
4 *including the design-build and the construc-*
5 *tion manager-general contractor contracting*
6 *methods;*

7 “*(iv) intelligent compaction equip-*
8 *ment; or*

9 “*(v) contractual provisions that offer a*
10 *contractor an incentive payment for early*
11 *completion of the project, program, or activ-*
12 *ity, subject to the condition that the incen-*
13 *tives are accounted for in the financial plan*
14 *of the project, when applicable.*

15 “(C) *LIMITATIONS.—*

16 “*(i) IN GENERAL.—In each fiscal year,*
17 *a State may use the authority under sub-*
18 *paragraph (A) for up to 10 percent of the*
19 *combined apportionments of the State under*
20 *paragraphs (1), (2), and (5) of section*
21 *104(b).*

22 “*(ii) FEDERAL SHARE INCREASE.—The*
23 *Federal share payable on account of a*
24 *project or activity described in subpara-*

1 graph (A) may be increased by up to 5 per-
2 cent of the total project cost.”.

3 **SEC. 1305. ASSISTANCE TO AFFECTED STATE AND FEDERAL**
4 **AGENCIES.**

5 Section 139(j) of title 23, United States Code, is
6 amended by adding at the end the following:

7 “(6) MEMORANDUM OF UNDERSTANDING.—Prior
8 to providing funds approved by the Secretary for
9 dedicated staffing at an affected Federal agency under
10 paragraphs (1) and (2), the affected Federal agency
11 and the State agency shall enter into a memorandum
12 of understanding that establishes the projects and pri-
13 orities to be addressed by the use of the funds.”.

14 **SEC. 1306. APPLICATION OF CATEGORICAL EXCLUSIONS**
15 **FOR MULTIMODAL PROJECTS.**

16 (a) IN GENERAL.—Section 304 of title 49, United
17 States Code, is amended to read as follows:

18 **“§ 304. Application of categorical exclusions for**
19 **multimodal projects**

20 “(a) DEFINITIONS.—In this section:

21 “(1) COOPERATING AUTHORITY.—The term ‘co-
22 operating authority’ means a Department of Trans-
23 portation operating authority that is not the lead au-
24 thority.

1 “(2) *LEAD AUTHORITY.*—*The term ‘lead author-*
2 *ity’ means a Department of Transportation operating*
3 *administration or secretarial office that—*

4 “(A) *is the lead authority over a proposed*
5 *multimodal project; and*

6 “(B) *has determined that the components of*
7 *the project that fall under the modal expertise of*
8 *the lead authority—*

9 “(i) *satisfy the conditions for a cat-*
10 *egorical exclusion under the National Envi-*
11 *ronmental Policy Act of 1969 (42 U.S.C.*
12 *4321 et seq.) implementing regulations or*
13 *procedures of the lead authority; and*

14 “(ii) *do not require the preparation of*
15 *an environmental assessment or an environ-*
16 *mental impact statement under that Act.*

17 “(3) *MULTIMODAL PROJECT.*—*The term*
18 *‘multimodal project’ has the meaning given the term*
19 *in section 139(a) of title 23.*

20 “(b) *EXERCISE OF AUTHORITIES.*—*The authorities*
21 *granted in this section may be exercised for a multimodal*
22 *project, class of projects, or program of projects that are*
23 *carried out under this title.*

24 “(c) *APPLICATION OF CATEGORICAL EXCLUSIONS FOR*
25 *MULTIMODAL PROJECTS.*—*When considering the environ-*

1 *mental impacts of a proposed multimodal project, a lead*
2 *authority may apply a categorical exclusion designated*
3 *under the implementing regulations or procedures of a co-*
4 *operating authority for other components of the project, on*
5 *the conditions that—*

6 “(1) *the multimodal project is funded under 1*
7 *grant agreement administered by the lead authority;*

8 “(2) *the multimodal project has components that*
9 *require the expertise of a cooperating authority to as-*
10 *sess the environmental impacts of the components;*

11 “(3) *the component of the project to be covered*
12 *by the categorical exclusion of the cooperating author-*
13 *ity has independent utility;*

14 “(4) *the cooperating authority, in consultation*
15 *with the lead authority, follows National Environ-*
16 *mental Policy Act of 1969 (42 U.S.C. 4321 et seq.)*
17 *implementing regulations or procedures and deter-*
18 *mines that a categorical exclusion under that Act ap-*
19 *plies to the components; and*

20 “(5) *the lead authority has determined that—*

21 “(A) *the project, using the categorical exclu-*
22 *sions of the lead and cooperating authorities,*
23 *does not individually or cumulatively have a sig-*
24 *nificant impact on the environment; and*

1 “(B) *extraordinary circumstances do not*
2 *exist that merit further analysis and documenta-*
3 *tion in an environmental impact statement or*
4 *environmental assessment required under the Na-*
5 *tional Environmental Policy Act of 1969 (42*
6 *U.S.C. 4321 et seq.).*

7 “(d) *MODAL COOPERATION.—*

8 “(1) *IN GENERAL.—A cooperating authority*
9 *shall provide modal expertise to a lead authority with*
10 *administrative authority over a multimodal project*
11 *on such aspects of the project in which the cooperating*
12 *authority has expertise.*

13 “(2) *USE OF CATEGORICAL EXCLUSION.—In a*
14 *case described in paragraph (1), the 1 or more cat-*
15 *egorical exclusions of a cooperating authority may be*
16 *applied by the lead authority once the cooperating*
17 *authority reviews the project on behalf of the lead au-*
18 *thority and determines the project satisfies the condi-*
19 *tions for a categorical exclusion under the National*
20 *Environmental Policy Act of 1969 (42 U.S.C. 4321 et*
21 *seq.) implementing regulations or procedures of the*
22 *cooperating authority and this section.”.*

23 “(b) *CONFORMING AMENDMENT.—The item relating to*
24 *section 304 in the analysis for title 49, United States Code,*
25 *is amended to read as follows:*

 “304. *Application of categorical exclusions for multimodal projects.”.*

1 **SEC. 1307. STATE ASSUMPTION OF RESPONSIBILITIES FOR**
2 **CATEGORICAL EXCLUSIONS.**

3 *Section 326 of title 23, United States Code, is amend-*
4 *ed—*

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

7 *“(d) TERMINATION.—*

8 *“(1) TERMINATION BY THE SECRETARY.—The*
9 *Secretary may terminate any assumption of responsi-*
10 *bility under a memorandum of understanding on a*
11 *determination that the State is not adequately car-*
12 *rying out the responsibilities assigned to the State.*

13 *“(2) TERMINATION BY THE STATE.—The State*
14 *may terminate the participation of the State in the*
15 *program at any time by providing to the Secretary*
16 *a notice by not later than the date that is 90 days*
17 *before the date of termination, and subject to such*
18 *terms and conditions as the Secretary may provide.”;*
19 *and*

20 *(2) by adding at the end the following:*

21 *“(f) LEGAL FEES.—A State assuming the responsibil-*
22 *ities of the Secretary under this section for a specific project*
23 *may use funds apportioned to the State under section*
24 *104(b)(2) for attorneys fees directly attributable to eligible*
25 *activities associated with the project.”.*

1 **SEC. 1308. SURFACE TRANSPORTATION PROJECT DELIVERY**
2 **PROGRAM.**

3 (a) *IN GENERAL.*—Section 327 of title 23, United
4 States Code, is amended—

5 (1) *in the section heading by striking “PILOT”;*

6 (2) *in subsection (a)—*

7 (A) *in paragraph (1) by striking “pilot”;*

8 *and*

9 (B) *in paragraph (2)—*

10 “(i) *in subparagraph (B)—*

11 “(I) *in clause (i), by striking*

12 *‘but’; and*

13 “(II) *by striking clause (ii) and*

14 *inserting the following:*

15 “(i) *at the request of the State, the*
16 *Secretary may also assign to the State, and*
17 *the State may assume, the responsibilities of*
18 *the Secretary with respect to 1 or more rail-*
19 *road, public transportation, or multimodal*
20 *projects within the State under the National*
21 *Environmental Policy Act of 1969 (42*
22 *U.S.C. 4321 et seq.);*

23 “(iii) *in a State that has assumed the*
24 *responsibilities of the Secretary under*
25 *clause (ii), a recipient of assistance under*
26 *chapter 53 of title 49 may request that the*

1 *Secretary maintain the responsibilities of*
2 *the Secretary with respect to 1 or more pub-*
3 *lic transportation projects within the State*
4 *under the National Environmental Policy*
5 *Act of 1969 (42 U.S.C. 13 4321 et seq.); but*

6 *“(iv) the Secretary may not assign—*

7 *“(I) any responsibility imposed*
8 *on the Secretary by section 134 or 135;*
9 *or*

10 *“(II) responsibility for any con-*
11 *formity determination required under*
12 *section 176 of the Clean Air Act (42*
13 *U.S.C. 7506).”;* and

14 *(i) by adding at the end the following:*

15 *“(F) LEGAL FEES.—A State assuming the*
16 *responsibilities of the Secretary under this sec-*
17 *tion for a specific project may use funds appor-*
18 *tioned to the State under section 104(b)(2) for*
19 *attorneys fees directly attributable to eligible ac-*
20 *tivities associated with the project.”;*

21 *(3) in subsection (b)—*

22 *(A) by striking paragraph (1);*

23 *(B) by redesignating paragraphs (2)*
24 *through (5) as paragraphs (1) through (4), re-*
25 *spectively; and*

1 (C) in subparagraph (A) of paragraph (3)
2 (as so redesignated) by striking “(2)” and insert-
3 ing “(1)”;

4 (4) in subsection (c)—

5 (A) in paragraph (3)(D) by striking the pe-
6 riod at the end and inserting a semicolon; and

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

8 “(4) require the State to provide to the Secretary
9 any information the Secretary considers necessary to
10 ensure that the State is adequately carrying out the
11 responsibilities assigned to the State;

12 “(5) require the Secretary—

13 “(A) after a period of 5 years, to evaluate
14 the ability of the State to carry out the responsi-
15 bility assumed under this section;

16 “(B) if the Secretary determines that the
17 State is not ready to effectively carry out the re-
18 sponsibilities the State has assumed, to reevalu-
19 ate the readiness of the State every 3 years, or
20 at such other frequency as the Secretary con-
21 siders appropriate, after the initial 5-year eval-
22 uation, until the State is ready to assume the re-
23 sponsibilities on a permanent basis; and

24 “(C) once the Secretary determines that the
25 State is ready to permanently assume the re-

1 *sponsibilities of the Secretary, not to require any*
2 *further evaluations; and*

3 “(6) *require the State to provide the Secretary*
4 *with any information, including regular written re-*
5 *ports, as the Secretary may require in conducting*
6 *evaluations under paragraph (5).”;*

7 (5) *by striking subsection (g);*

8 (6) *by redesignating subsections (h) and (i) as*
9 *subsections (g) and (h), respectively; and*

10 (7) *in subsection (h) (as so redesignated)—*

11 (A) *by striking paragraph (1);*

12 (B) *by redesignating paragraph (2) as*
13 *paragraph (1); and*

14 (C) *by inserting after paragraph (1) (as so*
15 *redesignated) the following:*

16 “(2) *TERMINATION BY THE STATE.—The State*
17 *may terminate the participation of the State in the*
18 *program at any time by providing to the Secretary*
19 *a notice by not later than the date that is 90 days*
20 *before the date of termination, and subject to such*
21 *terms and conditions as the Secretary may provide.”.*

22 (b) *CONFORMING AMENDMENT.—The item relating to*
23 *section 327 in the analysis of title 23, United States Code,*
24 *is amended to read as follows:*

 “327. *Surface transportation project delivery program.*”.

1 **SEC. 1309. CATEGORICAL EXCLUSION FOR PROJECTS WITH-**
2 **IN THE RIGHT-OF-WAY.**

3 (a) *IN GENERAL.*—Not later than 30 days after the
4 date of enactment of this Act, the Secretary shall publish
5 a notice of proposed rulemaking for a categorical exclusion
6 that meets the definitions (as in effect on that date) of sec-
7 tion 1508.4 of title 40, Code of Federal Regulations, and
8 section 771.117 of title 23, Code of Federal Regulations, for
9 a project (as defined in section 101(a) of title 23, United
10 States Code)—

11 (1) that is located solely within the right-of-way
12 of an existing highway, such as new turn lanes and
13 bus pull-offs;

14 (2) that does not include the addition of a
15 through lane or new interchange; and

16 (3) for which the project sponsor demonstrates
17 that the project—

18 (A) is intended to improve safety, alleviate
19 congestion, or improve air quality; or

20 (B) would improve or maintain pavement
21 or structural conditions or achieve a state of
22 good repair.

23 (b) *NOTICE.*—Not later than 60 days after the date of
24 enactment of this Act, the Secretary shall publish a notice
25 of proposed rulemaking to further define and implement
26 subsection (a) within subsection (c) or (d) of section 771.117

1 *of title 23, Code of Federal Regulations (as in effect on the*
2 *date of enactment of the MAP-21).*

3 **SEC. 1310. PROGRAMMATIC AGREEMENTS AND ADDITIONAL**
4 **CATEGORICAL EXCLUSIONS.**

5 (a) *IN GENERAL.*—*Not later than 60 days after the*
6 *date of enactment of this Act, the Secretary shall—*

7 (1) *survey the use by the Department of Trans-*
8 *portation of categorical exclusions in transportation*
9 *projects since 2005;*

10 (2) *publish a review of the survey that includes*
11 *a description of—*

12 (A) *the types of actions categorically ex-*
13 *cluded; and*

14 (B) *any requests previously received by the*
15 *Secretary for new categorical exclusions; and*

16 (3) *solicit requests from State departments of*
17 *transportation, transit authorities, metropolitan*
18 *planning organizations, or other government agencies*
19 *for new categorical exclusions.*

20 (b) *NEW CATEGORICAL EXCLUSIONS.*—*Not later than*
21 *120 days after the date of enactment of this Act, the Sec-*
22 *retary shall publish a notice of proposed rulemaking to pro-*
23 *pose new categorical exclusions received by the Secretary*
24 *under subsection (a), to the extent that the categorical exclu-*
25 *sions meet the criteria for a categorical exclusion under sec-*

1 *tion 1508.4 of title 40, Code of Federal Regulations and*
2 *section 771.117(a) of title 23, Code of Federal Regulations*
3 *(as those regulations are in effect on the date of the notice).*

4 (c) *ADDITIONAL ACTIONS.—The Secretary shall issue*
5 *a proposed rulemaking to move the following types of ac-*
6 *tions from subsection (d) of section 771.117 of title 23, Code*
7 *of Federal Regulations (as in effect on the date of enactment*
8 *of this Act), to subsection (c) of that section, to the extent*
9 *that such movement complies with the criteria for a categor-*
10 *ical exclusion under section 1508.4 of title 40, Code of Fed-*
11 *eral Regulations (as in effect on the date of enactment of*
12 *this Act):*

13 (1) *Modernization of a highway by resurfacing,*
14 *restoration, rehabilitation, reconstruction, adding*
15 *shoulders, or adding auxiliary lanes (including park-*
16 *ing, weaving, turning, and climbing).*

17 (2) *Highway safety or traffic operations im-*
18 *provement projects, including the installation of ramp*
19 *metering control devices and lighting.*

20 (3) *Bridge rehabilitation, reconstruction, or re-*
21 *placement or the construction of grade separation to*
22 *replace existing at-grade railroad crossings.*

23 (d) *PROGRAMMATIC AGREEMENTS.—*

24 (1) *IN GENERAL.—The Secretary shall seek op-*
25 *portunities to enter into programmatic agreements*

1 *with the States that establish efficient administrative*
2 *procedures for carrying out environmental and other*
3 *required project reviews.*

4 (2) *INCLUSIONS.*—*Programmatic agreements au-*
5 *thorized under paragraph (1) may include agreements*
6 *that allow a State to determine on behalf of the Fed-*
7 *eral Highway Administration whether a project is*
8 *categorically excluded from the preparation of an en-*
9 *vironmental assessment or environmental impact*
10 *statement under the National Environmental Policy*
11 *Act of 1969 (42 U.S.C. 4321 et seq.).*

12 (3) *DETERMINATIONS.*—*An agreement described*
13 *in paragraph (2) may include determinations by the*
14 *Secretary of the types of projects categorically ex-*
15 *cluded (consistent with section 1508.4 of title 40, Code*
16 *of Federal Regulations) in the State in addition to*
17 *the types listed in subsections (c) and (d) of section*
18 *771.117 of title 23, Code of Federal Regulations (as*
19 *in effect on the date of enactment of this Act).*

20 **SEC. 1311. ACCELERATED DECISIONMAKING IN ENVIRON-**
21 **MENTAL REVIEWS.**

22 (a) *IN GENERAL.*—*When preparing a final environ-*
23 *mental impact statement under the National Environ-*
24 *mental Policy Act of 1969 (42 U.S.C. 4321 et seq.), if the*
25 *lead agency makes changes in response to comments that*

1 *are minor and are confined to factual corrections or expla-*
2 *nations of why the comments do not warrant further agency*
3 *response, the lead agency may write on errata sheets at-*
4 *tached to the statement instead of rewriting the draft state-*
5 *ment, on the condition that the errata sheets—*

6 (1) *cite the sources, authorities, or reasons that*
7 *support the position of the agency; and*

8 (2) *if appropriate, indicate the circumstances*
9 *that would trigger agency reappraisal or further re-*
10 *sponse.*

11 (b) *INCORPORATION.—To the maximum extent prac-*
12 *ticable, the lead agency shall expeditiously develop a single*
13 *document that consists of a final environmental impact*
14 *statement and a record of decision unless—*

15 (1) *the final environmental impact statement*
16 *makes substantial changes to the proposed action that*
17 *are relevant to environmental or safety concerns; or*

18 (2) *there are significant new circumstances or*
19 *information relevant to environmental concerns and*
20 *that bear on the proposed action or the impacts of the*
21 *proposed action.*

22 **SEC. 1312. MEMORANDA OF AGENCY AGREEMENTS FOR**
23 **EARLY COORDINATION.**

24 (a) *IN GENERAL.—It is the sense of Congress that—*

1 (1) *the Secretary and other Federal agencies*
2 *with relevant jurisdiction in the environmental re-*
3 *view process should cooperate with each other and*
4 *other agencies on environmental review and project*
5 *delivery activities at the earliest practicable time to*
6 *avoid delays and duplication of effort later in the*
7 *process, head off potential conflicts, and ensure that*
8 *planning and project development decisions reflect en-*
9 *vironmental values; and*

10 (2) *such cooperation should include the develop-*
11 *ment of policies and the designation of staff that ad-*
12 *vice planning agencies or project sponsors of studies*
13 *or other information foreseeably required for later*
14 *Federal action and early consultation with appro-*
15 *priate State and local agencies and Indian tribes.*

16 (b) *TECHNICAL ASSISTANCE.—If requested at any time*
17 *by a State or local planning agency, the Secretary and*
18 *other Federal agencies with relevant jurisdiction in the en-*
19 *vironmental review process, shall, to the extent practicable*
20 *and appropriate, as determined by the agencies, provide*
21 *technical assistance to the State or local planning agency*
22 *on accomplishing the early coordination activities described*
23 *in subsection (d).*

24 (c) *MEMORANDUM OF AGENCY AGREEMENT.—If re-*
25 *quested at any time by a State or local planning agency,*

1 *the lead agency, in consultation with other Federal agencies*
2 *with relevant jurisdiction in the environmental review proc-*
3 *ess, may establish memoranda of agreement with the project*
4 *sponsor, State, and local governments and other appro-*
5 *priate entities to accomplish the early coordination activi-*
6 *ties described in subsection (d).*

7 *(d) EARLY COORDINATION ACTIVITIES.—Early coordi-*
8 *nation activities shall include, to the maximum extent prac-*
9 *ticable, the following:*

10 *(1) Technical assistance on identifying potential*
11 *impacts and mitigation issues in an integrated fash-*
12 *ion.*

13 *(2) The potential appropriateness of using plan-*
14 *ning products and decisions in later environmental*
15 *reviews.*

16 *(3) The identification and elimination from de-*
17 *tailed study in the environmental review process of*
18 *the issues that are not significant or that have been*
19 *covered by prior environmental reviews.*

20 *(4) The identification of other environmental re-*
21 *view and consultation requirements so that the lead*
22 *and cooperating agencies may prepare, as appro-*
23 *priate, other required analyses and studies concur-*
24 *rently with planning activities.*

1 (5) *The identification by agencies with jurisdic-*
2 *tion over any permits related to the project of any*
3 *and all relevant information that will reasonably be*
4 *required for the project.*

5 (6) *The reduction of duplication between require-*
6 *ments under the National Environmental Policy Act*
7 *of 1969 (42 U.S.C. 4321 et seq.) and State and local*
8 *planning and environmental review requirements, un-*
9 *less the agencies are specifically barred from doing so*
10 *by applicable law.*

11 (7) *Timelines for the completion of agency ac-*
12 *tions during the planning and environmental review*
13 *processes.*

14 (8) *Other appropriate factors.*

15 **SEC. 1313. ACCELERATED DECISIONMAKING.**

16 *Section 139(h) of title 23, United States Code, is*
17 *amended by striking paragraph (4) and inserting the fol-*
18 *lowing:*

19 “(4) *INTERIM DECISION ON ACHIEVING ACCELER-*
20 *ATED DECISIONMAKING.—*

21 “(A) *IN GENERAL.—Not later than 30 days*
22 *after the close of the public comment period on*
23 *a draft environmental impact statement, the Sec-*
24 *retary may convene a meeting with the project*
25 *sponsor, lead agency, resource agencies, and any*

1 *relevant State agencies to ensure that all parties*
2 *are on schedule to meet deadlines for decisions to*
3 *be made regarding the project.*

4 “(B) *DEADLINES.*—*The deadlines referred*
5 *to in subparagraph (A) shall be those established*
6 *under subsection (g), or any other deadlines es-*
7 *tablished by the lead agency, in consultation*
8 *with the project sponsor and other relevant agen-*
9 *cies.*

10 “(C) *FAILURE TO ASSURE.*—*If the relevant*
11 *agencies cannot provide reasonable assurances*
12 *that the deadlines described in subparagraph (B)*
13 *will be met, the Secretary may initiate the issue*
14 *resolution and referral process described under*
15 *paragraph (5) and before the completion of the*
16 *record of decision.*

17 “(5) *ACCELERATED ISSUE RESOLUTION AND RE-*
18 *FERRAL.*—

19 “(A) *AGENCY ISSUE RESOLUTION MEET-*
20 *ING.*—

21 “(i) *IN GENERAL.*—*A Federal agency*
22 *of jurisdiction, project sponsor, or the Gov-*
23 *ernor of a State in which a project is lo-*
24 *cated may request an issue resolution meet-*
25 *ing to be conducted by the lead agency.*

1 “(ii) *ACTION BY LEAD AGENCY.*—*The*
2 *lead agency shall convene an issue resolu-*
3 *tion meeting under clause (i) with the rel-*
4 *evant participating agencies and the project*
5 *sponsor, including the Governor only if the*
6 *meeting was requested by the Governor, to*
7 *resolve issues that could—*

8 “(I) *delay completion of the envi-*
9 *ronmental review process; or*

10 “(II) *result in denial of any ap-*
11 *provals required for the project under*
12 *applicable laws.*

13 “(iii) *DATE.*—*A meeting requested*
14 *under this subparagraph shall be held by*
15 *not later than 21 days after the date of re-*
16 *ceipt of the request for the meeting, unless*
17 *the lead agency determines that there is*
18 *good cause to extend the time for the meet-*
19 *ing.*

20 “(iv) *NOTIFICATION.*—*On receipt of a*
21 *request for a meeting under this subpara-*
22 *graph, the lead agency shall notify all rel-*
23 *evant participating agencies of the request,*
24 *including the issue to be resolved, and the*
25 *date for the meeting.*

1 “(v) *DISPUTES.*—*If a relevant partici-*
2 *parting agency with jurisdiction over an ap-*
3 *proval required for a project under applica-*
4 *ble law determines that the relevant infor-*
5 *mation necessary to resolve the issue has not*
6 *been obtained and could not have been ob-*
7 *tained within a reasonable time, but the*
8 *lead agency disagrees, the resolution of the*
9 *dispute shall be forwarded to the heads of*
10 *the relevant agencies for resolution.*

11 “(vi) *CONVENTION BY LEAD AGENCY.*—
12 *A lead agency may convene an issue resolu-*
13 *tion meeting under this subsection at any*
14 *time without the request of the Federal*
15 *agency of jurisdiction, project sponsor, or*
16 *the Governor of a State.*

17 “(B) *ELEVATION OF ISSUE RESOLUTION.*—

18 “(i) *IN GENERAL.*—*If issue resolution*
19 *is not achieved by not later than 30 days*
20 *after the date of a relevant meeting under*
21 *subparagraph (A), the Secretary shall no-*
22 *tify the lead agency, the heads of the rel-*
23 *evant participating agencies, and the*
24 *project sponsor (including the Governor*
25 *only if the initial issue resolution meeting*

1 *request came from the Governor) that an*
2 *issue resolution meeting will be convened.*

3 “(ii) *REQUIREMENTS.—The Secretary*
4 *shall identify the issues to be addressed at*
5 *the meeting and convene the meeting not*
6 *later than 30 days after the date of issuance*
7 *of the notice.*

8 “(C) *REFERRAL OF ISSUE RESOLUTION.—*

9 “(i) *REFERRAL TO COUNCIL ON ENVI-*
10 *RONMENTAL QUALITY.—*

11 “(I) *IN GENERAL.—If resolution*
12 *is not achieved by not later than 30*
13 *days after the date of an issue resolu-*
14 *tion meeting under subparagraph (B),*
15 *the Secretary shall refer the matter to*
16 *the Council on Environmental Quality.*

17 “(II) *MEETING.—Not later than*
18 *30 days after the date of receipt of a*
19 *referral from the Secretary under sub-*
20 *clause (I), the Council on Environ-*
21 *mental Quality shall hold an issue res-*
22 *olution meeting with the lead agency,*
23 *the heads of relevant participating*
24 *agencies, and the project sponsor (in-*
25 *cluding the Governor only if an initial*

1 *request for an issue resolution meeting*
2 *came from the Governor).*

3 “(i) *REFERRAL TO THE PRESIDENT.—*
4 *If a resolution is not achieved by not later*
5 *than 30 days after the date of the meeting*
6 *convened by the Council on Environmental*
7 *Quality under clause (i)(II), the Secretary*
8 *shall refer the matter directly to the Presi-*
9 *dent.*

10 “(6) *FINANCIAL TRANSFER PROVISIONS.—*

11 “(A) *IN GENERAL.—A Federal agency of ju-*
12 *risdiction over an approval required for a*
13 *project under applicable laws shall complete any*
14 *required approval on an expeditious basis using*
15 *the shortest existing applicable process.*

16 “(B) *FAILURE TO DECIDE.—*

17 “(i) *IN GENERAL.—If an agency de-*
18 *scribed in subparagraph (A) fails to render*
19 *a decision under any Federal law relating*
20 *to a project that requires the preparation of*
21 *an environmental impact statement or envi-*
22 *ronmental assessment, including the*
23 *issuance or denial of a permit, license, or*
24 *other approval by the date described in*
25 *clause (ii), the agency shall transfer from*

1 *the applicable office of the head of the agen-*
2 *cy, or equivalent office to which the author-*
3 *ity for rendering the decision has been dele-*
4 *gated by law, to the agency or division*
5 *charged with rendering a decision regarding*
6 *the application, by not later than 1 day*
7 *after the applicable date under clause (ii),*
8 *and once each week thereafter until a final*
9 *decision is rendered, subject to subpara-*
10 *graph (C)—*

11 *“(I) \$20,000 for any project for*
12 *which an annual financial plan under*
13 *section 106(i) is required; or*

14 *“(II) \$10,000 for any other*
15 *project requiring preparation of an en-*
16 *vironmental assessment or environ-*
17 *mental impact statement.*

18 *“(ii) DESCRIPTION OF DATE.—The*
19 *date referred to in clause (i) is the later*
20 *of—*

21 *“(I) the date that is 180 days*
22 *after the date on which an application*
23 *for the permit, license, or approval is*
24 *complete; and*

1 “(II) the date that is 180 days
2 after the date on which the Federal
3 lead agency issues a decision on the
4 project under the National Environ-
5 mental Policy Act of 1969 (42 U.S.C.
6 4321 et seq.).

7 “(C) LIMITATIONS.—

8 “(i) IN GENERAL.—No transfer of
9 funds under subparagraph (B) relating to
10 an individual project shall exceed, in any
11 fiscal year, an amount equal to 1 percent of
12 the funds made available for the applicable
13 agency office.

14 “(ii) FAILURE TO DECIDE.—The total
15 amount transferred in a fiscal year as a re-
16 sult of a failure by an agency to make a de-
17 cision by an applicable deadline shall not
18 exceed an amount equal to 5 percent of the
19 funds made available for the applicable
20 agency office for that fiscal year.

21 “(D) TREATMENT.—The transferred funds
22 shall only be available to the agency or division
23 charged with rendering the decision as addi-
24 tional resources, pursuant to subparagraph (F).

1 “(E) *NO FAULT OF AGENCY.*—*A transfer of*
2 *funds under this paragraph shall not be made if*
3 *the agency responsible for rendering the decision*
4 *certifies that—*

5 “(i) *the agency has not received nec-*
6 *essary information or approvals from an-*
7 *other entity, such as the project sponsor, in*
8 *a manner that affects the ability of the*
9 *agency to meet any requirements under*
10 *State, local, or Federal law; or*

11 “(ii) *significant new information or*
12 *circumstances, including a major modifica-*
13 *tion to an aspect of the project, requires ad-*
14 *ditional analysis for the agency to make a*
15 *decision on the project application.*

16 “(F) *TREATMENT OF FUNDS.*—

17 “(i) *IN GENERAL.*—*Funds transferred*
18 *under this paragraph shall supplement re-*
19 *sources available to the agency or division*
20 *charged with making a decision for the pur-*
21 *pose of expediting permit reviews.*

22 “(ii) *AVAILABILITY.*—*Funds trans-*
23 *ferred under this paragraph shall be avail-*
24 *able for use or obligation for the same pe-*
25 *riod that the funds were originally author-*

1 *ized or appropriated, plus 1 additional fis-*
2 *cal year.*

3 *“(iii) LIMITATION.—The Federal agen-*
4 *cy with jurisdiction for the decision that*
5 *has transferred the funds pursuant to this*
6 *paragraph shall not reprogram funds to the*
7 *office of the head of the agency, or equiva-*
8 *lent office, to reimburse that office for the*
9 *loss of the funds.*

10 *“(G) AUDITS.—In any fiscal year in which*
11 *any Federal agency transfers funds pursuant to*
12 *this paragraph, the Inspector General of that*
13 *agency shall—*

14 *“(i) conduct an audit to assess compli-*
15 *ance with the requirements of this para-*
16 *graph; and*

17 *“(ii) not later than 120 days after the*
18 *end of the fiscal year during which the*
19 *transfer occurred, submit to the Committee*
20 *on Environment and Public Works of the*
21 *Senate and any other appropriate congres-*
22 *sional committees a report describing the*
23 *reasons why the transfers were levied, in-*
24 *cluding allocations of resources.*

1 “(H) *EFFECT OF PARAGRAPH.*—*Nothing in*
2 *this paragraph affects or limits the application*
3 *of, or obligation to comply with, any Federal,*
4 *State, local, or tribal law.*

5 “(I) *AUTHORITY FOR INTRA-AGENCY TRANS-*
6 *FER OF FUNDS.*—*The requirement provided*
7 *under this paragraph for a Federal agency to*
8 *transfer or reallocate funds of the Federal agency*
9 *in accordance with subparagraph (B)(i)—*

10 “(i) *shall be treated by the Federal*
11 *agency as a requirement and authority con-*
12 *sistent with any applicable original law es-*
13 *tablishing and authorizing the agency; but*

14 “(ii) *does not provide to the Federal*
15 *agency the authority to require or determine*
16 *the intra-agency transfer or reallocation of*
17 *funds that are provided to or are within*
18 *any other Federal agency.*

19 “(7) *EXPEDIENT DECISIONS AND REVIEWS.*—*To*
20 *ensure that Federal environmental decisions and re-*
21 *views are expeditiously made—*

22 “(A) *adequate resources made available*
23 *under this title shall be devoted to ensuring that*
24 *applicable environmental reviews under the Na-*
25 *tional Environmental Policy Act of 1969 (42*

1 U.S.C. 4321 et seq.) are completed on an expedi-
2 tious basis and that the shortest existing applica-
3 ble process under that Act is implemented; and

4 “(B) the President shall submit to the Com-
5 mittee on Transportation and Infrastructure of
6 the House of Representatives and the Committee
7 on Environment and Public Works of the Senate,
8 not less frequently than once every 120 days
9 after the date of enactment of the MAP-21, a re-
10 port on the status and progress of the following
11 projects and activities funded under this title
12 with respect to compliance with applicable re-
13 quirements under the National Environmental
14 Policy Act of 1969 (42 U.S.C. 4321 et seq.):

15 “(i) Projects and activities required to
16 prepare an annual financial plan under
17 section 106(i).

18 “(ii) A sample of not less than 5 per-
19 cent of the projects requiring preparation of
20 an environmental impact statement or envi-
21 ronmental assessment in each State.”.

22 **SEC. 1314. ENVIRONMENTAL PROCEDURES INITIATIVE.**

23 (a) *ESTABLISHMENT.*—For grant programs under
24 which funds are distributed by formula by the Department
25 of Transportation, the Secretary shall establish an initia-

1 *tive to review and develop consistent procedures for environ-*
2 *mental permitting and procurement requirements.*

3 (b) *REPORT.*—*The Secretary shall publish the results*
4 *of the initiative described in subsection (a) in an electroni-*
5 *cally accessible format.*

6 **SEC. 1315. ALTERNATIVE RELOCATION PAYMENT DEM-**
7 **ONSTRATION PROGRAM.**

8 (a) *PAYMENT DEMONSTRATION PROGRAM.*—

9 (1) *IN GENERAL.*—*Except as otherwise provided*
10 *in this section, for the purpose of identifying improve-*
11 *ments in the timeliness of providing relocation assist-*
12 *ance to persons displaced by Federal or federally as-*
13 *sisted programs and projects, the Secretary may allow*
14 *not more than 5 States to participate in an alter-*
15 *native relocation payment demonstration program*
16 *under which payments to displaced persons eligible*
17 *for relocation assistance pursuant to the Uniform Re-*
18 *location Assistance and Real Property Acquisition*
19 *Policies Act of 1970 (42 U.S.C. 4601 et seq.) (includ-*
20 *ing implementing regulations), are calculated based*
21 *on reasonable estimates and paid in advance of the*
22 *physical displacement of the displaced person.*

23 (2) *TIMING OF PAYMENTS.*—*Relocation assist-*
24 *ance payments for projects carried out under an ap-*
25 *proved State demonstration program may be provided*

1 *to the displaced person at the same time as payments*
2 *of just compensation for real property acquired for*
3 *the program or project of the State.*

4 (3) *COMBINING OF PAYMENTS.—Payments for re-*
5 *location and just compensation may be combined into*
6 *a single unallocated amount.*

7 (b) *CRITERIA.—*

8 (1) *IN GENERAL.—After public notice and an op-*
9 *portunity to comment, the Secretary shall adopt cri-*
10 *teria for carrying out the alternative relocation pay-*
11 *ment demonstration program.*

12 (2) *CONDITIONS.—*

13 (A) *IN GENERAL.—Conditions for State*
14 *participation in the demonstration program*
15 *shall include the conditions described in sub-*
16 *paragraphs (B) through (E).*

17 (B) *MEMORANDUM OF AGREEMENT.—A*
18 *State wishing to participate in the demonstra-*
19 *tion program shall be required to enter into a*
20 *memorandum of agreement with the Secretary*
21 *that includes provisions relating to—*

22 (i) *the selection of projects or programs*
23 *within the State to which the alternative re-*
24 *location payment process will be applied;*

- 1 (ii) program and project-level moni-
2 toring;
3 (iii) performance measurement;
4 (iv) reporting; and
5 (v) the circumstances under which the
6 Secretary may terminate the demonstration
7 program of the State before the end of the
8 program term.

9 (C) *TERM OF DEMONSTRATION PROGRAM.*—
10 Except as provided in subparagraph (B)(v), the
11 demonstration program of the State may con-
12 tinue for up to 3 years after the date on which
13 the Secretary executes the memorandum of agree-
14 ment.

15 (D) *DISPLACED PERSONS.*—

16 (i) *IN GENERAL.*—Displaced persons
17 affected by a project included in the dem-
18 onstration program of the State shall be in-
19 formed in writing in a format that is clear
20 and easily understandable that the reloca-
21 tion payments that the displaced persons re-
22 ceive under the demonstration program may
23 be higher or lower than the amount that the
24 displaced persons would receive under the
25 standard relocation assistance process.

1 (ii) *ALTERNATIVE PROCESS.*—Dis-
2 placed persons shall be informed—

3 (I) of the right of the displaced
4 persons not to participate in the dem-
5 onstration program; and

6 (II) that the alternative relocation
7 payment process can be used only if
8 the displaced person agrees in writing.

9 (iii) *ASSISTANCE.*—The displacing
10 agency shall provide any displaced person
11 who elects not to participate in the dem-
12 onstration program with relocation assist-
13 ance in accordance with the Uniform Relo-
14 cation Assistance and Real Property Acqui-
15 sition Policies Act of 1970 (42 U.S.C. 4601
16 et seq.) (including implementing regula-
17 tions).

18 (E) *OTHER DISPLACEMENTS.*—

19 (i) *IN GENERAL.*—If other Federal
20 agencies plan displacements in or adjacent
21 to a demonstration program project area
22 within the same time period as the project
23 acquisition and relocation actions of the
24 demonstration program, the Secretary shall

1 *adopt measures to protect against incon-*
2 *sistent treatment of displaced persons.*

3 (ii) *INCLUSION.—Measures described*
4 *in clause (i) may include a determination*
5 *that the demonstration program authority*
6 *may not be used on a particular project.*

7 (c) *REPORT.—*

8 (1) *IN GENERAL.—The Secretary shall submit to*
9 *Congress—*

10 (A) *at least every 18 months after the date*
11 *of enactment of this Act, a report on the progress*
12 *and results of the demonstration program; and*

13 (B) *not later than 1 year after all State*
14 *demonstration programs have ended, a final re-*
15 *port.*

16 (2) *REQUIREMENTS.—The final report shall in-*
17 *clude an evaluation by the Secretary of the merits of*
18 *the alternative relocation payment demonstration*
19 *program, including the effects of the demonstration*
20 *program on—*

21 (A) *displaced persons and the protections*
22 *afforded to displaced persons by the Uniform Re-*
23 *location Assistance and Real Property Acquisi-*
24 *tion Policies Act of 1970 (42 U.S.C. 4601 et*
25 *seq.);*

1 (B) *the efficiency of the delivery of Federal-*
2 *aid highway projects and overall effects on the*
3 *Federal-aid highway program; and*

4 (C) *the achievement of the purposes of the*
5 *Uniform Relocation Assistance and Real Prop-*
6 *erty Acquisition Policies Act of 1970 (42 U.S.C.*
7 *4601 et seq.).*

8 (d) *LIMITATION.—The authority of this section may*
9 *be used only on projects funded under title 23, United*
10 *States Code, in cases in which the funds are administered*
11 *by the Federal Highway Administration.*

12 (e) *AUTHORITY.—The authority of the Secretary to ap-*
13 *prove an alternate relocation payment demonstration pro-*
14 *gram for a State terminates on the date that is 3 years*
15 *after the date of enactment of this Act*

16 **SEC. 1316. REVIEW OF FEDERAL PROJECT AND PROGRAM**
17 **DELIVERY.**

18 (a) *COMPLETION TIME ASSESSMENTS AND RE-*
19 *PORTS.—*

20 (1) *IN GENERAL.—For projects funded under*
21 *title 23, United States Code, the Secretary shall com-*
22 *pare—*

23 (A)(i) *the completion times of categorical*
24 *exclusions, environmental assessments, and envi-*

1 *ronmental impact statements initiated after cal-*
2 *endar year 2005; to*

3 *(ii) the completion times of categorical ex-*
4 *clusions, environmental assessments, and envi-*
5 *ronmental impact statements initiated during a*
6 *period prior to calendar year 2005; and*

7 *(B)(i) the completion times of categorical*
8 *exclusions, environmental assessments, and envi-*
9 *ronmental impact statements initiated during*
10 *the period beginning on January 1, 2005, and*
11 *ending on the date of enactment of this Act; to*

12 *(ii) the completion times of categorical ex-*
13 *clusions, environmental assessments, and envi-*
14 *ronmental impact statements initiated after the*
15 *date of enactment of this Act.*

16 *(2) REPORT.—The Secretary shall submit to the*
17 *Committee on Transportation and Infrastructure of*
18 *the House of Representatives and the Committee on*
19 *Environment and Public Works of the Senate a re-*
20 *port—*

21 *(A) not later than 1 year after the date of*
22 *enactment of this Act that—*

23 *(i) describes the results of the review*
24 *conducted under paragraph (1)(A); and*

1 (ii) identifies any change in the timing
2 for completions, including the reasons for
3 any such change and the reasons for delays
4 in excess of 5 years; and

5 (B) not later than 5 years after the date of
6 enactment of this Act that—

7 (i) describes the results of the review
8 conducted under paragraph (1)(B); and

9 (ii) identifies any change in the timing
10 for completions, including the reasons for
11 any such change and the reasons for delays
12 in excess of 5 years.

13 (b) *ADDITIONAL REPORT.*—Not later than 2 years
14 after the date of enactment of this Act, the Secretary shall
15 submit to the Committee on Transportation and Infrastruc-
16 ture of the House of Representatives and the Committee on
17 Environment and Public Works of the Senate a report on
18 the types and justification for the additional categorical ex-
19 clusions granted under the authority provided under sec-
20 tions 1309 and 1310.

21 (c) *GAO REPORT.*—The Comptroller General of the
22 United States shall—

23 (1) assess the reforms carried out under sections
24 1301 through 1315 (including the amendments made
25 by those sections); and

1 (2) *not later than 5 years after the date of enact-*
2 *ment of this Act, submit to the Committee on Trans-*
3 *portation and Infrastructure of the House of Rep-*
4 *resentatives and the Committee on Environment and*
5 *Public Works of the Senate a report that describes the*
6 *results of the assessment.*

7 (d) *INSPECTOR GENERAL REPORT.—The Inspector*
8 *General of the Department of Transportation shall—*

9 (1) *assess the reforms carried out under sections*
10 *1301 through 1315 (including the amendments made*
11 *by those sections); and*

12 (2) *submit to the Committee on Transportation*
13 *and Infrastructure of the House of Representatives*
14 *and the Committee on Environment and Public*
15 *Works of the Senate—*

16 (A) *not later than 2 years after the date of*
17 *enactment of this Act, an initial report of the*
18 *findings of the Inspector General; and*

19 (B) *not later than 4 years after the date of*
20 *enactment of this Act, a final report of the find-*
21 *ings.*

22 ***Subtitle D—Highway Safety***

23 ***SEC. 1401. JASON'S LAW.***

24 (a) *IN GENERAL.—It is the sense of Congress that it*
25 *is a national priority to address projects under this section*

1 *for the shortage of long-term parking for commercial motor*
2 *vehicles on the National Highway System to improve the*
3 *safety of motorized and nonmotorized users and for com-*
4 *mercial motor vehicle operators.*

5 (b) *ELIGIBLE PROJECTS.—Eligible projects under this*
6 *section are those that—*

7 (1) *serve the National Highway System; and*

8 (2) *may include the following:*

9 (A) *Constructing safety rest areas (as de-*
10 *fined in section 120(c) of title 23, United States*
11 *Code) that include parking for commercial motor*
12 *vehicles.*

13 (B) *Constructing commercial motor vehicle*
14 *parking facilities adjacent to commercial truck*
15 *stops and travel plazas.*

16 (C) *Opening existing facilities to commer-*
17 *cial motor vehicle parking, including inspection*
18 *and weigh stations and park-and-ride facilities.*

19 (D) *Promoting the availability of publicly*
20 *or privately provided commercial motor vehicle*
21 *parking on the National Highway System using*
22 *intelligent transportation systems and other*
23 *means.*

1 (E) *Constructing turnouts along the Na-*
2 *tional Highway System for commercial motor*
3 *vehicles.*

4 (F) *Making capital improvements to public*
5 *commercial motor vehicle parking facilities cur-*
6 *rently closed on a seasonal basis to allow the fa-*
7 *ilities to remain open year-round.*

8 (G) *Improving the geometric design of*
9 *interchanges on the National Highway System to*
10 *improve access to commercial motor vehicle*
11 *parking facilities.*

12 (c) *SURVEY AND COMPARATIVE ASSESSMENT.—*

13 (1) *IN GENERAL.—The Secretary, in consultation*
14 *with relevant State motor carrier safety personnel,*
15 *shall conduct a survey regarding the availability of*
16 *parking facilities within each State—*

17 (A) *to evaluate the capability of the State*
18 *to provide adequate parking and rest facilities*
19 *for motor carriers engaged in interstate motor*
20 *carrier service;*

21 (B) *to assess the volume of motor carrier*
22 *traffic through the State; and*

23 (C) *to develop a system of metrics to meas-*
24 *ure the adequacy of parking facilities in the*
25 *State.*

1 (2) *RESULTS.*—*The results of the survey under*
2 *paragraph (1) shall be made available to the public*
3 *on the website of the Department of Transportation.*

4 (3) *PERIODIC UPDATES.*—*The Secretary shall*
5 *periodically update the survey under this subsection.*

6 (d) *TREATMENT OF PROJECTS.*—*Notwithstanding any*
7 *other provision of law, projects funded through the author-*
8 *ity provided under this section shall be treated as projects*
9 *on a Federal-aid highway under chapter 1 of title 23,*
10 *United States Code.*

11 **SEC. 1402. OPEN CONTAINER REQUIREMENTS.**

12 *Section 154(c) of title 23, United States Code, is*
13 *amended—*

14 (1) *by striking paragraph (2) and inserting the*
15 *following:*

16 “(2) *FISCAL YEAR 2012 AND THEREAFTER.*—

17 “(A) *RESERVATION OF FUNDS.*—*On October*
18 *1, 2011, and each October 1 thereafter, if a State*
19 *has not enacted or is not enforcing an open con-*
20 *tainer law described in subsection (b), the Sec-*
21 *retary shall reserve an amount equal to 2.5 per-*
22 *cent of the funds to be apportioned to the State*
23 *on that date under each of paragraphs (1) and*
24 *(2) of section 104(b) until the State certifies to*
25 *the Secretary the means by which the State will*

1 *use those reserved funds in accordance with sub-*
2 *paragraphs (A) and (B) of paragraph (1) and*
3 *paragraph (3).*

4 “(B) *TRANSFER OF FUNDS.*—*As soon as*
5 *practicable after the date of receipt of a certifi-*
6 *cation from a State under subparagraph (A), the*
7 *Secretary shall—*

8 “(i) *transfer the reserved funds identi-*
9 *fied by the State for use as described in sub-*
10 *paragraphs (A) and (B) of paragraph (1) to*
11 *the apportionment of the State under sec-*
12 *tion 402; and*

13 “(ii) *release the reserved funds identi-*
14 *fied by the State as described in paragraph*
15 *(3).”;*

16 (2) *by striking paragraph (3) and inserting the*
17 *following:*

18 “(3) *USE FOR HIGHWAY SAFETY IMPROVEMENT*
19 *PROGRAM.*—

20 “(A) *IN GENERAL.*—*A State may elect to*
21 *use all or a portion of the funds transferred*
22 *under paragraph (2) for activities eligible under*
23 *section 148.*

24 “(B) *STATE DEPARTMENTS OF TRANSPOR-*
25 *TATION.*—*If the State makes an election under*

1 subparagraph (A), the funds shall be transferred
 2 to the department of transportation of the State,
 3 which shall be responsible for the administration
 4 of the funds.”; and

5 (3) by striking paragraph (5) and inserting the
 6 following:

7 “(5) *DERIVATION OF AMOUNT TO BE TRANS-*
 8 *FERRED.—The amount to be transferred under para-*
 9 *graph (2) may be derived from the following:*

10 “(A) *The apportionment of the State under*
 11 *section 104(b)(1).*

12 “(B) *The apportionment of the State under*
 13 *section 104(b)(2).”.*

14 **SEC. 1403. MINIMUM PENALTIES FOR REPEAT OFFENDERS**
 15 **FOR DRIVING WHILE INTOXICATED OR DRIV-**
 16 **ING UNDER THE INFLUENCE.**

17 (a) *DEFINITIONS.—Section 164(a) of title 23, United*
 18 *States Code, is amended—*

19 (1) *by striking paragraph (3);*

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

22 (3) *in paragraph (4) (as so redesignated) by*
 23 *striking subparagraph (A) and inserting the fol-*
 24 *lowing:*

25 “(A) *receive—*

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

3 “(ii) a suspension of unlimited driving
4 privileges for 1 year, allowing for the rein-
5 statement of limited driving privileges sub-
6 ject to restrictions and limited exemptions
7 as established by State law, if an ignition
8 interlock device is installed for not less than
9 1 year on each of the motor vehicles owned
10 or operated, or both, by the individual;”.

11 (b) *TRANSFER OF FUNDS.*—Section 164(b) of title 23,
12 *United States Code*, is amended—

13 (1) by striking paragraph (2) and inserting the
14 following:

15 “(2) *FISCAL YEAR 2012 AND THEREAFTER.*—

16 “(A) *RESERVATION OF FUNDS.*—On October
17 1, 2011, and each October 1 thereafter, if a State
18 has not enacted or is not enforcing a repeat in-
19 toxicated driver law, the Secretary shall reserve
20 an amount equal to 2.5 percent of the funds to
21 be apportioned to the State on that date under
22 each of paragraphs (1) and (2) of section 104(b)
23 until the State certifies to the Secretary the
24 means by which the States will use those reserved
25 funds among the uses authorized under subpara-

1 *graphs (A) and (B) of paragraph (1), and para-*
2 *graph (3).*

3 “(B) *TRANSFER OF FUNDS.*—*As soon as*
4 *practicable after the date of receipt of a certifi-*
5 *cation from a State under subparagraph (A), the*
6 *Secretary shall—*

7 “(i) *transfer the reserved funds identi-*
8 *fied by the State for use as described in sub-*
9 *paragraphs (A) and (B) of paragraph (1) to*
10 *the apportionment of the State under sec-*
11 *tion 402; and*

12 “(ii) *release the reserved funds identi-*
13 *fied by the State as described in paragraph*
14 *(3).”;*

15 (2) *by striking paragraph (3) and inserting the*
16 *following:*

17 “(3) *USE FOR HIGHWAY SAFETY IMPROVEMENT*
18 *PROGRAM.*—

19 “(A) *IN GENERAL.*—*A State may elect to*
20 *use all or a portion of the funds transferred*
21 *under paragraph (2) for activities eligible under*
22 *section 148.*

23 “(B) *STATE DEPARTMENTS OF TRANSPOR-*
24 *TATION.*—*If the State makes an election under*
25 *subparagraph (A), the funds shall be transferred*

1 to the department of transportation of the State,
2 which shall be responsible for the administration
3 of the funds.”; and

4 (3) by striking paragraph (5) and inserting the
5 following:

6 “(5) *DERIVATION OF AMOUNT TO BE TRANS-*
7 *FERRED.—The amount to be transferred under para-*
8 *graph (2) may be derived from the following:*

9 “(A) *The apportionment of the State under*
10 *section 104(b)(1).*

11 “(B) *The apportionment of the State under*
12 *section 104(b)(2).”.*

13 **SEC. 1404. ADJUSTMENTS TO PENALTY PROVISIONS.**

14 (a) *VEHICLE WEIGHT LIMITATIONS.—Section*
15 *127(a)(1) of title 23, United States Code, is amended by*
16 *striking “No funds shall be apportioned in any fiscal year*
17 *under section 104(b)(1) of this title to any State which”*
18 *and inserting “The Secretary shall withhold 50 percent of*
19 *the apportionment of a State under section 104(b)(1) in*
20 *any fiscal year in which the State”.*

21 (b) *CONTROL OF JUNKYARDS.—Section 136 of title 23,*
22 *United States Code, is amended—*

23 (1) *in subsection (b), in the first sentence—*

24 (A) *by striking “10 per centum” and insert-*
25 *ing “7 percent”; and*

1 (B) by striking “section 104 of this title”
2 and inserting “paragraphs (1) through (5) of
3 section 104(b)”; and

4 (2) by adding at the end the following:

5 “(n) For purposes of this section, the terms ‘primary
6 system’ and ‘Federal-aid primary system’ mean any high-
7 way that is on the National Highway System, which in-
8 cludes the Interstate Highway System.”.

9 (c) *ENFORCEMENT OF VEHICLE SIZE AND WEIGHT*
10 *LAWS.*—Section 141(b)(2) of title 23, United States Code,
11 is amended—

12 (1) by striking “10 per centum” and inserting
13 “7 percent”; and

14 (2) by striking “section 104 of this title” and in-
15 serting “paragraphs (1) through (5) of section
16 104(b)”.

17 (d) *PROOF OF PAYMENT OF THE HEAVY VEHICLE USE*
18 *TAX.*—Section 141(c) of title 23, United States Code, is
19 amended—

20 (1) by striking “section 104(b)(4)” each place it
21 appears and inserting “section 104(b)(1)”; and

22 (2) in the first sentence by striking “25 per cen-
23 tum” and inserting “ 8 percent”.

24 (e) *USE OF SAFETY BELTS.*—Section 153(h) of title
25 23, United States Code, is amended—

- 1 (1) *by striking paragraph (1);*
 2 (2) *by redesignating paragraph (2) as para-*
 3 *graph (1);*
 4 (3) *in paragraph (1) (as so redesignated)—*
 5 *(A) by striking the paragraph heading and*
 6 *inserting “PRIOR TO FISCAL YEAR 2012”; and*
 7 *(B) by inserting “and before October 1,*
 8 *2011,” after “September 30, 1994,”; and*
 9 (4) *by inserting after paragraph (1) (as so red-*
 10 *ignated) the following:*

11 “(2) *FISCAL YEAR 2012 AND THEREAFTER.—If,*
 12 *at any time in a fiscal year beginning after Sep-*
 13 *tember 30, 2011, a State does not have in effect a law*
 14 *described in subsection (a)(2), the Secretary shall*
 15 *transfer an amount equal to 2 percent of the funds*
 16 *apportioned to the State for the succeeding fiscal year*
 17 *under each of paragraphs (1) through (3) of section*
 18 *104(b) to the apportionment of the State under sec-*
 19 *tion 402.”.*

20 (f) *NATIONAL MINIMUM DRINKING AGE.—Section*
 21 *158(a)(1) of title 23, United States Code, is amended—*

22 *(1) by striking “The Secretary” and inserting*
 23 *the following:*

24 *“(A) FISCAL YEARS BEFORE 2012.—The Sec-*
 25 *retary”; and*

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

2 “(B) *FISCAL YEAR 2012 AND THERE-*
3 *AFTER.—For fiscal year 2012 and each fiscal*
4 *year thereafter, the amount to be withheld under*
5 *this section shall be an amount equal to 8 per-*
6 *cent of the amount apportioned to the non-*
7 *compliant State, as described in subparagraph*
8 *(A), under paragraphs (1) and (2) of section*
9 *104(b).”.*

10 (g) *DRUG OFFENDERS.—Section 159 of title 23,*
11 *United States Code, is amended—*

12 (1) *in subsection (a)—*

13 (A) *by striking paragraph (1);*

14 (B) *by redesignating paragraph (2) as*
15 *paragraph (1);*

16 (C) *in paragraph (1) (as so redesignated)*
17 *by striking “(including any amounts withheld*
18 *under paragraph (1))”;* and

19 (D) *by inserting after paragraph (1) (as so*
20 *redesignated) the following:*

21 “(2) *FISCAL YEAR 2012 AND THEREAFTER.—The*
22 *Secretary shall withhold an amount equal to 8 per-*
23 *cent of the amount required to be apportioned to any*
24 *State under each of paragraphs (1) and (2) of section*
25 *104(b) on the first day of each fiscal year beginning*

1 *after September 30, 2011, if the State fails to meet the*
2 *requirements of paragraph (3) on the first day of the*
3 *fiscal year.”; and*

4 *(2) by striking subsection (b) and inserting the*
5 *following:*

6 *“(b) EFFECT OF NONCOMPLIANCE.—No funds withheld*
7 *under this section from apportionments to any State shall*
8 *be available for apportionment to that State.”.*

9 *(h) ZERO TOLERANCE BLOOD ALCOHOL CONCENTRA-*
10 *TION FOR MINORS.—Section 161(a) of title 23, United*
11 *States Code, is amended—*

12 *(1) by striking paragraph (1);*

13 *(2) by redesignating paragraph (2) as para-*
14 *graph (1);*

15 *(3) in paragraph (1) (as so redesignated)—*

16 *(A) by striking the paragraph heading and*
17 *inserting “PRIOR TO FISCAL YEAR 2012”; and*

18 *(B) by inserting “through fiscal year 2011”*
19 *after “each fiscal year thereafter”; and*

20 *(4) by inserting after paragraph (1) (as so red-*
21 *esignated) the following:*

22 *“(2) FISCAL YEAR 2012 AND THEREAFTER.—The*
23 *Secretary shall withhold an amount equal to 8 per-*
24 *cent of the amount required to be apportioned to any*
25 *State under each of paragraphs (1) and (2) of section*

1 104(b) on October 1, 2011, and on October 1 of each
2 fiscal year thereafter, if the State does not meet the
3 requirement of paragraph (3) on that date.”.

4 (i) *OPERATION OF MOTOR VEHICLES BY INTOXICATED*
5 *PERSONS*.—Section 163(e) of title 23, United States Code,
6 is amended by striking paragraphs (1) and (2) and insert-
7 ing the following:

8 “(1) *FISCAL YEARS 2007 THROUGH 2011*.—On Oc-
9 tober 1, 2006, and October 1 of each fiscal year there-
10 after through fiscal year 2011, if a State has not en-
11 acted or is not enforcing a law described in subsection
12 (a), the Secretary shall withhold an amount equal to
13 8 percent of the amounts to be apportioned to the
14 State on that date under each of paragraphs (1), (3),
15 and (4) of section 104(b).

16 “(2) *FISCAL YEAR 2012 AND THEREAFTER*.—On
17 October 1, 2011, and October 1 of each fiscal year
18 thereafter, if a State has not enacted or is not enforce-
19 ing a law described in subsection (a), the Secretary
20 shall withhold an amount equal to 6 percent of the
21 amounts to be apportioned to the State on that date
22 under each of paragraphs (1) and (2) of section
23 104(b).”.

24 (j) *COMMERCIAL DRIVER’S LICENSE*.—Section 31314
25 of title 49, United States Code, is amended—

1 (1) by redesignating subsection (c) as subsection
2 (d); and

3 (2) by inserting after subsection (b) the fol-
4 lowing:

5 “(c) *PENALTIES IMPOSED IN FISCAL YEAR 2012 AND*
6 *THEREAFTER.—Effective beginning on October 1, 2011—*

7 “*(1) the penalty for the first instance of non-*
8 *compliance by a State under this section shall be not*
9 *more than an amount equal to 4 percent of funds re-*
10 *quired to be apportioned to the noncompliant State*
11 *under paragraphs (1) and (2) of section 104(b) of*
12 *title 23; and*

13 “*(2) the penalty for subsequent instances of non-*
14 *compliance shall be not more than an amount equal*
15 *to 8 percent of funds required to be apportioned to the*
16 *noncompliant State under paragraphs (1) and (2) of*
17 *section 104(b) of title 23.”.*

18 **SEC. 1405. HIGHWAY WORKER SAFETY.**

19 *Not later than 60 days after the date of enactment of*
20 *this Act, the Secretary shall modify section 630.1108(a) of*
21 *title 23, Code of Federal Regulations (as in effect on the*
22 *date of enactment of this Act), to ensure that—*

23 (1) *at a minimum, positive protective measures*
24 *are used to separate workers on highway construction*
25 *projects from motorized traffic in all work zones con-*

1 *ducted under traffic in areas that offer workers no*
2 *means of escape (such as tunnels and bridges), unless*
3 *an engineering study determines otherwise;*

4 *(2) temporary longitudinal traffic barriers are*
5 *used to protect workers on highway construction*
6 *projects in long-duration stationary work zones when*
7 *the project design speed is anticipated to be high and*
8 *the nature of the work requires workers to be within*
9 *1 lane-width from the edge of a live travel lane, un-*
10 *less—*

11 *(A) an analysis by the project sponsor de-*
12 *termines otherwise; or*

13 *(B) the project is outside of an urbanized*
14 *area and the annual average daily traffic load*
15 *of the applicable road is less than 100 vehicles*
16 *per hour; and*

17 *(3) when positive protective devices are necessary*
18 *for highway construction projects, those devices are*
19 *paid for on a unit-pay basis, unless doing so would*
20 *create a conflict with innovative contracting ap-*
21 *proaches, such as design-build or some performance-*
22 *based contracts under which the contractor is paid to*
23 *assume a certain risk allocation and payment is gen-*
24 *erally made on a lump-sum basis.*

1 ***Subtitle E—Miscellaneous***

2 **SEC. 1501. PROGRAM EFFICIENCIES.**

3 *The first sentence of section 102(b) of title 23, United*
 4 *States Code, is amended by striking “made available for*
 5 *such engineering” and inserting “reimbursed for the pre-*
 6 *liminary engineering”.*

7 **SEC. 1502. PROJECT APPROVAL AND OVERSIGHT.**

8 *Section 106 of title 23, United States Code, is amend-*
 9 *ed—*

10 (1) *in subsection (a)(2) by inserting “recipient”*
 11 *before “formalizing”;*

12 (2) *in subsection (c)—*

13 (A) *in paragraph (1)—*

14 (i) *in the heading, by striking “NON-*
 15 *INTERSTATE”;* and

16 (ii) *by striking “but not on the Inter-*
 17 *state System”;* and

18 (B) *by striking paragraph (4) and inserting*
 19 *the following:*

20 “(4) *LIMITATION ON INTERSTATE PROJECTS.—*

21 “(A) *IN GENERAL.—The Secretary shall not*
 22 *assign any responsibilities to a State for projects*
 23 *the Secretary determines to be in a high risk cat-*
 24 *egory, as defined under subparagraph (B).*

1 “(B) *HIGH RISK CATEGORIES.*—*The Sec-*
2 *retary may define the high risk categories under*
3 *this subparagraph on a national basis, a State-*
4 *by-State basis, or a national and State-by-State*
5 *basis, as determined to be appropriate by the*
6 *Secretary.”;*

7 (3) *in subsection (e)*—

8 (A) *in paragraph (1)*—

9 (i) *in subparagraph (A)*—

10 (I) *in the matter preceding clause*

11 (i)—

12 (aa) *by striking “concept”*

13 *and inserting “planning”; and*

14 (bb) *by striking “multidis-*
15 *ciplined” and inserting “multi-*
16 *disciplinary”; and*

17 (II) *by striking clause (i) and in-*
18 *serting the following:*

19 “(i) *providing the needed functions*
20 *and achieving the established commitments*
21 *(including environmental, community, and*
22 *agency commitments) safely, reliably, and*
23 *at the lowest overall lifecycle cost;”; and*

24 (ii) *in subparagraph (B) by striking*
25 *clause (ii) and inserting the following:*

1 “(ii) refining or redesigning, as appro-
2 priate, the project using different tech-
3 nologies, materials, or methods so as to ac-
4 complish the purpose, functions, and estab-
5 lished commitments (including environ-
6 mental, community, and agency commit-
7 ments) of the project.”;

8 (B) in paragraph (2)—

9 (i) in the matter preceding subpara-
10 graph (A) by striking “or other cost-reduc-
11 tion analysis”;

12 (ii) in subparagraph (A) by striking
13 “Federal-aid system” and inserting “Na-
14 tional Highway System receiving Federal
15 assistance”; and

16 (iii) in subparagraph (B) by inserting
17 “on the National Highway System receiving
18 Federal assistance” after “a bridge project”;
19 and

20 (C) by striking paragraph (4) and inserting
21 the following:

22 “(4) REQUIREMENTS.—

23 “(A) VALUE ENGINEERING PROGRAM.—The
24 State shall develop and carry out a value engi-
25 neering program that—

1 “(i) establishes and documents value
2 engineering program policies and proce-
3 dures;

4 “(ii) ensures that the required value
5 engineering analysis is conducted before
6 completing the final design of a project;

7 “(iii) ensures that the value engineer-
8 ing analysis that is conducted, and the rec-
9 ommendations developed and implemented
10 for each project, are documented in a final
11 value engineering report; and

12 “(iv) monitors, evaluates, and annu-
13 ally submits to the Secretary a report that
14 describes the results of the value analyses
15 that are conducted and the recommenda-
16 tions implemented for each of the projects
17 described in paragraph (2) that are com-
18 pleted in the State.

19 “(B) BRIDGE PROJECTS.—The value engi-
20 neering analysis for a bridge project under para-
21 graph (2) shall—

22 “(i) include bridge superstructure and
23 substructure requirements based on con-
24 struction material; and

25 “(ii) be evaluated by the State—

1 “(I) on engineering and economic
2 bases, taking into consideration accept-
3 able designs for bridges; and

4 “(II) using an analysis of lifecycle
5 costs and duration of project construc-
6 tion.”;

7 (4) in subsection (g)(4) by adding at the end the
8 following:

9 “(C) FUNDING.—

10 “(i) IN GENERAL.—Subject to project
11 approval by the Secretary, a State may ob-
12 ligate funds apportioned to the State under
13 section 104(b)(2) for carrying out the re-
14 sponsibilities of the State under subpara-
15 graph (A).

16 “(ii) ELIGIBLE ACTIVITIES.—Activities
17 eligible for assistance under this subpara-
18 graph include—

19 “(I) State administration of sub-
20 grants; and

21 “(II) State oversight of subrecipi-
22 ents.

23 “(iii) ANNUAL WORK PLAN.—To re-
24 ceive the funding flexibility made available
25 under this subparagraph, the State shall

1 *submit to the Secretary an annual work*
2 *plan identifying activities to be carried out*
3 *under this subparagraph during the appli-*
4 *cable year.*

5 “(iv) *FEDERAL SHARE.—The Federal*
6 *share of the cost of activities carried out*
7 *under this subparagraph shall be 100 per-*
8 *cent.*”; and

9 (5) *in subsection (h)—*

10 (A) *in paragraph (1)(B) by inserting “, in-*
11 *cluding a phasing plan when applicable” after*
12 *“financial plan”; and*

13 (B) *by striking paragraph (3) and inserting*
14 *the following:*

15 “(3) *FINANCIAL PLAN.—A financial plan—*

16 “(A) *shall be based on detailed estimates of*
17 *the cost to complete the project;*

18 “(B) *shall provide for the annual submis-*
19 *sion of updates to the Secretary that are based*
20 *on reasonable assumptions, as determined by the*
21 *Secretary, of future increases in the cost to com-*
22 *plete the project; and*

23 “(C) *may include a phasing plan that iden-*
24 *tifies fundable incremental improvements or*
25 *phases that will address the purpose and the*

1 *need of the project in the short term in the event*
2 *there are insufficient financial resources to com-*
3 *plete the entire project. If a phasing plan is*
4 *adopted for a project pursuant to this section,*
5 *the project shall be deemed to satisfy the fiscal*
6 *constraint requirements in the statewide and*
7 *metropolitan planning requirements in sections*
8 *134 and 135.”.*

9 **SEC. 1503. STANDARDS.**

10 *(a) PRACTICAL DESIGN.—Section 109 of title 23,*
11 *United States Code, is amended—*

12 *(1) in subsection (a)—*

13 *(A) in paragraph (1) by striking “and” at*
14 *the end;*

15 *(B) in paragraph (2) by striking the period*
16 *at the end and inserting “; and”; and*

17 *(C) by adding at the end the following:*

18 *“(3) utilize, when appropriate, practical design*
19 *solutions, as defined in this section, to ensure that*
20 *transportation needs are met and that funds available*
21 *for transportation projects are used efficiently.”;*

22 *(2) in subsection (c)—*

23 *(A) in paragraph (1), in the matter pre-*
24 *ceding subparagraph (A)—*

1 (i) by striking “, reconstruction, resur-
2 facing (except for maintenance resurfacing),
3 restoration, or rehabilitation” and inserting
4 “or reconstruction”; and

5 (ii) by striking “may take into ac-
6 count” and inserting “shall consider”;

7 (B) in paragraph (2)—

8 (i) in the first sentence of the matter
9 preceding subparagraph (A) by striking
10 “may” and inserting “shall”;

11 (ii) in subparagraph (C) by striking
12 “and” at the end;

13 (iii) by redesignating subparagraph
14 (D) as subparagraph (F); and

15 (iv) by inserting after subparagraph
16 (C) the following:

17 “(D) the publication entitled ‘Highway
18 Safety Manual’ of the American Association of
19 State Highway and Transportation Officials;

20 “(E) the publication entitled ‘A Guide for
21 Achieving Flexibility in Highway Design, 1st
22 Edition’, published by the American Association
23 of State Highway and Transportation Officials;
24 and”;

1 (3) in subsection (f) by inserting “pedestrian
2 walkways,” after “bikeways,”;

3 (4) in subsection (m) by inserting “, safe, and
4 continuous” after “for a reasonable”;

5 (5) in subsection (q) by striking “consistent with
6 the operative safety management system established in
7 accordance with section 303 or in accordance with”
8 inserting “that is in accordance with a State’s stra-
9 tegic highway safety plan and included on”; and

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

11 “(r) *DEFINITION.*—In this section, the term ‘practical
12 design solution’ means a collaborative interdisciplinary ap-
13 proach that results in a transportation project that fits its
14 physical setting, preserves safety, and balances costs with
15 the necessary scope and project delivery needs of the project,
16 as well as with scenic, aesthetic, historic, and environ-
17 mental resources.”.

18 (b) *ADDITIONAL STANDARDS.*—Section 109 of title 23,
19 United States Code (as amended by subsection (a)(6)), is
20 amended by adding at the end the following:

21 “(s) *PAVEMENT MARKINGS.*—The Secretary shall not
22 approve any pavement markings project that includes the
23 use of glass beads containing more than 200 parts per mil-
24 lion of arsenic or lead, as determined in accordance with

1 *Environmental Protection Agency testing methods 3052,*
2 *6010B, or 6010C.”.*

3 **SEC. 1504. CONSTRUCTION.**

4 *Section 114 of title 23, United States Code, is amend-*
5 *ed—*

6 *(1) in subsection (b)—*

7 *(A) by striking paragraph (1) and inserting*
8 *the following:*

9 *“(1) LIMITATION ON CONVICT LABOR.—Convict*
10 *labor shall not be used in construction of Federal-aid*
11 *highways or portions of Federal-aid highways unless*
12 *the labor is performed by convicts who are on parole,*
13 *supervised release, or probation.”; and*

14 *(B) in paragraph (3) by inserting “in exist-*
15 *ence during that period” after “located on a Fed-*
16 *eral-aid system”; and*

17 *(2) in subsection (c)—*

18 *(A) by striking paragraph (1) and inserting*
19 *the following:*

20 *“(1) IN GENERAL.—The Secretary shall ensure*
21 *that a worker who is employed on a remote project for*
22 *the construction of a Federal-aid highway or portion*
23 *of a Federal-aid highway in the State of Alaska and*
24 *who is not a domiciled resident of the locality shall*
25 *receive meals and lodging.”; and*

1 (B) in paragraph (3)(C) by striking “high-
2 way or portion of a highway located on a Fed-
3 eral-aid system” and inserting “Federal-aid
4 highway or portion of a Federal-aid highway”.

5 **SEC. 1505. MAINTENANCE.**

6 Section 116 of title 23, United States Code, is amend-
7 ed—

8 (1) in subsection (a)—

9 (A) in the first sentence, by inserting “or
10 other direct recipient” before “to maintain”; and

11 (B) by striking the second sentence;

12 (2) by striking subsection (b) and inserting the
13 following:

14 “(b) AGREEMENT.—In any State in which the State
15 transportation department or other direct recipient is with-
16 out legal authority to maintain a project described in sub-
17 section (a), the transportation department or direct recipi-
18 ent shall enter into a formal agreement with the appro-
19 priate officials of the county or municipality in which the
20 project is located providing for the maintenance of the
21 project.”; and

22 (3) in the first sentence of subsection (c) by in-
23 serting “or other direct recipient” after “State trans-
24 portation department”.

1 **SEC. 1506. FEDERAL SHARE PAYABLE.**

2 *Section 120 of title 23, United States Code, is amend-*
3 *ed—*

4 *(1) in the first sentence of subsection (c)(1)—*

5 *(A) by inserting “maintaining minimum*
6 *levels of retroreflectivity of highway signs or*
7 *pavement markings,” after “traffic control sig-*
8 *nalization,”;*

9 *(B) by inserting “shoulder and centerline*
10 *rumble strips and stripes,” after “pavement*
11 *marking,”; and*

12 *(C) by striking “Federal-aid systems” and*
13 *inserting “Federal-aid programs”;*

14 *(2) by striking subsection (e) and inserting the*
15 *following:*

16 *“(e) EMERGENCY RELIEF.—The Federal share payable*
17 *for any repair or reconstruction provided for by funds made*
18 *available under section 125 for any project on a Federal-*
19 *aid highway, including the Interstate System, shall not ex-*
20 *ceed the Federal share payable on a project on the system*
21 *as provided in subsections (a) and (b), except that—*

22 *“(1) the Federal share payable for eligible emer-*
23 *gency repairs to minimize damage, protect facilities,*
24 *or restore essential traffic accomplished within 180*
25 *days after the actual occurrence of the natural dis-*

1 *aster or catastrophic failure may amount to 100 per-*
2 *cent of the cost of the repairs;*

3 *“(2) the Federal share payable for any repair or*
4 *reconstruction of Federal land transportation facili-*
5 *ties, Federal land access transportation facilities, and*
6 *tribal transportation facilities may amount to 100*
7 *percent of the cost of the repair or reconstruction;*

8 *“(3) the Secretary shall extend the time period*
9 *in paragraph (1) taking into consideration any delay*
10 *in the ability of the State to access damaged facilities*
11 *to evaluate damage and the cost of repair; and*

12 *“(4) the Federal share payable for eligible per-*
13 *manent repairs to restore damaged facilities to*
14 *pre-disaster condition may amount to 100 percent of*
15 *the cost of the repairs if the eligible expenses incurred*
16 *by the State due to natural disasters or catastrophic*
17 *failures in a Federal fiscal year exceeds the annual*
18 *apportionment of the State under section 104 for the*
19 *fiscal year in which the disasters or failures oc-*
20 *curred.”;*

21 *(3) by striking subsection (g) and redesignating*
22 *subsections (h) through (l) as subsections (g) through*
23 *(k), respectively;*

24 *(4) in subsection (i)(1)(A) (as redesignated by*
25 *paragraph (3)) by striking “and the Appalachian de-*

1 *velopment highway system program under section*
2 *14501 of title 40”; and*

3 *(5) by striking subsections (j) and (k) (as redes-*
4 *ignated by paragraph (3)) and inserting the fol-*
5 *lowing:*

6 *“(j) USE OF FEDERAL AGENCY FUNDS.—Notwith-*
7 *standing any other provision of law, any Federal funds*
8 *other than those made available under this title and title*
9 *49, United States Code, may be used to pay the non-Federal*
10 *share of the cost of any transportation project that is with-*
11 *in, adjacent to, or provides access to Federal land, the Fed-*
12 *eral share of which is funded under this title or chapter*
13 *53 of title 49.*

14 *“(k) USE OF FEDERAL LAND AND TRIBAL TRANSPOR-*
15 *TATION FUNDS.—Notwithstanding any other provision of*
16 *law, the funds authorized to be appropriated to carry out*
17 *the tribal transportation program under section 202 and*
18 *the Federal lands transportation program under section*
19 *203 may be used to pay the non-Federal share of the cost*
20 *of any project that is funded under this title or chapter*
21 *53 of title 49 and that provides access to or within Federal*
22 *or tribal land.”.*

1 **SEC. 1507. TRANSFERABILITY OF FEDERAL-AID HIGHWAY**
2 **FUNDS.**

3 (a) *IN GENERAL.*—Section 126 of title 23, United
4 States Code, is amended to read as follows:

5 **“§ 126. Transferability of Federal-aid highway funds**

6 “(a) *IN GENERAL.*—Notwithstanding any other provi-
7 sion of law, subject to subsection (b), a State may transfer
8 from an apportionment under section 104(b) not to exceed
9 20 percent of the amount apportioned for the fiscal year
10 to any other apportionment of the State under that section.

11 “(b) *APPLICATION TO CERTAIN SET-ASIDES.*—Funds
12 that are subject to sections 104(d) and 133(d) shall not be
13 transferred under this section. The maximum amount that
14 a State may transfer under this section of the State’s set-
15 aside under section 149(l) for a fiscal year may not exceed
16 25 percent of (1) the amount of such set-aside, less (2) the
17 amount of the State’s set-aside under section 133(d)(2), as
18 in effect on the day before the date of enactment of the
19 MAP–21, for fiscal year 1997.”.

20 (b) *CONFORMING AMENDMENT.*—The analysis for
21 chapter 1 of title 23, United States Code, is amended by
22 striking the item relating to section 126 and inserting the
23 following:

“126. Transferability of Federal-aid highway funds.”.

1 **SEC. 1508. SPECIAL PERMITS DURING PERIODS OF NA-**
2 **TIONAL EMERGENCY.**

3 *Section 127 of title 23, United States Code, is amended*
4 *by inserting at the end the following:*

5 “(i) *SPECIAL PERMITS DURING PERIODS OF NA-*
6 *TIONAL EMERGENCY.—*

7 “(1) *IN GENERAL.—Notwithstanding any other*
8 *provision of this section, a State may issue special*
9 *permits during an emergency to overweight vehicles*
10 *and loads that can easily be dismantled or divided*
11 *if—*

12 “(A) *the President has declared the emer-*
13 *gency to be a major disaster under the Robert T.*
14 *Stafford Disaster Relief and Emergency Assist-*
15 *ance Act (42 U.S.C. 5121 et seq.);*

16 “(B) *the permits are issued in accordance*
17 *with State law; and*

18 “(C) *the permits are issued exclusively to*
19 *vehicles and loads that are delivering relief sup-*
20 *plies.*

21 “(2) *EXPIRATION.—A permit issued under para-*
22 *graph (1) shall expire not later than 120 days after*
23 *the date of the declaration of emergency under sub-*
24 *paragraph (A) of that paragraph.”.*

1 **SEC. 1509. ELECTRIC VEHICLE CHARGING STATIONS.**

2 (a) *FRINGE AND CORRIDOR PARKING FACILITIES.*—

3 *Section 137 of title 23, United States Code, is amended—*

4 (1) *in subsection (a) by inserting after the second*
5 *sentence the following: “The addition of electric vehi-*
6 *cle charging stations to new or previously funded*
7 *parking facilities shall be eligible for funding under*
8 *this section.”; and*

9 (2) *in subsection (f)(1)—*

10 (A) *by striking “104(b)(4)” and inserting*
11 *“104(b)(1)”;* and

12 (B) *by inserting “including the addition of*
13 *electric vehicle charging stations,” after “new fa-*
14 *cilities,”.*

15 (b) *PUBLIC TRANSPORTATION.*—*Section 142(a)(1) of*
16 *title 23, United States Code, is amended by inserting*
17 *“(which may include electric vehicle charging stations)”*
18 *after “corridor parking facilities”.*

19 **SEC. 1510. HOV FACILITIES.**

20 *Section 166 of title 23, United States Code, is amend-*
21 *ed—*

22 (1) *in subsection (b)(5)—*

23 (A) *in subparagraph (A) by striking “Be-*
24 *fore September 30, 2009, the” and inserting*
25 *“The”;* and

1 (B) in subparagraph (B) by striking “Be-
2 fore September 30, 2009, the” and inserting
3 “The”; and

4 (2) in subsection (d)(1)—

5 (A) in the matter preceding subparagraph
6 (A)—

7 (i) by striking “in a fiscal year shall
8 certify” and inserting “shall submit to the
9 Secretary a report demonstrating that the
10 facility is not already degraded, and that
11 the presence of the vehicles will not cause
12 the facility to become degraded, and cer-
13 tify”; and

14 (ii) by striking “in the fiscal year”;

15 (B) in subparagraph (A) by inserting “and
16 submitting to the Secretary annual reports of
17 those impacts” after “adjacent highways”;

18 (C) in subparagraph (C) by striking “if the
19 presence of the vehicles has degraded the oper-
20 ation of the facility” and inserting “whenever
21 the operation of the facility is degraded”; and

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

23 “(D) MAINTENANCE OF OPERATING PER-
24 FORMANCE.—A facility that has become degraded
25 shall be brought back into compliance with the

1 *minimum average operating speed performance*
2 *standard by not later than 180 days after the*
3 *date on which the degradation is identified*
4 *through changes to operation, including the fol-*
5 *lowing:*

6 “(i) *Increase the occupancy require-*
7 *ment for HOVs.*”

8 “(ii) *Increase the toll charged for vehi-*
9 *cles allowed under subsection (b) to reduce*
10 *demand.*”

11 “(iii) *Charge tolls to any class of vehi-*
12 *cle allowed under subsection (b) that is not*
13 *already subject to a toll.*”

14 “(iv) *Limit or discontinue allowing ve-*
15 *hicles under subsection (b).*”

16 “(v) *Increase the available capacity of*
17 *the HOV facility.*”

18 “(E) *COMPLIANCE.—If the State fails to*
19 *bring a facility into compliance under subpara-*
20 *graph (D), the Secretary shall subject the State*
21 *to appropriate program sanctions under section*
22 *1.36 of title 23, Code of Federal Regulations (or*
23 *successor regulations), until the performance is*
24 *no longer degraded.”.*

1 **SEC. 1511. CONSTRUCTION EQUIPMENT AND VEHICLES.**

2 (a) *IN GENERAL.*—Chapter 3 of title 23, United States
3 Code, is amended by adding at the end the following:

4 **“SEC. 330. CONSTRUCTION EQUIPMENT AND VEHICLES.**

5 “(a) *IN GENERAL.*—In accordance with the obligation
6 process established pursuant to section 149(j)(4), a State
7 shall expend amounts required to be obligated for this sec-
8 tion to install diesel emission control technology on covered
9 equipment, with an engine that does not meet current model
10 year new engine standards for particulate matter for the
11 applicable engine power group issued by the Environmental
12 Protection Agency, on a covered highway construction
13 project within a $PM_{2.5}$ nonattainment or maintenance
14 area. Covered equipment repowered or retrofit with diesel
15 exhaust control technology installed during the 6-year pe-
16 riod ending on the date on which the prime contract was
17 awarded for the covered highway construction project and
18 equipment that meets the Environmental Protection Agency
19 Tier 4 emission standards may be exempt from the require-
20 ments of this section.

21 “(b) *DEFINITIONS.*—In this section, the following defi-
22 nitions apply:

23 “(1) *COVERED EQUIPMENT.*—The term ‘covered
24 equipment’ means any nonroad diesel equipment or
25 on-road diesel equipment that is operated on a cov-

1 *ered highway construction project for not less than 80*
2 *hours over the life of the project.*

3 “(2) *COVERED HIGHWAY CONSTRUCTION*
4 *PROJECT.—*

5 “(A) *IN GENERAL.—The term ‘covered high-*
6 *way construction project’ means a highway con-*
7 *struction project carried out under this title or*
8 *any other Federal law which is funded in whole*
9 *or in part with Federal funds.*

10 “(B) *EXCLUSIONS.—Any project with a*
11 *total budgeted cost not to exceed \$5,000,000 may*
12 *be excluded from the requirements of this section*
13 *by an applicable State or metropolitan planning*
14 *organization.*

15 “(3) *DIESEL EMISSION CONTROL TECH-*
16 *NOLOGY.—The term ‘diesel emission control tech-*
17 *nology’ means a technology that—*

18 “(A) *is—*

19 “(i) *a diesel exhaust control technology;*

20 “(ii) *a diesel engine upgrade;*

21 “(iii) *a diesel engine repower;*

22 “(iv) *an idle reduction control tech-*
23 *nology; or*

24 “(v) *any combination of the tech-*
25 *nologies listed in clauses (i) through (iv);*

1 “(B) *reduces particulate matter emission*
2 *from covered equipment by—*

3 “(i) *not less than 85 percent control of*
4 *any emission of particulate matter; or*

5 “(ii) *the maximum achievable reduc-*
6 *tion of any emission of particulate matter,*
7 *taking cost and safety into account; and*

8 “(C) *is installed on and operated with the*
9 *covered equipment while the equipment is oper-*
10 *ated on a covered highway construction project*
11 *and that remains operational on the covered*
12 *equipment for the useful life of the control tech-*
13 *nology or equipment.*

14 “(4) *ELIGIBLE ENTITY.—The term ‘eligible enti-*
15 *ty’ means an entity (including a subcontractor of the*
16 *entity) that has entered into a prime contract or*
17 *agreement with a State to carry out a covered high-*
18 *way construction project.*

19 “(5) *NONROAD DIESEL EQUIPMENT.—*

20 “(A) *IN GENERAL.—The term ‘nonroad die-*
21 *sel equipment’ means a vehicle, including covered*
22 *equipment, that is—*

23 “(i) *powered by a nonroad diesel en-*
24 *gine of not less than 50 horsepower; and*

25 “(ii) *not intended for highway use.*

1 “(B) *INCLUSIONS.*—*The term ‘nonroad die-*
2 *sel equipment’ includes a backhoe, bulldozer,*
3 *compressor, crane, excavator, generator, and*
4 *similar equipment.*

5 “(C) *EXCLUSIONS.*—*The term ‘nonroad die-*
6 *sel equipment’ does not include a locomotive or*
7 *marine vessel.*

8 “(6) *ON-ROAD DIESEL EQUIPMENT.*—*The term*
9 *‘on-road diesel equipment’ means any self-propelled*
10 *vehicle that—*

11 “(A) *operates on diesel fuel;*

12 “(B) *is designed to transport persons or*
13 *property on a street or highway; and*

14 “(C) *has a gross vehicle weight rating of at*
15 *least 14,000 pounds.*

16 “(7) *PM_{2.5} NONATTAINMENT OR MAINTENANCE*
17 *AREA.*—*The term ‘PM_{2.5} nonattainment or mainte-*
18 *nance area’ means a nonattainment or maintenance*
19 *area designated under section 107(d)(6) of the Clean*
20 *Air Act (42 U.S.C. 7407(d)(6)).*

21 “(c) *CRITERIA ELIGIBLE ACTIVITIES.*—*For purposes*
22 *of subsection (b)(3)(A):*

23 “(1) *DIESEL EXHAUST CONTROL TECHNOLOGY.*—
24 *For a diesel exhaust control technology, the technology*
25 *shall be—*

1 “(A) installed on a diesel engine or vehicle;

2 “(B) a verified technology (as defined in
3 section 791 of the Energy Policy Act of 2005 (42
4 U.S.C. 16131)), for nonroad vehicles and
5 nonroad engines (as defined in section 216 of the
6 Clean Air Act (42 U.S.C. 7550)); and

7 “(C) certified by the installer as having
8 been installed in accordance with the specifica-
9 tions included on the list published pursuant to
10 section 149(f)(2), as in effect on the day before
11 the date of enactment of the MAP-21, for achiev-
12 ing a reduction in particulate matter.

13 “(2) *DIESEL ENGINE UPGRADE.*—For a diesel
14 engine upgrade, the upgrade shall be performed on an
15 engine that is—

16 “(A) rebuilt using new or manufactured
17 components that collectively qualify as verified
18 technologies (as defined in section 791 of the En-
19 ergy Policy Act of 2005 (42 U.S.C. 16131)), for
20 nonroad vehicles and nonroad engines (as de-
21 fined in section 216 of the Clean Air Act (42
22 U.S.C. 7550)); and

23 “(B) certified by the installer to have been
24 installed in accordance with the specifications
25 included on the list published pursuant to section

1 149(f)(2), as in effect on the day before the date
2 of enactment of the MAP-21, for achieving a re-
3 duction in particulate matter.

4 “(3) *DIESEL ENGINE REPOWER.*—For a diesel
5 engine repower, the repower shall be conducted using
6 a new or remanufactured diesel engine that is—

7 “(A) installed as a replacement for an en-
8 gine used in the existing equipment, subject to
9 the condition that the replaced engine is returned
10 to the supplier for remanufacturing to a more
11 stringent set of engine emissions standards or for
12 use as scrap; and

13 “(B) meeting a more stringent engine par-
14 ticulate matter emission standard for the appli-
15 cable engine power group established by the En-
16 vironmental Protection Agency than the engine
17 particulate matter emission standard applicable
18 to the replaced engine.

19 “(4) *IDLE REDUCTION CONTROL TECHNOLOGY.*—
20 For an idle reduction control technology, the tech-
21 nology shall be—

22 “(A) installed on a diesel engine or vehicle;

23 “(B) a verified technology (as defined in
24 section 791 of the Energy Policy Act of 2005 (42
25 U.S.C. 16131)), for nonroad vehicles and

1 *nonroad engines (as defined in section 216 of the*
2 *Clean Air Act (42 U.S.C. 7550)); and*

3 “(C) *certified by the installer as having*
4 *been installed in accordance with the specifica-*
5 *tions included on the list published pursuant to*
6 *section 149(f)(2), as in effect on the day before*
7 *the date of enactment of the MAP-21, for achiev-*
8 *ing a reduction in particulate matter.*

9 “(d) *ELIGIBILITY FOR CREDITS.—*

10 “(1) *IN GENERAL.—A State may take credit in*
11 *a State implementation plan for national ambient*
12 *air quality standards for any emission reductions*
13 *that result from the implementation of this section.*

14 “(2) *CREDITING.—An emission reduction de-*
15 *scribed in paragraph (1) may be credited toward*
16 *demonstrating conformity of State implementation*
17 *plans and transportation plans.”.*

18 “(b) *SAVINGS CLAUSE.—Nothing in this section modi-*
19 *fies or otherwise affects any authority or restrictions estab-*
20 *lished under the Clean Air Act (42 U.S.C. 7401 et seq.).*

21 “(c) *REPORT TO CONGRESS.—*

22 “(1) *IN GENERAL.—Not later than 2 years after*
23 *the date of enactment of this Act, the Secretary of*
24 *Transportation shall submit to the Committee on*
25 *Transportation and Infrastructure of the House of*

1 *Representatives and the Committee on Environment*
2 *and Public Works of the Senate a report that de-*
3 *scribes the manners in which section 330 of title 23,*
4 *United States Code (as added by subsection (a)) has*
5 *been implemented, including the quantity of covered*
6 *equipment serviced under those sections and the costs*
7 *associated with servicing the covered equipment.*

8 (2) *INFORMATION FROM STATES.*—*The Secretary*
9 *shall require States and recipients, as a condition of*
10 *receiving amounts under this Act or under the provi-*
11 *sions of any amendments made by this Act, to submit*
12 *to the Secretary any information that the Secretary*
13 *determines necessary to complete the report under*
14 *paragraph (1).*

15 (d) *TECHNICAL AMENDMENT.*—*The analysis for chap-*
16 *ter 3 of title 23, United States Code, is amended by adding*
17 *at the end the following:*

“330. Construction equipment and vehicles.”.

18 **SEC. 1512. USE OF DEBRIS FROM DEMOLISHED BRIDGES**
19 **AND OVERPASSES.**

20 *Section 1805(a) of the SAFETEA-LU (23 U.S.C. 144*
21 *note; 119 Stat. 1459) is amended by striking “highway*
22 *bridge replacement and rehabilitation program under sec-*
23 *tion 144” and inserting “national highway performance*
24 *program under section 119”.*

1 **SEC. 1513. EXTENSION OF PUBLIC TRANSIT VEHICLE EX-**
 2 **EMPTION FROM AXLE WEIGHT RESTRIC-**
 3 **TIONS.**

4 *Section 1023(h) of the Intermodal Surface Transpor-*
 5 *tation Efficiency Act of 1991 (23 U.S.C. 127 note; Public*
 6 *Law 102–388) is amended—*

7 *(1) in the heading of paragraph (1) by striking*
 8 *“TEMPORARY EXEMPTION” and inserting “EXEMP-*
 9 *TION”;*

10 *(2) in paragraph (1) by striking “, for the pe-*
 11 *riod beginning on October 6, 1992, and ending on Oc-*
 12 *tober 1, 2009,”; and*

13 *(3) in paragraph (2)(A) by striking “For the pe-*
 14 *riod beginning on the date of enactment of this sub-*
 15 *paragraph and ending on September 30, 2009, a”*
 16 *and inserting “A”.*

17 **SEC. 1514. UNIFORM RELOCATION ASSISTANCE ACT AMEND-**
 18 **MENTS.**

19 *(a) MOVING AND RELATED EXPENSES.—Section 202*
 20 *of the Uniform Relocation Assistance and Real Property*
 21 *Acquisition Policies Act of 1970 (42 U.S.C. 4622) is amend-*
 22 *ed—*

23 *(1) in subsection (a)(4) by striking “\$10,000”*
 24 *and inserting “\$25,000, as adjusted by regulation, in*
 25 *accordance with section 213(d)”;* and

1 (2) *in the second sentence of subsection (c) by*
2 *striking “\$20,000” and inserting “\$40,000, as ad-*
3 *justed by regulation, in accordance with section*
4 *213(d)”.*

5 (b) *REPLACEMENT HOUSING FOR HOMEOWNERS.—*
6 *The first sentence of section 203(a)(1) of the Uniform Relo-*
7 *cation Assistance and Real Property Acquisition Policies*
8 *Act of 1970 (42 U.S.C. 4623(a)(1)) is amended—*

9 (1) *by striking “\$22,500” and inserting*
10 *“\$31,000, as adjusted by regulation, in accordance*
11 *with 213(d),”;* and

12 (2) *by striking “one hundred and eighty days*
13 *prior to” and inserting “90 days before”.*

14 (c) *REPLACEMENT HOUSING FOR TENANTS AND CER-*
15 *TAIN OTHERS.—Section 204 of the Uniform Relocation As-*
16 *sistance and Real Property Acquisition Policies Act of 1970*
17 *(42 U.S.C. 4624) is amended—*

18 (1) *in the second sentence of subsection (a) by*
19 *striking “\$5,250” and inserting “\$7,200, as adjusted*
20 *by regulation, in accordance with section 213(d)”;*
21 *and*

22 (2) *in the second sentence of subsection (b) by*
23 *striking “, except” and all that follows through the*
24 *end of the subsection and inserting a period.*

1 (d) *DUTIES OF LEAD AGENCY.*—Section 213 of the
2 *Uniform Relocation Assistance and Real Property Acquisi-*
3 *tion Policies Act of 1970 (42 U.S.C. 4633) is amended—*

4 (1) *in subsection (b)—*

5 (A) *in paragraph (2) by striking “and” at*
6 *the end;*

7 (B) *in paragraph (3) by striking the period*
8 *at the end and inserting “; and”; and*

9 (C) *by adding at the end the following:*

10 “(4) *that each Federal agency that has programs*
11 *or projects requiring the acquisition of real property*
12 *or causing a displacement from real property subject*
13 *to the provisions of this Act shall provide to the lead*
14 *agency an annual summary report that describes the*
15 *activities conducted by the Federal agency.”; and*

16 (2) *by adding at the end the following:*

17 “(d) *ADJUSTMENT OF PAYMENTS.*—*The head of the*
18 *lead agency may adjust, by regulation, the amounts of relo-*
19 *cation payments provided under sections 202(a)(4), 202(c),*
20 *203(a), and 204(a) if the head of the lead agency determines*
21 *that cost of living, inflation, or other factors indicate that*
22 *the payments should be adjusted to meet the policy objec-*
23 *tives of this Act.”.*

24 (e) *AGENCY COORDINATION.*—*Title II of the Uniform*
25 *Relocation Assistance and Real Property Acquisition Poli-*

1 *cies Act of 1970 is amended by inserting after section 213*
2 *(42 U.S.C. 4633) the following:*

3 **“SEC. 214. AGENCY COORDINATION.**

4 “(a) *AGENCY CAPACITY.*—*Each Federal agency re-*
5 *sponsible for funding or carrying out relocation and acqui-*
6 *sition activities shall have adequately trained personnel*
7 *and such other resources as are necessary to manage and*
8 *oversee the relocation and acquisition program of the Fed-*
9 *eral agency in accordance with this Act.*

10 “(b) *INTERAGENCY AGREEMENTS.*—*Not later than 1*
11 *year after the date of enactment of this section, each Federal*
12 *agency responsible for funding relocation and acquisition*
13 *activities (other than the agency serving as the lead agency)*
14 *shall enter into a memorandum of understanding with the*
15 *lead agency that—*

16 “(1) *provides for periodic training of the per-*
17 *sonnel of the Federal agency, which in the case of a*
18 *Federal agency that provides Federal financial assist-*
19 *ance, may include personnel of any displacing agency*
20 *that receives Federal financial assistance;*

21 “(2) *addresses ways in which the lead agency*
22 *may provide assistance and coordination to the Fed-*
23 *eral agency relating to compliance with the Act on a*
24 *program or project basis; and*

1 “(3) addresses the funding of the training, assist-
2 ance, and coordination activities provided by the lead
3 agency, in accordance with subsection (c).

4 “(c) INTERAGENCY PAYMENTS.—

5 “(1) IN GENERAL.—For the fiscal year that be-
6 gins 1 year after the date of enactment of this section,
7 and each fiscal year thereafter, each Federal agency
8 responsible for funding relocation and acquisition ac-
9 tivities (other than the agency serving as the lead
10 agency) shall transfer to the lead agency for the fiscal
11 year, such funds as are necessary, but not less than
12 \$35,000, to support the training, assistance, and co-
13 ordination activities of the lead agency described in
14 subsection (b).

15 “(2) INCLUDED COSTS.—The cost to a Federal
16 agency of providing the funds described in paragraph
17 (1) shall be included as part of the cost of 1 or more
18 programs or projects undertaken by the Federal agen-
19 cy or with Federal financial assistance that result in
20 the displacement of persons or the acquisition of real
21 property.”.

22 (f) COOPERATION WITH FEDERAL AGENCIES.—Sec-
23 tion 308 of title 23, United States Code, is amended by
24 striking subsection (a) and inserting the following:

25 “(a) AUTHORIZED ACTIVITIES.—

1 “(1) *IN GENERAL.*—*The Secretary may perform,*
2 *by contract or otherwise, authorized engineering or*
3 *other services in connection with the survey, construc-*
4 *tion, maintenance, or improvement of highways for*
5 *other Federal agencies, cooperating foreign countries,*
6 *and State cooperating agencies.*

7 “(2) *INCLUSIONS.*—*Services authorized under*
8 *paragraph (1) may include activities authorized*
9 *under section 214 of the Uniform Relocation Assist-*
10 *ance and Real Property Acquisition Policies Act of*
11 *1970.*

12 “(3) *REIMBURSEMENT.*—*Reimbursement for*
13 *services carried out under this subsection (including*
14 *depreciation on engineering and road-building equip-*
15 *ment) shall be credited to the applicable appropria-*
16 *tion.”.*

17 *(g) EFFECTIVE DATES.*—

18 (1) *IN GENERAL.*—*Except as provided in para-*
19 *graph (2), the amendments made by this section shall*
20 *take effect on the date of enactment of this Act.*

21 (2) *EXCEPTION.*—*The amendments made by sub-*
22 *sections (a) through (c) shall take effect 2 years after*
23 *the date of enactment of this Act.*

1 **SEC. 1515. USE OF YOUTH SERVICE AND CONSERVATION**
2 **CORPS.**

3 (a) *IN GENERAL.*—*The Secretary shall encourage the*
4 *States and regional transportation planning agencies to*
5 *enter into contracts and cooperative agreements with quali-*
6 *fied youth service or conservation corps, as defined in sec-*
7 *tions 122(a)(2) of Public Law 101–610 (42 U.S.C.*
8 *12572(a)(2)) and 106(c)(3) of Public Law 103–82 (42*
9 *U.S.C. 12656(c)(3)) to perform—*

10 (1) *appropriate projects eligible under sections*
11 *162, 206, and 217 of title 23, United States Code;*

12 (2) *appropriate transportation enhancement ac-*
13 *tivities, as defined under section 101(a) of such title;*

14 (3) *appropriate byway, trail, or bicycle and pe-*
15 *destrian projects under sections 202, 203, and 204 of*
16 *such title; and*

17 (4) *appropriate safe routes to school projects*
18 *under section 1404 of the SAFETEA–LU (119 Stat.*
19 *1228).*

20 (b) *REQUIREMENTS.*—*Under any contract or coopera-*
21 *tive agreement entered into with a qualified youth service*
22 *or conservation corps under this section, the Secretary*
23 *shall—*

24 (1) *set the amount of a living allowance or rate*
25 *of pay for each participant in such corps at—*

- 1 (A) such amount or rate as required under
2 State law in a State with such requirements; or
3 (B) for corps in States not described in sub-
4 paragraph (A), at such amount or rate as deter-
5 mined by the Secretary, not to exceed the max-
6 imum living allowance authorized by section 140
7 of Public Law 101–610 (42 U.S.C. 12594); and
8 (2) not subject such corps to the requirements of
9 section 112 of title 23, United States Code.

10 **SEC. 1516. CONSOLIDATION OF PROGRAMS; REPEAL OF OB-**
11 **SOLETE PROVISIONS.**

12 (a) *CONSOLIDATION OF PROGRAMS.*—From adminis-
13 trative funds made available under section 104(a) of title
14 23, United States Code, not less than \$15,000,000 for each
15 of fiscal years 2012 and 2013 shall be made available for
16 the following activities:

17 (1) *To carry out the operation lifesaver pro-*
18 *gram—*

19 (A) *to provide public information and edu-*
20 *cation programs to help prevent and reduce*
21 *motor vehicle accidents, injuries, and fatalities;*
22 *and*

23 (B) *to improve driver performance at rail-*
24 *way-highway crossings.*

1 (2) *To operate the national work zone safety in-*
2 *formation clearinghouse authorized by section*
3 *358(b)(2) of the National Highway System Designa-*
4 *tion Act of 1995 (23 U.S.C. 401 note; 109 Stat. 625)*

5 (3) *To operate a public road safety clearinghouse*
6 *in accordance with section 1411(a) of the SAFETEA-*
7 *LU (23 U.S.C. 402 note; 119 Stat. 1234).*

8 (4) *To operate a bicycle and pedestrian safety*
9 *clearinghouse in accordance with section 1411(b) of*
10 *the SAFETEA-LU (23 U.S.C. 402 note; 119 Stat.*
11 *1234).*

12 (5) *To operate a national safe routes to school*
13 *clearinghouse in accordance with section 1404(g) of*
14 *the SAFETEA-LU (23 U.S.C. 402 note; 119 Stat.*
15 *1229).*

16 (6) *To provide work zone safety grants in ac-*
17 *cordance with subsections (a) and (b) of section 1409*
18 *of the SAFETEA-LU (23 U.S.C. 401 note; 119 Stat.*
19 *1232).*

20 (7) *To provide grants to prohibit racial profiling*
21 *in accordance with section 1906 of the SAFETEA-*
22 *LU (23 U.S.C. 402 note; 119 Stat. 1468).*

23 (b) *REPEALS.—Sections 105, 110, 117, 124, 151, 155,*
24 *160, and 303 of title 23, United States Code, are repealed.*

25 (c) *CONFORMING AMENDMENTS.—*

1 (1) *TITLE ANALYSIS*.—*The analysis for title 23,*
2 *United States Code, is amended by striking the items*
3 *relating to sections 105, 110, 117, 124, 151, 155, 160,*
4 *and 303 of that title.*

5 (2) *SECTION 118*.—*Section 118 of such title is*
6 *amended—*

7 (A) *in subsection (b)—*

8 (i) *by striking paragraph (1) and all*
9 *that follows through the heading of para-*
10 *graph (2); and*

11 (ii) *by striking “(other than for Inter-*
12 *state construction)”;*

13 (B) *by striking subsection (c); and*

14 (C) *by redesignating subsections (d) and (e)*
15 *as subsections (c) and (d), respectively.*

16 (3) *SECTION 130*.—*Section 130 of such title is*
17 *amended—*

18 (A) *by striking subsections (e) through (h);*

19 (B) *by redesignating subsection (i) as sub-*
20 *section (e);*

21 (C) *by striking subsections (j) and (k);*

22 (D) *by redesignating subsection (l) as sub-*
23 *section (f);*

1 (E) in subsection (e) (as so redesignated) by
2 striking “this section” the second place it appears
3 and inserting “section 104(b)(3)”; and

4 (F) in subsection (f) (as so redesignated) by
5 striking paragraphs (3) and (4).

6 (4) SECTION 142.—Section 142 of title 23,
7 United States Code, is amended—

8 (A) in subsection (a)—

9 (i) in paragraph (1)—

10 (I) by striking “motor vehicles
11 (other than rail)” and inserting
12 “buses”;

13 (II) by striking “(hereafter in this
14 section referred to as ‘buses’)”;

15 (III) by striking “Federal-aid sys-
16 tems” and inserting “Federal-aid high-
17 ways”; and

18 (IV) by striking “Federal-aid sys-
19 tem” and inserting “Federal-aid high-
20 way”; and

21 (ii) in paragraph (2)—

22 (I) by striking “as a project on
23 the the surface transportation program
24 for”; and

1 (II) by striking “section
2 104(b)(3)” and inserting “section
3 104(b)(2);

4 (B) in subsection (b) by striking
5 “104(b)(4)” and inserting “104(b)(1);

6 (C) in subsection (c)—

7 (i) by striking “system” in each place
8 it appears and inserting “highway”; and

9 (ii) by striking “highway facilities”
10 and inserting “highways eligible under the
11 program that is the source of the funds”;

12 (D) in subsection (e)(2)—

13 (i) by striking “Notwithstanding sec-
14 tion 209(f)(1) of the Highway Revenue Act
15 of 1956, the Highway Trust Fund shall be
16 available for making expenditures to meet
17 obligations resulting from projects author-
18 ized by subsection (a)(2) of this section and
19 such projects” and inserting “Projects au-
20 thorized by subsection (a)(2)”; and

21 (ii) striking “on the surface transpor-
22 tation program” and inserting “under the
23 transportation mobility program”; and

24 (E) in subsection (f) by striking “exits” and
25 inserting “exists”.

1 (5) *SECTION 145.*—*Section 145(b) of title 23,*
2 *United States Code, is amended by striking “section*
3 *117 of this title.”.*

4 (6) *SECTION 322.*—*Section 322(h)(3) of title 23,*
5 *United States Code, is amended by striking “surface*
6 *transportation program” and inserting “the transpor-*
7 *tation mobility program”.*

8 (d) *CERTAIN ALLOCATIONS.*—*Notwithstanding any*
9 *other provision of law, any unobligated balances of amounts*
10 *required to be allocated to a State by section 1307(d)(1)*
11 *of the SAFETEA-LU (23 U.S.C. 322 note; 119 Stat. 1217;*
12 *122 Stat. 1577) shall instead be made available to such*
13 *State for any purpose eligible under section 133(c) of title*
14 *23, United States Code.*

15 **SEC. 1517. RESCISSIONS.**

16 (a) *FISCAL YEAR 2012.*—

17 (1) *Not later than 30 days after the date of en-*
18 *actment of this Act, of the unobligated balances avail-*
19 *able under sections 144(f) and 320 of title 23, United*
20 *States Code, section 147 of Public Law 95–599 (23*
21 *U.S.C. 144 note; 92 Stat. 2714), section 9(c) of Public*
22 *Law 97–134 (95 Stat. 1702), section 149 of Public*
23 *Law 100–17 (101 Stat. 181), sections 1006, 1069,*
24 *1103, 1104, 1105, 1106, 1107, 1108, 6005, 6015, and*
25 *6023 of Public Law 102–240 (105 Stat. 1914), section*

1 1602 of Public Law 105–178 (112 Stat. 256), sections
2 1301, 1302, 1702, and 1934 of Public Law 109–59
3 (119 Stat. 1144), and of other funds apportioned to
4 each State under chapter 1 of title 23, United States
5 Code, prior to the date of enactment of this Act,
6 \$2,391,000,000 are permanently rescinded.

7 (2) In administering the rescission required
8 under this subsection, the Secretary shall allow each
9 State to determine the amount of the required rescis-
10 sion to be drawn from the programs to which the re-
11 scission applies.

12 (b) FISCAL YEAR 2013.—

13 (1) On October 1, 2012, of the unobligated bal-
14 ances of funds apportioned or allocated on or before
15 that date to each State under chapter 1 of title 23,
16 United States Code, \$3,054,000,000 are permanently
17 rescinded.

18 (2) Notwithstanding section 1132 of the Energy
19 Independence and Security Act of 2007 (Public Law
20 110–140; 121 Stat. 1763), in administering the re-
21 scission required under this subsection, the Secretary
22 shall allow each State to determine the amount of the
23 required rescission to be drawn from the programs to
24 which the rescission applies.

1 **SEC. 1518. STATE AUTONOMY FOR CULVERT PIPE SELEC-**
2 **TION.**

3 *Not later than 180 days after the date of enactment*
4 *of this Act, the Secretary shall modify section 635.411 of*
5 *title 23, Code of Federal Regulations (as in effect on the*
6 *date of enactment of this Act), to ensure that States shall*
7 *have the autonomy to determine culvert and storm sewer*
8 *material types to be included in the construction of a*
9 *project on a Federal-aid highway.*

10 **SEC. 1519. EFFECTIVE AND SIGNIFICANT PERFORMANCE**
11 **MEASURES.**

12 (a) *LIMITED NUMBER OF PERFORMANCE MEAS-*
13 *URES.—In implementing provisions of this Act (including*
14 *the amendments made by this Act) and title 23, United*
15 *States Code (other than chapter 4 of that title), that author-*
16 *ize the Secretary to develop performance measures, the Sec-*
17 *retary shall limit the number of performance measures es-*
18 *tablished to the most significant and effective measures.*

19 (b) *DIFFERENT APPROACHES FOR URBAN AND RURAL*
20 *AREAS.—In the development and implementation of any*
21 *performance target, a State may, as appropriate, provide*
22 *for different performance targets for urbanized and rural*
23 *areas.*

24 **SEC. 1520. REQUIREMENTS FOR ELIGIBLE BRIDGE**
25 **PROJECTS.**

26 (a) *DEFINITIONS.—In this section:*

1 (1) *ELIGIBLE BRIDGE PROJECT.*—*The term “eli-*
2 *gible bridge project” means a project for construction,*
3 *alteration, or repair work on a bridge or overpass*
4 *funded directly by, or provided other assistance*
5 *through, the Federal Government.*

6 (2) *QUALIFIED TRAINING PROGRAM.*—*The term*
7 *“qualified training program” means a training pro-*
8 *gram that—*

9 (A)(i) *is certified by the Secretary of Labor;*

10 *and*

11 (ii) *with respect to an eligible bridge project*
12 *located in an area in which the Secretary of*
13 *Labor determines that a training program does*
14 *not exist, is registered with—*

15 (I) *the Department of Labor; or*

16 (II) *a State agency recognized by the*
17 *Department of Labor for purposes of a Fed-*
18 *eral training program; or*

19 (B) *is a corrosion control, mitigation and*
20 *prevention personnel training program that is*
21 *offered by an organization whose standards are*
22 *recognized and adopted in other Federal or State*
23 *Departments of Transportation.*

24 (3) *SECRETARY.*—*The term “Secretary” means*
25 *the Secretary of Transportation.*

1 **(b) ELIGIBILITY REQUIREMENTS.**—

2 **(1) IN GENERAL.**—*Each contractor and subcon-*
3 *tractor that carries out any aspect of an eligible*
4 *bridge project described in paragraph (2) shall—*

5 **(A)** *before entering into the applicable con-*
6 *tract, be certified by the Secretary or a State, in*
7 *accordance with paragraph (4), as meeting the*
8 *eligibility requirements described in paragraph*
9 *(3); and*

10 **(B)** *remain certified as described in sub-*
11 *paragraph (A) while carrying out the applicable*
12 *aspect of the eligible bridge project.*

13 **(2) DESCRIPTION OF ASPECTS OF ELIGIBLE**
14 **BRIDGE PROJECTS.**—*An aspect of an eligible bridge*
15 *project referred to in paragraph (1) is—*

16 **(A)** *surface preparation or coating applica-*
17 *tion on bridge steel of an eligible bridge project;*

18 **(B)** *removal of a lead-based or other haz-*
19 *ardous coating from bridge steel of an existing*
20 *eligible bridge project;*

21 **(C)** *shop painting of structural steel fab-*
22 *ricated for installation on bridge steel of an eli-*
23 *gible bridge project; and*

1 (D) the design, application, installation,
2 and maintenance of a cathodic protection sys-
3 tem.

4 (3) *REQUIREMENTS.*—*The eligibility require-*
5 *ments referred to in paragraph (1) are that a con-*
6 *tractor or subcontractor shall—*

7 (A) *as determined by the Secretary—*

8 (i) *use corrosion mitigation and pre-*
9 *vention methods to preserve relevant bridges*
10 *and overpasses, taking into account—*

11 (I) *material selection;*

12 (II) *coating considerations;*

13 (III) *cathodic protection consider-*
14 *ations;*

15 (IV) *design considerations for cor-*
16 *rosion; and*

17 (V) *trained applicators;*

18 (ii) *use best practices—*

19 (I) *to prevent environmental deg-*
20 *radation; and*

21 (II) *to ensure careful handling of*
22 *all hazardous materials; and*

23 (iii) *demonstrate a history of employ-*
24 *ing industry-respected inspectors to ensure*

1 *funds are used in the interest of affected*
2 *taxpayers; and*

3 *(B) demonstrate a history of compliance*
4 *with applicable requirements of the Occupational*
5 *Safety and Health Administration, as deter-*
6 *mined by the Secretary of Labor.*

7 (4) *STATE CONSULTATION.*—*In determining*
8 *whether to certify a contractor or subcontractor under*
9 *paragraph (1)(A), a State shall consult with engi-*
10 *neers and other experts trained in accordance with*
11 *subsection (a)(2) specializing in corrosion control,*
12 *mitigation, and prevention methods.*

13 (c) *OPTIONAL TRAINING PROGRAM.*—*As a condition of*
14 *entering into a contract for an eligible bridge project, each*
15 *contractor and subcontractor that performs construction, al-*
16 *teration, or repair work on a bridge or overpass for the eli-*
17 *gible bridge project may provide, or make available, train-*
18 *ing, through a qualified training program, for each appli-*
19 *cable craft or trade classification of employees that the con-*
20 *tractor or subcontractor intends to employ to carry out as-*
21 *pects of eligible bridge projects as described in subsection*
22 *(b)(2).*

23 **SEC. 1521. IDLE REDUCTION TECHNOLOGY.**

24 *Section 127(a)(12) of title 23, United States Code, is*
25 *amended—*

1 (1) in subparagraph (B), by striking “400” and
2 inserting “550”; and

3 (2) in subparagraph (C)(ii), by striking “400-
4 pound” and inserting “550-pound”.

5 **SEC. 1522. REPORT ON HIGHWAY TRUST FUND EXPENDI-**
6 **TURES.**

7 (a) *INITIAL REPORT.*—Not later than 150 days after
8 the date of enactment of this Act, the Comptroller General
9 of the United States shall submit to Congress a report de-
10 scribing the activities funded from the Highway Trust
11 Fund during each of fiscal years 2009 through 2011, includ-
12 ing for purposes other than construction and maintenance
13 of highways and bridges.

14 (b) *UPDATES.*—Not later than 5 years after the date
15 on which the report is submitted under subsection (a) and
16 every 5 years thereafter, the Comptroller General of the
17 United States shall submit to Congress a report that up-
18 dates the information provided in the report under that sub-
19 section for the applicable 5-year period.

20 (c) *INCLUSIONS.*—A report submitted under subsection
21 (a) or (b) shall include information similar to the informa-
22 tion included in the report of the Government Account-
23 ability Office numbered “GAO–09–729R” and entitled
24 “Highway Trust Fund Expenditures on Purposes Other

1 *Than Construction and Maintenance of Highways and*
2 *Bridges During Fiscal Years 2004–2008”.*

3 **SEC. 1523. EVACUATION ROUTES.**

4 *Each State shall give adequate consideration to the*
5 *needs of evacuation routes in the State, including such*
6 *routes serving or adjacent to facilities operated by the*
7 *Armed Forces, when allocating funds apportioned to the*
8 *State under title 23, United States Code, for the construc-*
9 *tion of Federal-aid highways.*

10 **SEC. 1524. DEFENSE ACCESS ROAD PROGRAM ENHANCE-**
11 **MENTS TO ADDRESS TRANSPORTATION IN-**
12 **FRASTRUCTURE IN THE VICINITY OF MILI-**
13 **TARY INSTALLATIONS.**

14 *The second sentence of section 210(a)(2) of title 23,*
15 *United States Code, is amended by inserting “, in consulta-*
16 *tion with the Secretary of Transportation,” before “shall*
17 *determine”.*

18 **SEC. 1525. EXPRESS LANES DEMONSTRATION PROGRAM.**

19 *Section 1604(b) of the SAFETEA–LU (23 U.S.C. 129*
20 *note; Public Law 109–59) is amended—*

21 *(1) in paragraph (1)(A)—*

22 *(A) in clause (ii), by inserting “and” after*
23 *the semicolon;*

24 *(B) by striking clause (iii); and*

1 (C) by redesignating clause (iv) as clause
2 (iii); and
3 (2) in paragraph (2), by striking “2009” and in-
4 serting “2013”.

5 **SEC. 1526. TREATMENT OF HISTORIC SIGNS.**

6 The Secretary shall, not later than 180 days after the
7 date of enactment of this Act, initiate a rulemaking to ex-
8 empt locally identified historic street name signs or replicas
9 of historic signs from complying with all or part of section
10 2D.43 of the Manual on Uniform Traffic Control Devices.

11 **SEC. 1527. CONSOLIDATION OF GRANTS.**

12 (a) *DEFINITIONS.*—In this section, the term “recipi-
13 ent” means—

14 (1) a State, local, or tribal government, includ-
15 ing—

16 (A) a territory of the United States;

17 (B) a transit agency;

18 (C) a port authority;

19 (D) a metropolitan planning organization;

20 or

21 (E) any other political subdivision of a
22 State or local government;

23 (2) a multistate or multijurisdictional group, if
24 each member of the group is an entity described in
25 paragraph (1); and

1 (3) *a public-private partnership, if both parties*
2 *are engaged in building the project.*

3 (b) *CONSOLIDATION.—*

4 (1) *IN GENERAL.—A recipient that receives mul-*
5 *tiple grant awards from the Department to support 1*
6 *multimodal project may request that the Secretary*
7 *designate 1 modal administration in the Department*
8 *to be the lead administering authority for the overall*
9 *project.*

10 (2) *NEW STARTS.—Any project that includes*
11 *funds awarded under section 5309 of title 49, United*
12 *States Code, shall be exempt from consolidation under*
13 *this section unless the grant recipient requests the*
14 *Federal Transit Administration to be the lead admin-*
15 *istering authority.*

16 (3) *REVIEW.—*

17 (A) *IN GENERAL.—Not later than 30 days*
18 *after the date on which a request under para-*
19 *graph (1) is made, the Secretary shall review the*
20 *request and approve or deny the designation of*
21 *a single modal administration as the lead ad-*
22 *ministering authority and point of contact for*
23 *the Department.*

24 (B) *NOTIFICATION.—*

1 (i) *IN GENERAL.*—*The Secretary shall*
2 *notify the requestor of the decision of the*
3 *Secretary under subparagraph (A) in such*
4 *form and at such time as the Secretary and*
5 *the requestor agree.*

6 (ii) *DENIAL.*—*If a request is denied,*
7 *the Secretary shall provide the requestor*
8 *with a detailed explanation of the reasoning*
9 *of the Secretary with the notification under*
10 *clause (i).*

11 (c) *DUTIES.*—

12 (1) *IN GENERAL.*—*A modal administration des-*
13 *ignated as a lead administering authority under this*
14 *section shall—*

15 (A) *be responsible for leading and coordi-*
16 *nating the integrated project management team,*
17 *which shall consist of all of the other modal ad-*
18 *ministrations in the Department relating to the*
19 *multimodal project; and*

20 (B) *to the extent feasible during the first 30*
21 *days of carrying out the multimodal project,*
22 *identify overlapping or duplicative regulatory*
23 *requirements that exist for the project and pro-*
24 *pose a single, streamlined approach to meeting*

1 *all of the applicable regulatory requirements*
2 *through the activities described in subsection (d).*

3 (2) *ADMINISTRATION.—*

4 (A) *IN GENERAL.—The Secretary shall*
5 *transfer all amounts that have been awarded for*
6 *the multimodal project to the modal administra-*
7 *tion designated as the lead administering au-*
8 *thority.*

9 (B) *OPTION.—*

10 (i) *IN GENERAL.—Participation under*
11 *this section shall be optional for recipients,*
12 *and no recipient shall be required to par-*
13 *ticipate.*

14 (ii) *SECRETARIAL DUTIES.—The Sec-*
15 *retary is not required to identify every re-*
16 *cipient that may be eligible to participate*
17 *under this section.*

18 (d) *COOPERATION.—*

19 (1) *IN GENERAL.—The Secretary and modal ad-*
20 *ministrations with relevant jurisdiction over a*
21 *multimodal project should cooperate on project review*
22 *and delivery activities at the earliest practicable time.*

23 (2) *PURPOSES.—The purposes of the cooperation*
24 *under paragraph (1) are—*

1 (A) to avoid delays and duplication of effort
2 later in the process;

3 (B) to prevent potential conflicts; and

4 (C) to ensure that planning and project de-
5 velopment decisions are made in a streamlined
6 manner and consistent with applicable law.

7 (e) *APPLICABILITY*.—Nothing in this section shall—

8 (1) supersede, amend, or modify the National
9 Environmental Policy Act of 1969 (42 U.S.C. 4321 *et*
10 *seq.*) or any other Federal environmental law; or

11 (2) affect the responsibility of any Federal officer
12 to comply with or enforce any law described in para-
13 graph (1).

14 **SEC. 1528. BUY AMERICA PROVISIONS.**

15 Section 313 of title 23, United States Code, is amended
16 by adding at the end the following:

17 “(g) *APPLICATION TO HIGHWAY PROGRAMS*.—The re-
18 quirements under this section shall apply to all contracts
19 eligible for assistance under this chapter for a project car-
20 ried out within the scope of the applicable finding, deter-
21 mination, or decision under the National Environmental
22 Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), regardless of
23 the funding source of such contracts, if at least 1 contract
24 for the project is funded with amounts made available to
25 carry out this title.”.

1 **SEC. 1529. EXEMPTIONS FROM REQUIREMENTS FOR CER-**
2 **TAIN FARM VEHICLES.**

3 (a) *FEDERAL REQUIREMENTS.*—A covered farm vehi-
4 cle, including the individual operating that vehicle, shall
5 be exempt from the following:

6 (1) Any requirement relating to commercial
7 driver's licenses established under chapter 313 of title
8 49, United States Code.

9 (2) Any requirement relating to medical certifi-
10 cates established under—

11 (A) subchapter III of chapter 311 of title
12 49, United States Code; or

13 (B) chapter 313 of title 49, United States
14 Code.

15 (3) Any requirement relating to hours of service
16 established under—

17 (A) subchapter III of chapter 311 of title
18 49, United States Code; or

19 (B) chapter 315 of title 49, United States
20 Code.

21 (4) Any requirement relating to vehicle inspec-
22 tion, repair, and maintenance established under—

23 (A) subchapter III of chapter 311 of title
24 49, United States Code; or

25 (B) chapter 315 of title 49, United States
26 Code.

1 **(b) STATE REQUIREMENTS.**—

2 **(1) IN GENERAL.**—*Federal transportation fund-*
3 *ing to a State may not be terminated, limited, or oth-*
4 *erwise interfered with as a result of the State exempt-*
5 *ing a covered farm vehicle, including the individual*
6 *operating that vehicle, from any State requirement*
7 *relating to the operation of that vehicle.*

8 **(2) EXCEPTION.**—*Paragraph (1) does not apply*
9 *with respect to a covered farm vehicle transporting*
10 *hazardous materials that require a placard.*

11 **(3) STATE REQUIREMENTS.**—*Notwithstanding*
12 *section (a) or any other provision of law, a State may*
13 *enact and enforce safety requirements related to cov-*
14 *ered farm vehicles.*

15 **(c) COVERED FARM VEHICLE DEFINED.**—

16 **(1) IN GENERAL.**—*In this section, the term “cov-*
17 *ered farm vehicle” means a motor vehicle (including*
18 *an articulated motor vehicle)—*

19 **(A) that—**

20 **(i) is traveling in the State in which**
21 *the vehicle is registered or another State;*

22 **(ii) is operated by—**

23 **(I) a farm owner or operator;**

24 **(II) a ranch owner or operator; or**

1 (III) an employee or family mem-
2 ber of an individual specified in sub-
3 clause (I) or (II);

4 (iii) is transporting to or from a farm
5 or ranch—

6 (I) agricultural commodities;

7 (II) livestock; or

8 (III) machinery or supplies;

9 (iv) except as provided in paragraph
10 (2), is not used in the operations of a for-
11 hire motor carrier; and

12 (v) is equipped with a special license
13 plate or other designation by the State in
14 which the vehicle is registered to allow for
15 identification of the vehicle as a farm vehi-
16 cle by law enforcement personnel; and

17 (B) that has a gross vehicle weight rating or
18 gross vehicle weight, whichever is greater, that
19 is—

20 (i) 26,001 pounds or less; or

21 (ii) greater than 26,001 pounds and
22 traveling within the State or within 150 air
23 miles of the farm or ranch with respect to
24 which the vehicle is being operated.

1 (2) *INCLUSION.*—*In this section, the term “cov-*
2 *ered farm vehicle” includes a motor vehicle that meets*
3 *the requirements of paragraph (1) (other than para-*
4 *graph (1)(A)(iv)) and is—*

5 (A) *operated pursuant to a crop share farm*
6 *lease agreement;*

7 (B) *owned by a tenant with respect to that*
8 *agreement; and*

9 (C) *transporting the landlord’s portion of*
10 *the crops under that agreement.*

11 (d) *SAFETY STUDY.*—*The Secretary shall conduct a*
12 *study of the exemption required by section (a) as follows—*

13 (1) *Data and analysis of covered farm vehicles*
14 *shall include:*

15 (A) *the number of vehicles that are operated*
16 *subject to each of the regulatory exemptions per-*
17 *mitted under section (a);*

18 (B) *the number of drivers that operate cov-*
19 *ered farm vehicles subject to each of the regu-*
20 *latory exemptions permitted under section (a);*

21 (C) *the number of crashes involving covered*
22 *farm vehicles;*

23 (D) *the number of occupants and non-occu-*
24 *pants injured in crashes involving covered farm*
25 *vehicles;*

1 (E) the number of fatalities of occupants
2 and non-occupants killed in crashes involving
3 farm vehicles;

4 (F) crash investigations and accident recon-
5 struction investigations of all fatalities in crash-
6 es involving covered farm vehicles;

7 (G) overall operating mileage of covered
8 farm vehicles;

9 (H) numbers of covered farm vehicles that
10 operate in neighboring states; and

11 (I) any other data the Secretary deems nec-
12 essary to analyze and include.

13 (2) A listing of state regulations issued and
14 maintained in each state that are identical to the fed-
15 eral regulations that are subject to exemption in sec-
16 tion (a).

17 (3) The Secretary shall report the findings of the
18 study to the appropriate committees of the Congress
19 not later than 18 months after enactment of MAP-21.

20 **SEC. 1530. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM.**

21 (a) *SENSE OF THE SENATE.*—It is the Sense of the
22 Senate that the timely completion of the Appalachian devel-
23 opment highway system is a transportation priority in the
24 national interest.

1 **(b) MODIFIED FEDERAL SHARE FOR PROJECTS ON**
2 *ADHS.—For fiscal years 2012 through 2021, the Federal*
3 *share payable for the cost of constructing highways and ac-*
4 *cess roads on the Appalachian development highway system*
5 *under section 14501 of title 40, United States Code, with*
6 *funds made available to a State for fiscal year 2012 or a*
7 *previous fiscal year for the Appalachian development high-*
8 *way system program, or with funds made available for fis-*
9 *cal year 2012 or a previous fiscal year for a specific project,*
10 *route, or corridor on that system, shall be 95 percent.*

11 **(c) FEDERAL SHARE FOR OTHER FUNDS USED ON**
12 *ADHS.—For fiscal years 2012 through 2021, the Federal*
13 *share payable for the cost of constructing highways and ac-*
14 *cess roads on the Appalachian development highway system*
15 *under section 14501 of title 40, United States Code, with*
16 *Federal funds apportioned to a State for a program other*
17 *than the Appalachian development highway system pro-*
18 *gram shall be 95 percent.*

19 **(d) COMPLETION PLAN.—***Not later than 1 year after*
20 *the date of enactment of the MAP–21, each State rep-*
21 *resented on the Appalachian Regional Commission shall es-*
22 *tablish a plan for the completion of the designated corridors*
23 *of the Appalachian development highway system within the*
24 *State, including annual performance targets, with a target*
25 *completion date.*

1 **SEC. 1531. DENALI COMMISSION.**

2 *The Denali Commission Act of 1998 (42 U.S.C. 3121*
3 *note) is amended—*

4 *(1) in section 305, by striking subsection (c) and*
5 *inserting the following:*

6 *“(c) GIFTS.—*

7 *“(1) IN GENERAL.—Except as provided in para-*
8 *graph (2), the Commission, on behalf of the United*
9 *States, may accept use, and dispose of gifts or dona-*
10 *tions of services, property, or money for purposes of*
11 *carrying out this Act.*

12 *“(2) CONDITIONAL.—With respect to conditional*
13 *gifts—*

14 *“(A)(i) the Commission, on behalf of the*
15 *United States, may accept conditional gifts for*
16 *purposes of carrying out this Act, if approved by*
17 *the Federal Cochairperson; and*

18 *“(ii) the principal of and income from any*
19 *such conditional gift shall be held, invested, rein-*
20 *vested, and used in accordance with the condi-*
21 *tion applicable to the gift; but*

22 *“(B) no gift shall be accepted that is condi-*
23 *tioned on any expenditure not to be funded from*
24 *the gift or from the income generated by the gift*
25 *unless the expenditure has been approved by Act*
26 *of Congress.”; and*

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

2 **“SEC. 311. TRANSFER OF FUNDS FROM OTHER FEDERAL**
3 **AGENCIES.**

4 “(a) *IN GENERAL.*—Subject to subsection (c), for pur-
5 poses of this Act, the Commission may accept transfers of
6 funds from other Federal agencies.

7 “(b) *TRANSFERS.*—Any Federal agency authorized to
8 carry out an activity that is within the authority of the
9 Commission may transfer to the Commission any appro-
10 priated funds for the activity.

11 “(c) *TREATMENT.*—Any funds transferred to the Com-
12 mission under this subsection—

13 “(1) shall remain available until expended; and

14 “(2) may, to the extent necessary to carry out
15 this Act, be transferred to, and merged with, the
16 amounts made available by appropriations Acts for
17 the Commission by the Federal Cochairperson.”.

18 **SEC. 1532. UPDATED CORROSION CONTROL AND PREVEN-**
19 **TION REPORT.**

20 Not later than 30 months after the date of enactment
21 of this Act, the Secretary shall submit to Congress an up-
22 dated report on the costs and benefits of the prevention and
23 control of corrosion on the surface transportation infra-
24 structure of the United States.

1 **SEC. 1533. HARBOR MAINTENANCE TRUST FUND.**

2 (a) *FINDINGS.*—Congress finds that—

3 (1) *there are 926 coastal, Great Lakes, and in-*
4 *land harbors maintained by the Corps of Engineers;*

5 (2) *according to the Bureau of Transportation*
6 *Statistics—*

7 (A) *in 2009, the ports and waterways of the*
8 *United States handled more than 2,200,000,000*
9 *short tons of imports, exports, and domestic ship-*
10 *ments; and*

11 (B) *in 2010, United States ports were re-*
12 *sponsible for more than \$1,400,000,000,000 in*
13 *waterborne imports and exports;*

14 (3) *according to the Congressional Research*
15 *Service, full channel dimensions are, on average,*
16 *available approximately $\frac{1}{3}$ of the time at the 59 har-*
17 *bors of the United States with the highest use rates;*

18 (4) *insufficient maintenance dredging of the*
19 *navigation channels of the United States results in*
20 *inefficient water transportation and causes harmful*
21 *economic consequences;*

22 (5) *in 1986, Congress created the Harbor Main-*
23 *tenance Trust Fund to provide funds for the oper-*
24 *ation and maintenance of the navigation channels of*
25 *the United States;*

1 (6) *in fiscal year 2012, the Harbor Maintenance*
2 *Trust Fund is expected to grow from \$6,280,000,000*
3 *to \$7,011,000,000, an increase of approximately 13*
4 *percent;*

5 (7) *despite the growth of the Harbor Mainte-*
6 *nance Trust Fund, expenditures from the Fund have*
7 *not equaled revenues, and the Fund is not being fully*
8 *used for the intended purpose of the Fund; and*

9 (8) *inadequate investment in dredging needs is*
10 *restricting access to the ports of the United States for*
11 *domestic shipping, imports, and exports and therefore*
12 *threatening the economic competitiveness of the*
13 *United States.*

14 (b) *SENSE OF THE SENATE.—It is the sense of the Sen-*
15 *ate that—*

16 (1) *the Administration should request full use of*
17 *the Harbor Maintenance Trust Fund for operating*
18 *and maintaining the navigation channels of the*
19 *United States;*

20 (2) *the amounts in the Harbor Maintenance*
21 *Trust Fund should be fully expended to operate and*
22 *maintain the navigation channels of the United*
23 *States; and*

24 (3) *Congress should ensure that other programs,*
25 *projects, and activities of the Civil Works Program of*

1 (2) *only if the Secretary shall execute an agree-*
2 *ment with the recipient (or any affiliate, successor, or*
3 *assignee) of such funds, resources, or other benefit*
4 *(hereinafter referred to as the “recipient”), which*
5 *shall require, at a minimum—*

6 (A) *the achievement of specific technical cri-*
7 *teria by the recipient by specific dates no later*
8 *than June 30, 2014;*

9 (B) *that the recipient shall—*

10 (i) *immediately upon execution of the*
11 *agreement, grant to the United States for*
12 *use by or on behalf of the United States,*
13 *through the Secretary, a royalty-free, non-*
14 *exclusive license in all enrichment-related*
15 *intellectual property and associated tech-*
16 *anical data owned, licensed or otherwise con-*
17 *trolled by the recipient as of the date of en-*
18 *actment of this Act, or thereafter developed*
19 *or acquired to meet the requirements of the*
20 *agreement;*

21 (ii) *amend any existing agreement be-*
22 *tween the Secretary and the recipient to*
23 *permit the Secretary to practice or permit*
24 *third parties on behalf of the Secretary to*
25 *practice intellectual property and associated*

1 *technical data related to the award of funds,*
2 *resources, or other benefit royalty-free for*
3 *government purposes, including completing*
4 *or operating enrichment technologies and*
5 *using them for national defense purposes,*
6 *such as providing nuclear material to oper-*
7 *ate commercial nuclear power reactors for*
8 *tritium production; and*

9 *(iii) as soon as practicable, deliver to*
10 *the Secretary all technical information and*
11 *other documentation in its possession or*
12 *control necessary to permit the Secretary to*
13 *use and practice all intellectual property re-*
14 *lated to domestic enrichment technologies;*
15 *and*

16 *(C) any other condition or restriction the*
17 *Secretary determines is necessary to protect the*
18 *interests of the United States.*

19 *(c) If the Secretary determines that a recipient has not*
20 *achieved the technical criteria under the agreement pursu-*
21 *ant to subsection (b), either by the dates specified in the*
22 *original agreement or by June 30, 2014, whichever is ear-*
23 *lier, the recipient shall, as soon as practicable, surrender*
24 *custody, possession and control, or return, as appropriate,*
25 *any real or personal property owned or leased by the recipi-*

1 *ent, to the Secretary in connection with the deployment of*
2 *enrichment technology, along with all capital improve-*
3 *ments, equipment, fixtures, appurtenances, and other im-*
4 *provements thereto, and any further obligation by the Sec-*
5 *retary under any such lease shall terminate.*

6 *(d)(1) The limitations in this section shall apply to*
7 *funds made available in this Act, prior Appropriations*
8 *Acts, and any future Appropriations Acts.*

9 *(2) This section shall not apply with regard to*
10 *the issuance of any loan guarantee pursuant to sec-*
11 *tion 1703 of the Energy Policy Act of 2005 (42*
12 *U.S.C. 16513).*

13 *(e) For purpose of this section, the term “Secretary”*
14 *shall mean the Secretary of the Department of Energy.*

15 **SEC. 1535. SENSE OF SENATE CONCERNING EXPEDITIOUS**
16 **COMPLETION OF ENVIRONMENTAL REVIEWS,**
17 **APPROVALS, LICENSING, AND PERMIT RE-**
18 **QUIREMENTS.**

19 *It is the sense of the Senate that Federal agencies*
20 *should—*

21 *(1) ensure that all applicable environmental re-*
22 *views, approvals, licensing, and permit requirements*
23 *under Federal law are completed on an expeditious*
24 *basis following any disaster or emergency declared*
25 *under Federal law, including—*

1 (A) a major disaster declared by the Presi-
2 dent under section 401 of the Robert T. Stafford
3 Disaster Relief and Emergency Assistance Act
4 (42 U.S.C. 5170); and

5 (B) an emergency declared by the President
6 under section 501 of the Robert T. Stafford Dis-
7 aster Relief and Emergency Assistance Act (42
8 U.S.C. 5191); and

9 (2) use the shortest existing applicable process
10 under Federal law to complete each review, approval,
11 licensing, and permit requirement described in para-
12 graph (1) following a disaster or emergency described
13 in that paragraph.

14 **Subtitle F—Gulf Coast Restoration**

15 **SEC. 1601. SHORT TITLE.**

16 This subtitle may be cited as the “Resources and Eco-
17 systems Sustainability, Tourist Opportunities, and Revived
18 Economies of the Gulf Coast States Act of 2012”.

19 **SEC. 1602. GULF COAST RESTORATION TRUST FUND.**

20 (a) *ESTABLISHMENT.*—There is established in the
21 Treasury of the United States a trust fund to be known
22 as the “Gulf Coast Restoration Trust Fund” (referred to
23 in this section as the “Trust Fund”), consisting of such
24 amounts as are deposited in the Trust Fund under this sub-
25 title or any other provision of law.

1 (b) *TRANSFERS.*—*The Secretary of the Treasury shall*
2 *deposit in the Trust Fund an amount equal to 80 percent*
3 *of all administrative and civil penalties paid by responsible*
4 *parties after the date of enactment of this Act in connection*
5 *with the explosion on, and sinking of, the mobile offshore*
6 *drilling unit Deepwater Horizon pursuant to a court order,*
7 *negotiated settlement, or other instrument in accordance*
8 *with section 311 of the Federal Water Pollution Control Act*
9 *(33 U.S.C. 1321).*

10 (c) *EXPENDITURES.*—*Amounts in the Trust Fund, in-*
11 *cluding interest earned on advances to the Trust Fund and*
12 *proceeds from investment under subsection (d), shall—*

13 (1) *be available for expenditure, without further*
14 *appropriation, solely for the purpose and eligible ac-*
15 *tivities of this subtitle; and*

16 (2) *remain available until expended, without fis-*
17 *cal year limitation.*

18 (d) *INVESTMENT.*—*Amounts in the Trust Fund shall*
19 *be invested in accordance with section 9702 of title 31,*
20 *United States Code, and any interest on, and proceeds from,*
21 *any such investment shall be available for expenditure in*
22 *accordance with this subtitle and the amendments made by*
23 *this subtitle.*

24 (e) *ADMINISTRATION.*—*Not later than 180 days after*
25 *the date of enactment of this Act, after providing notice and*

1 *an opportunity for public comment, the Secretary of the*
2 *Treasury, in consultation with the Secretary of the Interior*
3 *and the Secretary of Commerce, shall establish such proce-*
4 *dures as the Secretary determines to be necessary to deposit*
5 *amounts in, and expend amounts from, the Trust Fund*
6 *pursuant to this subtitle, including—*

7 (1) *procedures to assess whether the programs*
8 *and activities carried out under this subtitle and the*
9 *amendments made by this subtitle achieve compliance*
10 *with applicable requirements, including procedures by*
11 *which the Secretary of the Treasury may determine*
12 *whether an expenditure by a Gulf Coast State or*
13 *coastal political subdivision (as those terms are de-*
14 *finied in section 311 of the Federal Water Pollution*
15 *Control Act (33 U.S.C. 1321)) pursuant to such a*
16 *program or activity achieves compliance;*

17 (2) *auditing requirements to ensure that*
18 *amounts in the Trust Fund are expended as intended;*
19 *and*

20 (3) *procedures for identification and allocation*
21 *of funds available to the Secretary under other provi-*
22 *sions of law that may be necessary to pay the admin-*
23 *istrative expenses directly attributable to the manage-*
24 *ment of the Trust Fund.*

1 **SEC. 1603. GULF COAST NATURAL RESOURCES RESTORA-**
2 **TION AND ECONOMIC RECOVERY.**

3 *Section 311 of the Federal Water Pollution Control Act*
4 *(33 U.S.C. 1321) is amended—*

5 *(1) in subsection (a)—*

6 *(A) in paragraph (25)(B), by striking*
7 *“and” at the end;*

8 *(B) in paragraph (26)(D), by striking the*
9 *period at the end and inserting a semicolon; and*

10 *(C) by adding at the end the following:*

11 *“(27) the term ‘Chairperson’ means the Chair-*
12 *person of the Council;*

13 *“(28) the term ‘coastal political subdivision’*
14 *means any local political jurisdiction that is imme-*
15 *diately below the State level of government, including*
16 *a county, parish, or borough, with a coastline that is*
17 *contiguous with any portion of the United States Gulf*
18 *of Mexico;*

19 *“(29) the term ‘Comprehensive Plan’ means the*
20 *comprehensive plan developed by the Council pursu-*
21 *ant to subsection (t);*

22 *“(30) the term ‘Council’ means the Gulf Coast*
23 *Ecosystem Restoration Council established pursuant*
24 *to subsection (t);*

25 *“(31) the term ‘Deepwater Horizon oil spill’*
26 *means the blowout and explosion of the mobile off-*

1 *shore drilling unit Deepwater Horizon that occurred*
2 *on April 20, 2010, and resulting hydrocarbon releases*
3 *into the environment;*

4 “(32) the term ‘Gulf Coast ecosystem’ means—

5 “(A) in the Gulf Coast States, the coastal
6 zones (as that term is defined in section 304 of
7 the Coastal Zone Management Act of 1972 (16
8 U.S.C. 1453), except that, in this section, the
9 term ‘coastal zones’ includes land within the
10 coastal zones that is held in trust by, or the use
11 of which is by law subject solely to the discretion
12 of, the Federal Government or officers or agents
13 of the Federal Government) that border the Gulf
14 of Mexico;

15 “(B) any adjacent land, water, and water-
16 sheds, that are within 25 miles of the coastal
17 zones described in subparagraph (A) of the Gulf
18 Coast States; and

19 “(C) all Federal waters in the Gulf of Mex-
20 ico;

21 “(33) the term ‘Gulf Coast State’ means any of
22 the States of Alabama, Florida, Louisiana, Mis-
23 sissippi, and Texas; and

24 “(34) the term ‘Trust Fund’ means the Gulf
25 Coast Restoration Trust Fund established pursuant to

1 *section 1602 of the Resources and Ecosystems Sus-*
2 *tainability, Tourist Opportunities, and Revived*
3 *Economies of the Gulf Coast States Act of 2012.”;*

4 (2) *in subsection (s), by inserting “except as pro-*
5 *vided in subsection (t)” before the period at the end;*
6 *and*

7 (3) *by adding at the end the following:*

8 “(t) *GULF COAST RESTORATION AND RECOVERY.—*

9 “(1) *STATE ALLOCATION AND EXPENDITURES.—*

10 “(A) *IN GENERAL.—Of the total amounts*
11 *made available in any fiscal year from the Trust*
12 *Fund, 35 percent shall be available, in accord-*
13 *ance with the requirements of this section, to the*
14 *Gulf Coast States in equal shares for expenditure*
15 *for ecological and economic restoration of the*
16 *Gulf Coast ecosystem in accordance with this*
17 *subsection.*

18 “(B) *USE OF FUNDS.—*

19 “(i) *ELIGIBLE ACTIVITIES.—Amounts*
20 *provided to the Gulf States under this sub-*
21 *section may only be used to carry out 1 or*
22 *more of the following activities:*

23 “(I) *Coastal restoration projects*
24 *and activities, including conservation*
25 *and coastal land acquisition.*

1 “(II) *Mitigation of damage to,*
2 *and restoration of, fish, wildlife, or*
3 *natural resources.*

4 “(III) *Implementation of a feder-*
5 *ally approved marine, coastal, or com-*
6 *prehensive conservation management*
7 *plan, including fisheries monitoring.*

8 “(IV) *Programs to promote tour-*
9 *ism in a Gulf Coast State, including*
10 *recreational fishing.*

11 “(V) *Programs to promote the*
12 *consumption of seafood produced from*
13 *the Gulf Coast ecosystem.*

14 “(VI) *Programs to promote edu-*
15 *cation regarding the natural resources*
16 *of the Gulf Coast ecosystem.*

17 “(VII) *Planning assistance.*

18 “(VIII) *Workforce development*
19 *and job creation.*

20 “(IX) *Improvements to or upon*
21 *State parks located in coastal areas af-*
22 *ected by the Deepwater Horizon oil*
23 *spill.*

24 “(X) *Mitigation of the ecological*
25 *and economic impact of outer Conti-*

1 *mental Shelf activities and the impacts*
2 *of the Deepwater Horizon oil spill or*
3 *promotion of the long-term ecological*
4 *or economic recovery of the Gulf Coast*
5 *ecosystem through the funding of infra-*
6 *structure projects.*

7 “(XI) *Coastal flood protection and*
8 *infrastructure directly affected by*
9 *coastal wetland losses, beach erosion, or*
10 *the impacts of the Deepwater Horizon*
11 *oil spill.*

12 “(XII) *Administrative costs of*
13 *complying with this subsection.*

14 “(ii) *LIMITATION.—*

15 “(I) *IN GENERAL.—Of the*
16 *amounts received by a Gulf State*
17 *under this subsection not more than 3*
18 *percent may be used for administrative*
19 *costs eligible under clause (i)(XII).*

20 “(II) *PROHIBITION ON USE FOR*
21 *IMPORTED SEAFOOD.—None of the*
22 *funds made available under this sub-*
23 *section shall be used for any program*
24 *to support or promote imported seafood*

1 *or any seafood product that is not har-*
2 *vested from the Gulf Coast ecosystem.*

3 “(C) *COASTAL POLITICAL SUBDIVISIONS.—*

4 “(i) *IN GENERAL.—In the case of a*
5 *State where the coastal zone includes the en-*
6 *tire State—*

7 “(I) *75 percent of funding shall be*
8 *provided to the 8 disproportionately af-*
9 *ected counties impacted by the Deep-*
10 *water Horizon Oil Spill; and*

11 “(II) *25 percent shall be provided*
12 *to nondisproportionately impacted*
13 *counties within the State.*

14 “(ii) *FLORIDA.—*

15 “(I) *DISPROPORTIONALLY AF-*
16 *FECTED COUNTIES.—Of the total*
17 *amounts made available to counties in*
18 *the State of Florida under clause*
19 *(i)(I)—*

20 “(aa) *10 percent shall be dis-*
21 *tributed equally among the 8 dis-*
22 *proportionately affected counties;*
23 *and*

24 “(bb) *90 percent shall be dis-*
25 *tributed to the 8 disproportio-*

1 *ately affected counties in accord-*
2 *ance with the following weighted*
3 *formula:*

4 “(AA) 30 percent based
5 *on the weighted average of*
6 *the county shoreline oiled.*

7 “(BB) 30 percent based
8 *on the weighted average of*
9 *the county per capita sales*
10 *tax collections estimated for*
11 *the fiscal year ending Sep-*
12 *tember 30, 2012.*

13 “(CC) 20 percent based
14 *on the weighted average of*
15 *the population of the county.*

16 “(DD) 20 percent based
17 *on the inverse proportion of*
18 *the weighted average distance*
19 *from the Deepwater Horizon*
20 *oil rig to each of the nearest*
21 *and farthest points of the*
22 *shoreline.*

23 “(II) *NONDISPROPORTIONATELY*
24 *IMPACTED COUNTIES.—The total*
25 *amounts made available to coastal po-*

1 *litical subdivisions in the State of*
2 *Florida under clause (i)(II) shall be*
3 *distributed according to the following*
4 *weighted formula:*

5 *“(aa) 34 percent based on the*
6 *weighted average of the popu-*
7 *lation of the county.*

8 *“(bb) 33 percent based on the*
9 *weighted average of the county per*
10 *capita sales tax collections esti-*
11 *mated for the fiscal year ending*
12 *September 30, 2012.*

13 *“(cc) 33 percent based on the*
14 *inverse proportion of the weighted*
15 *average distance from the Deep-*
16 *water Horizon oil rig to each of*
17 *the nearest and farthest points of*
18 *the shoreline.*

19 *“(iii) LOUISIANA.—Of the total*
20 *amounts made available to the State of*
21 *Louisiana under this paragraph:*

22 *“(I) 70 percent shall be provided*
23 *directly to the State in accordance*
24 *with this subsection.*

1 “(II) 30 percent shall be provided
2 *directly to parishes in the coastal zone*
3 *(as defined in section 304 of the Coast-*
4 *al Zone Management Act of 1972 (16*
5 *U.S.C. 1453)) of the State of Louisiana*
6 *according to the following weighted for-*
7 *mula:*

8 “(aa) 40 percent based on the
9 *weighted average of miles of the*
10 *parish shoreline oiled.*

11 “(bb) 40 percent based on the
12 *weighted average of the popu-*
13 *lation of the parish.*

14 “(cc) 20 percent based on the
15 *weighted average of the land mass*
16 *of the parish.*

17 “(iv) *CONDITIONS.—*

18 “(I) *LAND USE PLAN.—As a con-*
19 *dition of receiving amounts allocated*
20 *under clause (iii), the chief executive of*
21 *the eligible parish shall certify to the*
22 *Governor of the State that the parish*
23 *has completed a comprehensive land*
24 *use plan.*

1 “(II) *OTHER CONDITIONS.*—A
2 *coastal political subdivision receiving*
3 *funding under this subsection shall*
4 *meet all of the conditions in subpara-*
5 *graph (D).*

6 “(D) *CONDITIONS.*—As a condition of re-
7 *ceiving amounts from the Trust Fund, a Gulf*
8 *Coast State, including the entities described in*
9 *subparagraph (E), or a coastal political subdivi-*
10 *sion shall—*

11 “(i) *agree to meet such conditions, in-*
12 *cluding audit requirements, as the Sec-*
13 *retary of the Treasury determines necessary*
14 *to ensure that amounts disbursed from the*
15 *Trust Fund will be used in accordance with*
16 *this subsection;*

17 “(ii) *certify in such form and in such*
18 *manner as the Secretary of the Treasury de-*
19 *termines necessary that the project or pro-*
20 *gram for which the Gulf Coast State or*
21 *coastal political subdivision is requesting*
22 *amounts—*

23 “(I) *is designed to restore and*
24 *protect the natural resources, eco-*
25 *systems, fisheries, marine and wildlife*

1 *habitats, beaches, coastal wetlands, or*
2 *economy of the Gulf Coast;*

3 “(II) carries out 1 or more of the
4 activities described in subparagraph
5 (B)(i);

6 “(III) was selected based on
7 meaningful input from the public, in-
8 cluding broad-based participation from
9 individuals, businesses, and nonprofit
10 organizations; and

11 “(IV) in the case of a natural re-
12 source protection or restoration project,
13 is based on the best available science;

14 “(iii) certify that the project or pro-
15 gram and the awarding of a contract for the
16 expenditure of amounts received under this
17 subsection are consistent with the standard
18 procurement rules and regulations gov-
19 erning a comparable project or program in
20 that State, including all applicable competi-
21 tive bidding and audit requirements; and

22 “(iv) develop and submit a multiyear
23 implementation plan for use of those funds.

24 “(E) APPROVAL BY STATE ENTITY, TASK
25 FORCE, OR AGENCY.—The following Gulf Coast

1 *State entities, task forces, or agencies shall carry*
2 *out the duties of a Gulf Coast State pursuant to*
3 *this paragraph:*

4 “(i) ALABAMA.—

5 “(I) IN GENERAL.—*In the State of*
6 *Alabama, the Alabama Gulf Coast Re-*
7 *covery Council, which shall be com-*
8 *prised of only the following:*

9 “(aa) *The Governor of Ala-*
10 *bama, who shall also serve as*
11 *Chairperson and preside over the*
12 *meetings of the Alabama Gulf*
13 *Coast Recovery Council.*

14 “(bb) *The Director of the*
15 *Alabama State Port Authority,*
16 *who shall also serve as Vice*
17 *Chairperson and preside over the*
18 *meetings of the Alabama Gulf*
19 *Coast Recovery Council in the ab-*
20 *sence of the Chairperson.*

21 “(cc) *The Chairman of the*
22 *Baldwin County Commission.*

23 “(dd) *The President of the*
24 *Mobile County Commission.*

1 “(ee) *The Mayor of the city*
2 *of Bayou La Batre.*

3 “(ff) *The Mayor of the town*
4 *of Dauphin Island.*

5 “(gg) *The Mayor of the city*
6 *of Fairhope.*

7 “(hh) *The Mayor of the city*
8 *of Gulf Shores.*

9 “(ii) *The Mayor of the city of*
10 *Mobile.*

11 “(jj) *The Mayor of the city of*
12 *Orange Beach.*

13 “(II) *VOTE.—Each member of the*
14 *Alabama Gulf Coast Recovery Council*
15 *shall be entitled to 1 vote.*

16 “(III) *MAJORITY VOTE.—All deci-*
17 *sions of the Alabama Gulf Coast Recov-*
18 *ery Council shall be made by majority*
19 *vote.*

20 “(ii) *LOUISIANA.—In the State of Lou-*
21 *isiana, the Coastal Protection and Restora-*
22 *tion Authority of Louisiana.*

23 “(iii) *MISSISSIPPI.—In the State of*
24 *Mississippi, the Mississippi Department of*
25 *Environmental Quality.*

1 “(F) COMPLIANCE WITH ELIGIBLE ACTIVITIES.—If the Secretary of the Treasury deter-
2 mines that an expenditure by a Gulf Coast State
3 or coastal political subdivision of amounts made
4 available under this subsection does not meet 1
5 of the activities described in subparagraph
6 (B)(i), the Secretary shall make no additional
7 amounts from the Trust Fund available to that
8 Gulf Coast State or coastal political subdivision
9 until such time as an amount equal to the
10 amount expended for the unauthorized use—

12 “(i) has been deposited by the Gulf
13 Coast State or coastal political subdivision
14 in the Trust Fund; or

15 “(ii) has been authorized by the Sec-
16 retary of the Treasury for expenditure by
17 the Gulf Coast State or coastal political
18 subdivision for a project or program that
19 meets the requirements of this subsection.

20 “(G) COMPLIANCE WITH CONDITIONS.—If
21 the Secretary of the Treasury determines that a
22 Gulf Coast State or coastal political subdivision
23 does not meet the requirements of this subsection,
24 including the conditions of subparagraph (D),
25 where applicable, the Secretary of the Treasury

1 *shall make no amounts from the Trust Fund*
2 *available to that Gulf Coast State or coastal po-*
3 *litical subdivision until all conditions of this*
4 *subsection are met.*

5 “(H) *PUBLIC INPUT.*—*In meeting any con-*
6 *dition of this subsection, a Gulf Coast State may*
7 *use an appropriate procedure for public con-*
8 *sultation in that Gulf Coast State, including*
9 *consulting with 1 or more established task forces*
10 *or other entities, to develop recommendations for*
11 *proposed projects and programs that would re-*
12 *store and protect the natural resources, eco-*
13 *systems, fisheries, marine and wildlife habitats,*
14 *beaches, coastal wetlands, and economy of the*
15 *Gulf Coast.*

16 “(I) *PREVIOUSLY APPROVED PROJECTS AND*
17 *PROGRAMS.*—*A Gulf Coast State or coastal polit-*
18 *ical subdivision shall be considered to have met*
19 *the conditions of subparagraph (D) for a specific*
20 *project or program if, before the date of enact-*
21 *ment of the Resources and Ecosystems Sustain-*
22 *ability, Tourist Opportunities, and Revived*
23 *Economies of the Gulf Coast States Act of*
24 *2012—*

1 “(i) the Gulf Coast State or coastal po-
2 litical subdivision has established conditions
3 for carrying out projects and programs that
4 are substantively the same as the conditions
5 described in subparagraph (D); and

6 “(ii) the applicable project or program
7 carries out 1 or more of the activities de-
8 scribed in subparagraph (B)(ii).

9 “(J) CONSULTATION WITH COUNCIL.—In
10 carrying out this subsection, each Gulf Coast
11 State shall seek the input of the Chairperson of
12 the Council to identify large-scale projects that
13 may be jointly supported by that Gulf Coast
14 State and by the Council pursuant to the Com-
15 prehensive Plan with amounts provided under
16 this subsection.

17 “(K) NON-FEDERAL MATCHING FUNDS.—

18 “(i) IN GENERAL.—A Gulf Coast State
19 or coastal political subdivision may use, in
20 whole or in part, amounts made available
21 to that Gulf Coast State from the Trust
22 Fund to satisfy the non-Federal share of the
23 cost of any project or program authorized
24 by Federal law that meets the eligible use
25 requirements under subparagraph (B)(i).

1 “(i) *EFFECT ON OTHER FUNDS.*—*The*
2 *use of funds made available from the Trust*
3 *Fund to satisfy the non-Federal share of the*
4 *cost of a project or program that meets the*
5 *requirements of clause (i) shall not affect*
6 *the priority in which other Federal funds*
7 *are allocated or awarded.*

8 “(L) *LOCAL PREFERENCE.*—*In awarding*
9 *contracts to carry out a project or program*
10 *under this subsection, a Gulf Coast State or*
11 *coastal political subdivision may give a pref-*
12 *erence to individuals and companies that reside*
13 *in, are headquartered in, or are principally en-*
14 *gaged in business in, a Gulf Coast State.*

15 “(M) *UNUSED FUNDS.*—*Any Funds not*
16 *identified in an implementation plan by a State*
17 *or coastal political subdivision in accordance*
18 *with subparagraph (D)(iv) shall remain in the*
19 *Trust Fund until such time as the State or*
20 *coastal political subdivision to which the funds*
21 *have been allocated develops and submits a plan*
22 *identifying uses for those funds in accordance*
23 *with subparagraph (D)(iv).*

24 “(N) *JUDICIAL REVIEW.*—*If the Secretary of*
25 *the Treasury determines that a Gulf Coast State*

1 *or coastal political subdivision does not meet the*
2 *requirements of this subsection, including the*
3 *conditions of subparagraph (D), the Gulf Coast*
4 *State or coastal political subdivision may obtain*
5 *expedited judicial review within 90 days of that*
6 *decision in a district court of the United States,*
7 *of appropriate jurisdiction and venue, that is lo-*
8 *cated within the State seeking such review.*

9 “(2) *COUNCIL ESTABLISHMENT AND ALLOCA-*
10 *TION.—*

11 “(A) *IN GENERAL.—Of the total amount*
12 *made available in any fiscal year from the Trust*
13 *Fund, 60 percent shall be disbursed to the Coun-*
14 *cil to carry out the Comprehensive Plan.*

15 “(B) *COUNCIL EXPENDITURES.—*

16 “(i) *IN GENERAL.—In accordance with*
17 *this paragraph, the Council shall expend*
18 *funds made available from the Trust Fund*
19 *to undertake projects and programs that*
20 *would restore and protect the natural re-*
21 *sources, ecosystems, fisheries, marine and*
22 *wildlife habitats, beaches, coastal wetlands,*
23 *and economy of the Gulf Coast.*

24 “(ii) *ALLOCATION AND EXPENDITURE*
25 *PROCEDURES.—The Secretary of the Treas-*

1 *ury shall develop such conditions, including*
2 *audit requirements, as the Secretary of the*
3 *Treasury determines necessary to ensure*
4 *that amounts disbursed from the Trust*
5 *Fund to the Council to implement the Com-*
6 *prehensive Plan will be used in accordance*
7 *with this paragraph.*

8 “(iii) *ADMINISTRATIVE EXPENSES.—Of*
9 *the amounts received by the Council under*
10 *this subsection, not more than 3 percent*
11 *may be used for administrative expenses,*
12 *including staff.*

13 “(C) *GULF COAST ECOSYSTEM RESTORA-*
14 *TION COUNCIL.—*

15 “(i) *ESTABLISHMENT.—There is estab-*
16 *lished as an independent entity in the Fed-*
17 *eral Government a council to be known as*
18 *the ‘Gulf Coast Ecosystem Restoration*
19 *Council’.*

20 “(ii) *MEMBERSHIP.—The Council shall*
21 *consist of the following members, or in the*
22 *case of a Federal agency, a designee at the*
23 *level of the Assistant Secretary or the equiv-*
24 *alent:*

1 “(I) *The Chair of the Council on*
2 *Environmental Quality.*

3 “(II) *The Secretary of the Inte-*
4 *rior.*

5 “(III) *The Secretary of the Army.*

6 “(IV) *The Secretary of Commerce.*

7 “(V) *The Administrator of the*
8 *Environmental Protection Agency.*

9 “(VI) *The Secretary of Agri-*
10 *culture.*

11 “(VII) *The head of the department*
12 *in which the Coast Guard is operating.*

13 “(VIII) *The Governor of the State*
14 *of Alabama.*

15 “(IX) *The Governor of the State of*
16 *Florida.*

17 “(X) *The Governor of the State of*
18 *Louisiana.*

19 “(XI) *The Governor of the State of*
20 *Mississippi.*

21 “(XII) *The Governor of the State*
22 *of Texas.*

23 “(iii) *ALTERNATE.—A Governor ap-*
24 *pointed to the Council by the President may*
25 *designate an alternate to represent the Gov-*

1 *ernor on the Council and vote on behalf of*
2 *the Governor.*

3 “(iv) *CHAIRPERSON.—From among the*
4 *Federal agency members of the Council, the*
5 *representatives of States on the Council*
6 *shall select, and the President shall appoint,*
7 *1 Federal member to serve as Chairperson*
8 *of the Council.*

9 “(v) *PRESIDENTIAL APPOINTMENT.—*
10 *All Council members shall be appointed by*
11 *the President.*

12 “(vi) *COUNCIL ACTIONS.—*

13 “(I) *IN GENERAL.—Subject to*
14 *subclause (IV), significant actions by*
15 *the Council shall require the affirma-*
16 *tive vote of the Federal Chairperson*
17 *and a majority of the State members to*
18 *be effective.*

19 “(II) *INCLUSIONS.—Significant*
20 *actions include but are not limited*
21 *to—*

22 “(aa) *approval of a Com-*
23 *prehensive Plan and future revi-*
24 *sions to a Comprehensive Plan;*

1 “(bb) approval of State plans
2 pursuant to paragraph (3)(B)(iv);
3 and

4 “(cc) approval of reports to
5 Congress pursuant to clause
6 (vii)(X).

7 “(III) QUORUM.—A quorum of
8 State members shall be required to be
9 present for the Council to take any sig-
10 nificant action.

11 “(IV) AFFIRMATIVE VOTE RE-
12 QUIREMENT DEEMED MET.—For ap-
13 proval of State plans pursuant to
14 paragraph (3)(B)(iv), the certification
15 by a State member of the Council that
16 the plan satisfies all requirements of
17 clauses (i) and (ii) of paragraphs
18 (3)(B), when joined by an affirmative
19 vote of the Federal Chairperson of the
20 Council, is deemed to satisfy the re-
21 quirements for affirmative votes under
22 subclause (I).

23 “(V) PUBLIC TRANSPARENCY.—
24 Appropriate actions of the Council, in-
25 cluding votes on significant actions

1 *and associated deliberations, shall be*
2 *made available to the public.*

3 “(vii) *DUTIES OF COUNCIL.—The*
4 *Council shall—*

5 “*(I) develop the Comprehensive*
6 *Plan, and future revisions to the Com-*
7 *prehensive Plan;*

8 “*(II) identify as soon as prac-*
9 *ticable the projects that—*

10 “*(aa) have been authorized*
11 *prior to the date of enactment of*
12 *this subsection but not yet com-*
13 *menced; and*

14 “*(bb) if implemented quickly,*
15 *would restore and protect the nat-*
16 *ural resources, ecosystems, fish-*
17 *eries, marine and wildlife habi-*
18 *tats, beaches, barrier islands,*
19 *dunes, and coastal wetlands of the*
20 *Gulf Coast ecosystem;*

21 “*(III) coordinate the development*
22 *of consistent policies, strategies, plans,*
23 *and activities by Federal agencies,*
24 *State and local governments, and pri-*
25 *vate sector entities for addressing the*

1 *restoration and protection of the Gulf*
2 *Coast ecosystem;*

3 *“(IV) establish such other advi-*
4 *sory committee or committees as may*
5 *be necessary to assist the Council, in-*
6 *cluding a scientific advisory committee*
7 *and a committee to advise the Council*
8 *on public policy issues;*

9 *“(V) coordinate scientific and*
10 *other research associated with restora-*
11 *tion of the Gulf Coast ecosystem, in-*
12 *cluding research, observation, and*
13 *monitoring carried out pursuant to*
14 *section 1604 of the Resources and Eco-*
15 *systems Sustainability, Tourist Oppor-*
16 *tunities, and Revived Economies of the*
17 *Gulf Coast States Act of 2012;*

18 *“(VI) seek to ensure that all poli-*
19 *cies, strategies, plans, and activities for*
20 *addressing the restoration of the Gulf*
21 *Coast ecosystem are based on the best*
22 *available physical, ecological, and eco-*
23 *nomical data;*

24 *“(VII) make recommendations to*
25 *address the particular needs of espe-*

1 *cially economically and socially vul-*
2 *nerable populations;*

3 *“(VIII) develop standard terms to*
4 *include in contracts for projects and*
5 *programs awarded pursuant to the*
6 *Comprehensive Plan that provide a*
7 *preference to individuals and compa-*
8 *nies that reside in, are headquartered*
9 *in, or are principally engaged in busi-*
10 *ness in, a Gulf Coast State;*

11 *“(IX) prepare an integrated fi-*
12 *nancial plan and recommendations for*
13 *coordinated budget requests for the*
14 *amounts proposed to be expended by*
15 *the Federal agencies represented on the*
16 *Council for projects and programs in*
17 *the Gulf Coast States;*

18 *“(X) submit to Congress an an-*
19 *nual report that—*

20 *“(aa) summarizes the poli-*
21 *cies, strategies, plans, and activi-*
22 *ties for addressing the restoration*
23 *and protection of the Gulf Coast*
24 *ecosystem;*

1 “(bb) describes the projects
2 and programs being implemented
3 to restore and protect the Gulf
4 Coast ecosystem; and

5 “(cc) makes such rec-
6 ommendations to Congress for
7 modifications of existing laws as
8 the Council determines necessary
9 to implement the Comprehensive
10 Plan; and

11 “(XI) submit to Congress a final
12 report on the date on which all funds
13 made available to the Council are ex-
14 pended.

15 “(viii) APPLICATION OF FEDERAL AD-
16 VISORY COMMITTEE ACT.—The Council, or
17 any other advisory committee established
18 under this subsection, shall not be consid-
19 ered an advisory committee under the Fed-
20 eral Advisory Committee Act (5 U.S.C.
21 App.).

22 “(D) COMPREHENSIVE PLAN.—

23 “(i) PROPOSED PLAN.—

24 “(I) IN GENERAL.—Not later than
25 180 days after the date of enactment of

1 *the Resources and Ecosystems Sustain-*
2 *ability, Tourist Opportunities, and Re-*
3 *vived Economies of the Gulf Coast*
4 *States Act of 2012, the Chairperson, on*
5 *behalf of the Council, shall publish a*
6 *proposed plan to restore and protect*
7 *the natural resources, ecosystems, fish-*
8 *eries, marine and wildlife habitats,*
9 *beaches, and coastal wetlands of the*
10 *Gulf Coast ecosystem.*

11 “(II) CONTENTS.—*The proposed*
12 *plan described in subclause (I) shall*
13 *include and incorporate the findings*
14 *and information prepared by the*
15 *President’s Gulf Coast Restoration*
16 *Task Force.*

17 “(ii) PUBLICATION.—

18 “(I) INITIAL PLAN.—*Not later*
19 *than 1 year after date of enactment of*
20 *the Resources and Ecosystems Sustain-*
21 *ability, Tourist Opportunities, and Re-*
22 *vived Economies of the Gulf Coast*
23 *States Act of 2012 and after notice and*
24 *opportunity for public comment, the*
25 *Chairperson, on behalf of the Council*

1 *and after approval by the Council,*
2 *shall publish in the Federal Register*
3 *the initial Comprehensive Plan to re-*
4 *store and protect the natural resources,*
5 *ecosystems, fisheries, marine and wild-*
6 *life habitats, beaches, and coastal wet-*
7 *lands of the Gulf Coast ecosystem.*

8 “(II) COOPERATION WITH GULF
9 COAST RESTORATION TASK FORCE.—
10 *The Council shall develop the initial*
11 *Comprehensive Plan in close coordina-*
12 *tion with the President’s Gulf Coast*
13 *Restoration Task Force.*

14 “(III) CONSIDERATIONS.—*In de-*
15 *veloping the initial Comprehensive*
16 *Plan and subsequent updates, the*
17 *Council shall consider all relevant*
18 *findings, reports, or research prepared*
19 *or funded by a center of excellence or*
20 *the Gulf Fisheries and Ecosystem En-*
21 *dowment established pursuant to the*
22 *Gulf Coast Ecosystem Restoration*
23 *Science, Monitoring, and Technology*
24 *Program under section 1604 of the Re-*
25 *sources and Ecosystems Sustainability,*

1 *Tourist Opportunities, and Revived*
2 *Economies of the Gulf Coast States Act*
3 *of 2012.*

4 “(IV) CONTENTS.—*The initial*
5 *Comprehensive Plan shall include—*

6 “(aa) *such provisions as are*
7 *necessary to fully incorporate in*
8 *the Comprehensive Plan the strat-*
9 *egy, projects, and programs rec-*
10 *ommended by the President’s Gulf*
11 *Coast Restoration Task Force;*

12 “(bb) *a list of any project or*
13 *program authorized prior to the*
14 *date of enactment of this sub-*
15 *section but not yet commenced,*
16 *the completion of which would*
17 *further the purposes and goals of*
18 *this subsection and of the Re-*
19 *sources and Ecosystems Sustain-*
20 *ability, Tourist Opportunities,*
21 *and Revived Economies of the*
22 *Gulf Coast States Act of 2012;*

23 “(cc) *a description of the*
24 *manner in which amounts from*
25 *the Trust Fund projected to be*

1 *made available to the Council for*
2 *the succeeding 10 years will be al-*
3 *located; and*

4 *“(dd) subject to available*
5 *funding in accordance with clause*
6 *(iii), a prioritized list of specific*
7 *projects and programs to be fund-*
8 *ed and carried out during the 3-*
9 *year period immediately following*
10 *the date of publication of the ini-*
11 *tial Comprehensive Plan, includ-*
12 *ing a table that illustrates the dis-*
13 *tribution of projects and programs*
14 *by Gulf Coast State.*

15 *“(V) PLAN UPDATES.—The Coun-*
16 *cil shall update—*

17 *“(aa) the Comprehensive*
18 *Plan every 5 years in a manner*
19 *comparable to the manner estab-*
20 *lished in this subsection for each*
21 *5-year period for which amounts*
22 *are expected to be made available*
23 *to the Gulf Coast States from the*
24 *Trust Fund; and*

1 “(bb) the 3-year list of
2 projects and programs described
3 in subclause (IV)(dd) annually.

4 “(iii) RESTORATION PRIORITIES.—*Ex-*
5 cept for projects and programs described in
6 subclause (IV)(bb), in selecting projects and
7 programs to include on the 3-year list de-
8 scribed in subclause (IV)(dd), based on the
9 best available science, the Council shall give
10 highest priority to projects that address 1 or
11 more of the following criteria:

12 “(I) Projects that are projected to
13 make the greatest contribution to re-
14 storing and protecting the natural re-
15 sources, ecosystems, fisheries, marine
16 and wildlife habitats, beaches, and
17 coastal wetlands of the Gulf Coast eco-
18 system, without regard to geographic
19 location.

20 “(II) Large-scale projects and pro-
21 grams that are projected to substan-
22 tially contribute to restoring and pro-
23 tecting the natural resources, eco-
24 systems, fisheries, marine and wildlife

1 *habitats, beaches, and coastal wetlands*
2 *of the Gulf Coast ecosystem.*

3 “(III) *Projects contained in exist-*
4 *ing Gulf Coast State comprehensive*
5 *plans for the restoration and protection*
6 *of natural resources, ecosystems, fish-*
7 *eries, marine and wildlife habitats,*
8 *beaches, and coastal wetlands of the*
9 *Gulf Coast ecosystem.*

10 “(IV) *Projects that restore long-*
11 *term resiliency of the natural re-*
12 *sources, ecosystems, fisheries, marine*
13 *and wildlife habitats, beaches, and*
14 *coastal wetlands most impacted by the*
15 *Deepwater Horizon oil spill.*

16 “(E) *IMPLEMENTATION.—*

17 “(i) *IN GENERAL.—The Council, acting*
18 *through the member agencies and Gulf*
19 *Coast States, shall expend funds made*
20 *available from the Trust Fund to carry out*
21 *projects and programs adopted in the Com-*
22 *prehensive Plan.*

23 “(ii) *ADMINISTRATIVE RESPONSI-*
24 *BILITY.—*

1 “(I) *IN GENERAL.*—Primary au-
2 thority and responsibility for each
3 project and program included in the
4 *Comprehensive Plan* shall be assigned
5 by the Council to a Gulf Coast State
6 represented on the Council or a Federal
7 agency.

8 “(II) *TRANSFER OF AMOUNTS.*—
9 Amounts necessary to carry out each
10 project or program included in the
11 *Comprehensive Plan* shall be trans-
12 ferred by the Secretary of the Treasury
13 from the Trust Fund to that Federal
14 agency or Gulf Coast State as the
15 project or program is implemented,
16 subject to such conditions as the Sec-
17 retary of the Treasury, in consultation
18 with the Secretary of the Interior and
19 the Secretary of Commerce, established
20 pursuant to section 1602 of the *Re-*
21 *sources and Ecosystems Sustainability,*
22 *Tourist Opportunities, and Revived*
23 *Economies of the Gulf Coast States Act*
24 of 2012.

25 “(iii) *COST SHARING.*—

1 “(I) *IN GENERAL.*—A *Gulf Coast*
2 *State or coastal political subdivision*
3 *may use, in whole or in part, amounts*
4 *made available to that Gulf Coast*
5 *State or coastal political subdivision*
6 *from the Trust Fund to satisfy the*
7 *non-Federal share of the cost of car-*
8 *rying a project or program that—*

9 “(aa) *is authorized by other*
10 *Federal law; and*

11 “(bb) *meets the criteria of*
12 *subparagraph (D).*

13 “(II) *INCLUSION IN COMPREHEN-*
14 *SIVE PLAN.*—A *project or program de-*
15 *scribed in subclause (I) that meets the*
16 *criteria for inclusion in the Com-*
17 *prehensive Plan described in subpara-*
18 *graph (D) shall be selected and adopted*
19 *by the Council as part of the Com-*
20 *prehensive Plan in the manner de-*
21 *scribed in subparagraph (D).*

22 “(F) *COORDINATION.*—*The Council and the*
23 *Federal members of the Council may develop*
24 *Memorandums of Understanding establishing in-*

1 *tegrated funding and implementation plans*
2 *among the member agencies and authorities.*

3 “(G) *TERMINATION.*—*The Council shall ter-*
4 *minate on the date on which the report described*
5 *in subparagraph (C)(vii)(XI) is submitted to*
6 *Congress.*

7 “(3) *OIL SPILL RESTORATION IMPACT ALLOCA-*
8 *TION.*—

9 “(A) *IN GENERAL.*—*Except as provided in*
10 *paragraph (4), of the total amount made avail-*
11 *able to the Council under paragraph (2) in any*
12 *fiscal year from the Trust Fund, 50 percent shall*
13 *be disbursed by the Council as follows:*

14 “(i) *FORMULA.*—*Subject to subpara-*
15 *graph (B), for each Gulf Coast State, the*
16 *amount disbursed under this paragraph*
17 *shall be based on a formula established by*
18 *the Council by regulation that is based on*
19 *a weighted average of the following criteria:*

20 “(I) *40 percent based on the pro-*
21 *portionate number of miles of shoreline*
22 *in each Gulf Coast State that experi-*
23 *enced oiling as of April 10, 2011, com-*
24 *pared to the total number of miles of*
25 *shoreline that experienced oiling as a*

1 *result of the Deepwater Horizon oil*
2 *spill.*

3 “(II) 40 percent based on the in-
4 verse proportion of the average dis-
5 tance from the Deepwater Horizon oil
6 rig to the nearest and farthest point of
7 the shoreline that experienced oiling of
8 each Gulf Coast State.

9 “(III) 20 percent based on the av-
10 erage population in the 2010 decennial
11 census of coastal counties bordering the
12 Gulf of Mexico within each Gulf Coast
13 State.

14 “(i) *MINIMUM ALLOCATION.*—*The*
15 *amount disbursed to a Gulf Coast State for*
16 *each fiscal year under clause (i) shall be at*
17 *least 5 percent of the total amounts made*
18 *available under this paragraph.*

19 “(B) *APPROVAL OF PROJECTS AND PRO-*
20 *GRAMS.*—

21 “(i) *IN GENERAL.*—*The Council shall*
22 *disburse amounts to the respective Gulf*
23 *Coast States in accordance with the formula*
24 *developed under subparagraph (A) for*
25 *projects, programs, and activities that will*

1 *improve the ecosystems or economy of the*
2 *Gulf Coast, subject to the condition that*
3 *each Gulf Coast State submits a plan for*
4 *the expenditure of amounts disbursed under*
5 *this paragraph which meet the following*
6 *criteria:*

7 “(I) *All projects, programs, and*
8 *activities included in that plan are eli-*
9 *gible activities pursuant to paragraph*
10 *(1)(B)(i).*

11 “(II) *The projects, programs, and*
12 *activities included in that plan con-*
13 *tribute to the overall economic and eco-*
14 *logical recovery of the Gulf Coast.*

15 “(III) *The plan takes into consid-*
16 *eration the Comprehensive Plan and is*
17 *consistent with its goals and objectives,*
18 *as described in paragraph (2)(B)(i).*

19 “(ii) *FUNDING.—*

20 “(I) *IN GENERAL.—Except as pro-*
21 *vided in subclause (II), the plan de-*
22 *scribed in clause (i) may use not more*
23 *than 25 percent of the funding made*
24 *available for infrastructure projects eli-*

1 *gible under subclauses (X) and (XI) of*
2 *paragraph (1)(B)(i).*

3 “(II) *EXCEPTION.*—*The plan de-*
4 *scribed in clause (i) may propose to*
5 *use more than 25 percent of the fund-*
6 *ing made available for infrastructure*
7 *projects eligible under subclauses (X)*
8 *and (XI) of paragraph (1)(B)(i) if the*
9 *plan certifies that—*

10 “(aa) *ecosystem restoration*
11 *needs in the State will be ad-*
12 *dressed by the projects in the pro-*
13 *posed plan; and*

14 “(bb) *additional investment*
15 *in infrastructure is required to*
16 *mitigate the impacts of the Deep-*
17 *water Horizon Oil Spill to the*
18 *ecosystem or economy.*

19 “(iii) *DEVELOPMENT.*—*The plan de-*
20 *scribed in clause (i) shall be developed by—*

21 “(I) *in the State of Alabama, the*
22 *Alabama Gulf Coast Recovery Council*
23 *established under paragraph (1)(E)(i);*

24 “(II) *in the State of Florida, a*
25 *consortia of local political subdivisions*

1 *that includes at least 1 representative*
2 *of each disproportionately affected coun-*
3 *ty;*

4 *“(III) in the State of Louisiana,*
5 *the Coastal Protection and Restoration*
6 *Authority of Louisiana;*

7 *“(IV) in the State of Mississippi,*
8 *the Office of the Governor or an ap-*
9 *pointee of the Office of the Governor;*
10 *and*

11 *“(V) in the State of Texas, the Of-*
12 *fice of the Governor or an appointee of*
13 *the Office of the Governor.*

14 *“(iv) APPROVAL.—Not later than 60*
15 *days after the date on which a plan is sub-*
16 *mitted under clause (i), the Council shall*
17 *approve or disapprove the plan based on the*
18 *conditions of clause (i).*

19 *“(C) DISAPPROVAL.—If the Council dis-*
20 *approves a plan pursuant to subparagraph*
21 *(B)(iv), the Council shall—*

22 *“(i) provide the reasons for dis-*
23 *approval in writing; and*

1 “(ii) consult with the State to address
2 any identified deficiencies with the State
3 plan.

4 “(D) *FAILURE TO SUBMIT ADEQUATE*
5 *PLAN.*—If a State fails to submit an adequate
6 plan under this subsection, any funds made
7 available under this subsection shall remain in
8 the Trust Fund until such date as a plan is sub-
9 mitted and approved pursuant to this subsection.

10 “(E) *JUDICIAL REVIEW.*—If the Council
11 fails to approve or take action within 60 days on
12 a plan described in subparagraph (B)(iv), the
13 State may obtain expedited judicial review with-
14 in 90 days of that decision in a district court of
15 the United States, of appropriate jurisdiction
16 and venue, that is located within the State seek-
17 ing such review.

18 “(4) *AUTHORIZATION OF INTEREST TRANS-*
19 *FERS.*—

20 “(A) *IN GENERAL.*—Of the total amount
21 made available in any fiscal year from the Trust
22 Fund, an amount equal to the interest earned by
23 the Trust Fund and proceeds from investments
24 made by the Trust Fund in the preceding fiscal
25 year—

1 “(i) 50 percent shall be transferred to
2 the National Endowment for Oceans in sub-
3 paragraph (B); and

4 “(ii) 50 percent shall be transferred to
5 the Gulf of Mexico Research Endowment in
6 subparagraph (C).

7 “(B) NATIONAL ENDOWMENT FOR THE
8 OCEANS.—

9 “(i) ESTABLISHMENT.—

10 “(I) IN GENERAL.—There is estab-
11 lished in the Treasury of the United
12 States a trust fund to be known as the
13 ‘National Endowment for the Oceans’,
14 consisting of such amounts as may be
15 appropriated or credited to the Na-
16 tional Endowment for the Oceans.

17 “(II) INVESTMENT.—Amounts in
18 the National Endowment for the
19 Oceans shall be invested in accordance
20 with section 9602 of the Internal Rev-
21 enue Code of 1986, and any interest
22 on, and proceeds from, any such in-
23 vestment shall be available for expendi-
24 ture in accordance with this subpara-
25 graph.

1 “(ii) *TRUSTEE.*—*The trustee for the*
2 *National Endowment for the Oceans shall*
3 *be the Secretary of Commerce.*

4 “(iii) *ALLOCATION OF FUNDS.*—

5 “(I) *IN GENERAL.*—*Each fiscal*
6 *year, the Secretary shall allocate, at a*
7 *minimum, an amount equal to the in-*
8 *terest earned by the National Endow-*
9 *ment for the Oceans in the preceding*
10 *fiscal year, and may distribute an*
11 *amount equal to up to 10 percent of*
12 *the total amounts in the National En-*
13 *dowment for the Oceans—*

14 “(aa) *to allocate funding to*
15 *coastal states (as defined in sec-*
16 *tion 304 of the Marine Resources*
17 *and Engineering Development Act*
18 *of 1966 (16 U.S.C. 1453)) and af-*
19 *ected Indian tribes;*

20 “(bb) *to make grants to re-*
21 *gional ocean and coastal planning*
22 *bodies; and*

23 “(cc) *to develop and imple-*
24 *ment a National Grant Program*
25 *for Oceans and Coastal Waters.*

1 “(II) *PROGRAM ADJUSTMENTS.*—
2 *Each fiscal year where the amount de-*
3 *scribed in subparagraph (A)(i) does*
4 *not exceed \$100,000,000, the Secretary*
5 *may elect to fund only the grant pro-*
6 *gram established in subclause (I)(cc).*

7 “(iv) *ELIGIBLE ACTIVITIES.*—*Funds*
8 *deposited in the National Endowment for*
9 *the Oceans may be allocated by the Sec-*
10 *retary only to fund grants for programs*
11 *and activities intended to restore, protect,*
12 *maintain, or understand living marine re-*
13 *sources and their habitats and resources in*
14 *ocean and coastal waters (as defined in sec-*
15 *tion 304 of the Marine Resources and Engi-*
16 *neering Development Act of 1966 (16 U.S.C.*
17 *1453)), including baseline scientific re-*
18 *search, ocean observing, and other programs*
19 *and activities carried out in coordination*
20 *with Federal and State departments or*
21 *agencies, that are consistent with Federal*
22 *environmental laws and that avoid environ-*
23 *mental degradation.*

24 “(v) *APPLICATION.*—*To be eligible to*
25 *receive a grant under clause (iii)(I), an en-*

1 *tity shall submit to the Secretary an appli-*
2 *cation at such time, in such manner, and*
3 *containing such information as the Sec-*
4 *retary determines to be appropriate.*

5 “(vi) *FUNDING FOR COASTAL*
6 *STATES.—The Secretary shall allocate fund-*
7 *ing among States as follows:*

8 “(I) 50 percent of the funds shall
9 *be allocated equally among coastal*
10 *States.*

11 “(II) 25 percent of the funds shall
12 *be allocated based on tidal shoreline*
13 *miles.*

14 “(III) 25 percent of the funds
15 *shall be allocated based on the coastal*
16 *population density of a coastal State.*

17 “(IV) No State shall be allocated
18 *more than 10 percent of the total*
19 *amount of funds available for alloca-*
20 *tion among coastal States for any fis-*
21 *cal year.*

22 “(V) No territory shall be allo-
23 *cated more than 1 percent of the total*
24 *amount of funds available for alloca-*

1 *tion among coastal States for any fis-*
2 *cal year.*

3 “(C) *GULF OF MEXICO RESEARCH ENDOW-*
4 *MENT.—*

5 “(i) *IN GENERAL.—There is established*
6 *in the Treasury of the United States a trust*
7 *fund to be known as the ‘Gulf of Mexico Re-*
8 *search Endowment’, to be administered by*
9 *the Secretary of Commerce, solely for use in*
10 *providing long-term funding in accordance*
11 *with section 1604 of the Resources and Eco-*
12 *systems Sustainability, Tourist Opportuni-*
13 *ties, and Revived Economies of the Gulf*
14 *Coast States Act of 2012.*

15 “(ii) *INVESTMENT.—Amounts in the*
16 *Gulf of Mexico Research Endowment shall*
17 *be invested in accordance with section 9602*
18 *of the Internal Revenue Code of 1986, and,*
19 *after adjustment for inflation so as to*
20 *maintain the value of the principal, any in-*
21 *terest on, and proceeds from, any such in-*
22 *vestment shall be available for expenditure*
23 *and shall be allocated in equal portions to*
24 *the Gulf Coast Ecosystem Restoration*
25 *Science, Monitoring, and Technology Pro-*

1 *gram and Fisheries Endowment established*
2 *in section 1604 of the Resources and Eco-*
3 *systems Sustainability, Tourist Opportuni-*
4 *ties, and Revived Economies of the Gulf*
5 *Coast States Act of 2012.”.*

6 **SEC. 1604. GULF COAST ECOSYSTEM RESTORATION**
7 **SCIENCE, OBSERVATION, MONITORING, AND**
8 **TECHNOLOGY PROGRAM.**

9 (a) *DEFINITIONS.—In this section:*

10 (1) *ADMINISTRATOR.—The term “Adminis-*
11 *trator” means the Administrator of the National Oce-*
12 *anic and Atmospheric Administration.*

13 (2) *FISHERIES AND ECOSYSTEM ENDOWMENT.—*
14 *The term “Fisheries and Ecosystem Endowment”*
15 *means the endowment established by subsection (d).*

16 (3) *PROGRAM.—The term “Program” means the*
17 *Gulf Coast Ecosystem Restoration Science, Observa-*
18 *tion, Monitoring, and Technology Program estab-*
19 *lished by subsection (b).*

20 (b) *ESTABLISHMENT OF PROGRAM.—There is estab-*
21 *lished within the National Oceanic and Atmospheric Ad-*
22 *ministration a program to be known as the “Gulf Coast*
23 *Ecosystem Restoration Science, Observation, Monitoring,*
24 *and Technology Program”, to be carried out by the Admin-*
25 *istrator.*

1 (c) *CENTERS OF EXCELLENCE.*—

2 (1) *IN GENERAL.*—*In carrying out the Program,*
3 *the Administrator, in consultation with other Federal*
4 *agencies with expertise in the discipline of a center of*
5 *excellence, shall make grants in accordance with*
6 *paragraph (2) to establish and operate 5 centers of ex-*
7 *cellence, 1 of which shall be located in each of the*
8 *States of Alabama, Florida, Louisiana, Mississippi,*
9 *and Texas.*

10 (2) *GRANTS.*—

11 (A) *IN GENERAL.*—*The Administrator shall*
12 *use the amounts made available to carry out this*
13 *section to award competitive grants to non-*
14 *governmental entities and consortia in the Gulf*
15 *Coast region (including public and private insti-*
16 *tutions of higher education) for the establishment*
17 *of centers of excellence as described in paragraph*
18 *(1).*

19 (B) *APPLICATION.*—*To be eligible to receive*
20 *a grant under this paragraph, an entity or con-*
21 *sortium described in subparagraph (A) shall sub-*
22 *mit to the Administrator an application at such*
23 *time, in such manner, and containing such in-*
24 *formation as the Administrator determines to be*
25 *appropriate.*

1 (C) *PRIORITY.*—*In awarding grants under*
2 *this paragraph, the Administrator shall give pri-*
3 *ority to entities and consortia that demonstrate*
4 *the ability to establish the broadest cross-section*
5 *of participants with interest and expertise in*
6 *any discipline described in paragraph (3) on*
7 *which the proposal of the center of excellence will*
8 *be focused.*

9 (3) *DISCIPLINES.*—*Each center of excellence shall*
10 *focus on science, technology, and monitoring in at*
11 *least 1 of the following disciplines:*

12 (A) *Coastal and deltaic sustainability, res-*
13 *toration and protection; including solutions and*
14 *technology that allow citizens to live safely and*
15 *sustainably in a coastal delta.*

16 (B) *Coastal fisheries and wildlife ecosystem*
17 *research and monitoring.*

18 (C) *Offshore energy development, including*
19 *research and technology to improve the sustain-*
20 *able and safe development of energy resources.*

21 (D) *Sustainable and resilient growth, eco-*
22 *nomical and commercial development in the Gulf*
23 *Coast.*

24 (E) *Comprehensive observation, monitoring,*
25 *and mapping of the Gulf of Mexico.*

1 (4) *COORDINATION WITH OTHER PROGRAMS.*—

2 *The Administrator shall develop a plan for the coordi-*
3 *nation of projects and activities between the Program*
4 *and other existing Federal and State science and tech-*
5 *nology programs in the States of Alabama, Florida,*
6 *Louisiana, Mississippi, and Texas, as well as between*
7 *the centers of excellence.*

8 (d) *ESTABLISHMENT OF FISHERIES AND ECOSYSTEM*
9 *ENDOWMENT.*—

10 (1) *IN GENERAL.*—*Not later than 180 days after*
11 *the date of enactment of this Act, the Council shall es-*
12 *tablish a fishery and ecosystem endowment to ensure,*
13 *to the maximum extent practicable, the long-term sus-*
14 *tainability of the ecosystem, fish stocks, fish habitat*
15 *and the recreational, commercial, and charter fishing*
16 *industry in the Gulf of Mexico.*

17 (2) *EXPENDITURE OF FUNDS.*—*For each fiscal*
18 *year, amounts made available to carry out this sub-*
19 *section may be expended for, with respect to the Gulf*
20 *of Mexico—*

21 (A) *marine and estuarine research;*

22 (B) *marine and estuarine ecosystem moni-*
23 *toring and ocean observation;*

24 (C) *data collection and stock assessments;*

25 (D) *pilot programs for—*

- 1 (i) fishery independent data; and
2 (ii) reduction of exploitation of spawn-
3 ing aggregations; and
4 (E) cooperative research.

5 (3) ADMINISTRATION AND IMPLEMENTATION.—
6 *The Fisheries and Ecosystem Endowment shall be ad-*
7 *ministered by the Administrator of the National Oce-*
8 *anic and Atmospheric Administration, in consulta-*
9 *tion with the Director of the United States Fish and*
10 *Wildlife Service, with guidance provided by the Re-*
11 *gional Gulf of Mexico Fishery Management Council.*

12 (4) SPECIES INCLUDED.—*The Fisheries and Eco-*
13 *system Endowment will include all marine, estuarine,*
14 *aquaculture, and fish and wildlife species in State*
15 *and Federal waters of the Gulf of Mexico.*

16 (5) RESEARCH PRIORITIES.—*In distributing*
17 *funding under this subsection, priority shall be given*
18 *to integrated, long-term projects that—*

19 (A) *build on, or are coordinated with, re-*
20 *lated research activities; and*

21 (B) *address current or anticipated marine*
22 *ecosystem, fishery, or wildlife management infor-*
23 *mation needs.*

24 (6) DUPLICATION AND COORDINATION.—*In car-*
25 *rying out this subsection, the Administrator shall seek*

1 *to avoid duplication of other research and monitoring*
2 *activities and coordinate with existing research and*
3 *monitoring programs, including the Integrated Coast-*
4 *al and Ocean Observation System Act of 2009 (33*
5 *U.S.C. 3601 et seq.).*

6 *(e) FUNDING.—*

7 *(1) IN GENERAL.—Except as provided in sub-*
8 *section (t)(4) of section 311 of the Federal Water Pol-*
9 *lution Control Act (33 U.S.C. 1321), of the total*
10 *amount made available for each fiscal year for the*
11 *Gulf Coast Restoration Trust Fund established under*
12 *section 1602, 5 percent shall be allocated in equal*
13 *portions to the Program and Fisheries and Ecosystem*
14 *Endowment established by this section.*

15 *(2) ADMINISTRATIVE EXPENSES.—Of the*
16 *amounts received by the National Oceanic and Atmos-*
17 *pheric Administration to carry out this section, not*
18 *more than 3 percent may be used for administrative*
19 *expenses.*

20 **SEC. 1605. EFFECT.**

21 *(a) IN GENERAL.—Nothing in this subtitle or any*
22 *amendment made by this subtitle—*

23 *(1) supersedes or otherwise affects any provision*
24 *of Federal law, including, in particular, laws pro-*
25 *viding recovery for injury to natural resources under*

1 *the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.)*
2 *and laws for the protection of public health and the*
3 *environment; or*

4 (2) *applies to any fine collected under section*
5 *311 of the Federal Water Pollution Control Act (33*
6 *U.S.C. 1321) for any incident other than the Deep-*
7 *water Horizon oil spill.*

8 (b) *USE OF FUNDS.—Funds made available under this*
9 *subtitle may be used only for eligible activities specifically*
10 *authorized by this subtitle.*

11 ***Subtitle G—Land and Water***
12 ***Conservation Fund***

13 ***SEC. 1701. LAND AND WATER CONSERVATION FUND.***

14 (a) *AUTHORIZATION.—Section 2 of the Land and*
15 *Water Conservation Fund Act of 1965 (16 U.S.C. 460l–5)*
16 *is amended—*

17 (1) *in the matter preceding subsection (a), by*
18 *striking “September 30, 2015” and inserting “Sep-*
19 *tember 30, 2022”;* and

20 (2) *in subsection (c)(1), by striking “through*
21 *September 30, 2015” and inserting “September 30,*
22 *2022”.*

23 (b) *FUNDING.—Section 3 of the Land and Water Con-*
24 *servation Fund Act of 1965 (16 U.S.C. 460l-6) is amended*
25 *to read as follows:*

1 **“SEC. 3. AVAILABILITY OF FUNDS.**

2 “(a) *FUNDING.*—

3 “(1) *FISCAL YEARS 2013 AND 2014.*—*For each of*
4 *fiscal years 2013 and 2014—*

5 “(A) *\$700,000,000 of amounts covered into*
6 *the fund under section 2 shall be available for ex-*
7 *penditure, without further appropriation or fis-*
8 *cal year limitation, to carry out the purposes of*
9 *this Act; and*

10 “(B) *the remainder of amounts covered into*
11 *the fund shall be available subject to appropri-*
12 *ations, which may be made without fiscal year*
13 *limitation.*

14 “(2) *FISCAL YEARS 2015 THROUGH 2022.*—*For*
15 *each of fiscal years 2015 through 2022, amounts cov-*
16 *ered into the fund under section 2 shall be available*
17 *for expenditure to carry out the purposes of this Act*
18 *subject to appropriations, which may be made with-*
19 *out fiscal year limitation.*

20 “(b) *USES.*—*Amounts made available for obligation or*
21 *expenditure from the fund may be obligated or expended*
22 *only as provided in this Act.*

23 “(c) *WILLING SELLERS.*—*In using amounts made*
24 *available under subsection (a)(1)(A), the Secretary shall*
25 *only acquire land or interests in land by purchase, ex-*
26 *change, or donation from a willing seller.*

1 “(d) *ADDITIONAL AMOUNTS*.—Amounts made avail-
2 able under subsection (a)(1)(A) shall be in addition to
3 amounts made available to the fund under section 105 of
4 the *Gulf of Mexico Energy Security Act of 2006* (43 U.S.C.
5 1331 note; *Public Law 109–432*).

6 “(e) *ALLOCATION AUTHORITY*.—Appropriation Acts
7 may provide for the allocation of amounts covered into the
8 fund under section 2.”.

9 (c) *ALLOCATION OF FUNDS*.—Section 5 of the *Land*
10 *and Water Conservation Fund Act of 1965* (16 U.S.C. 460l–
11 7) is amended—

12 (1) in the first sentence, by inserting “or expend-
13 itures” after “appropriations”;

14 (2) in the second sentence—

15 (A) by inserting “or expenditures” after
16 “appropriations”; and

17 (B) by inserting before the period at the end
18 the following: “, including the amounts to be al-
19 located from the fund for Federal and State pur-
20 poses”; and

21 (3) by striking “Those appropriations from” and
22 all that follows through the end of the section.

23 (d) *CONFORMING AMENDMENTS*.—Section 6(b) of the
24 *Land and Water Conservation Fund Act of 1965* (16 U.S.C.
25 460l–8(b)) is amended—

1 (1) *in the matter preceding paragraph (1), by*
2 *inserting “or expended” after “appropriated”;*

3 (2) *in paragraph (1)—*

4 (A) *by inserting “or expenditures” after*
5 *“appropriations”; and*

6 (B) *by striking “; and” and inserting a pe-*
7 *riod; and*

8 (3) *in the first sentence of paragraph (2), by in-*
9 *serting “or expenditure” after “appropriation”.*

10 (e) *PUBLIC ACCESS.—Section 7 of the Land and Water*
11 *Conservation Fund Act of 1965 (16 U.S.C. 460l-9) is*
12 *amended—*

13 (1) *in subsection (a)—*

14 (A) *in the matter preceding paragraph (1),*
15 *by inserting “or expended” after “appropriated”;*
16 *and*

17 (B) *in paragraph (3), by inserting “or ex-*
18 *penditures” after “such appropriations”;*

19 (2) *in subsection (b)—*

20 (A) *in the first sentence, by inserting “or*
21 *expenditures” after “Appropriations”; and*

22 (B) *in the proviso, by inserting “or expend-*
23 *itures” after “appropriations”;*

24 (3) *in the first sentence of subsection (c)(1)—*

1 **TITLE II—AMERICA FAST FOR-**
2 **WARD FINANCING INNOVA-**
3 **TION**

4 **SEC. 2001. SHORT TITLE.**

5 *This title may be cited as the “America Fast Forward*
6 *Financing Innovation Act of 2011”.*

7 **SEC. 2002. TRANSPORTATION INFRASTRUCTURE FINANCE**
8 **AND INNOVATION ACT AMENDMENTS.**

9 *Sections 601 through 609 of title 23, United States*
10 *Code, are amended to read as follows:*

11 **“§ 601. Generally applicable provisions**

12 *“(a) DEFINITIONS.—In this chapter, the following*
13 *definitions apply:*

14 *“(1) ELIGIBLE PROJECT COSTS.—The term ‘eli-*
15 *gible project costs’ means amounts substantially all of*
16 *which are paid by, or for the account of, an obligor*
17 *in connection with a project, including the cost of—*

18 *“(A) development phase activities, including*
19 *planning, feasibility analysis, revenue fore-*
20 *casting, environmental review, permitting, pre-*
21 *liminary engineering and design work, and other*
22 *preconstruction activities;*

23 *“(B) construction, reconstruction, rehabili-*
24 *tation, replacement, and acquisition of real*
25 *property (including land relating to the project*

1 *and improvements to land), environmental miti-*
2 *gation, construction contingencies, and acquisi-*
3 *tion of equipment; and*

4 “(C) *capitalized interest necessary to meet*
5 *market requirements, reasonably required reserve*
6 *funds, capital issuance expenses, and other car-*
7 *rying costs during construction.*

8 “(2) *FEDERAL CREDIT INSTRUMENT.*—*The term*
9 *‘Federal credit instrument’ means a secured loan,*
10 *loan guarantee, or line of credit authorized to be*
11 *made available under this chapter with respect to a*
12 *project.*

13 “(3) *INVESTMENT-GRADE RATING.*—*The term*
14 *‘investment-grade rating’ means a rating of BBB*
15 *minus, Baa3, bbb minus, BBB (low), or higher as-*
16 *signed by a rating agency to project obligations.*

17 “(4) *LENDER.*—*The term ‘lender’ means any*
18 *non-Federal qualified institutional buyer (as defined*
19 *in section 230.144A(a) of title 17, Code of Federal*
20 *Regulations (or any successor regulation), known as*
21 *Rule 144A(a) of the Securities and Exchange Com-*
22 *mission and issued under the Securities Act of 1933*
23 *(15 U.S.C. 77a et seq.), including—*

24 “(A) *a qualified retirement plan (as defined*
25 *in section 4974(c) of the Internal Revenue Code*

1 of 1986) that is a qualified institutional buyer;
2 and

3 “(B) a governmental plan (as defined in
4 section 414(d) of the Internal Revenue Code of
5 1986) that is a qualified institutional buyer.

6 “(5) *LETTER OF INTEREST*.—The term ‘letter of
7 interest’ means a letter submitted by a potential ap-
8 plicant prior to an application for credit assistance
9 in a format prescribed by the Secretary on the website
10 of the *TIFIA* program, which—

11 “(A) describes the project and the location,
12 purpose, and cost of the project;

13 “(B) outlines the proposed financial plan,
14 including the requested credit assistance and the
15 proposed obligor;

16 “(C) provides a status of environmental re-
17 view; and

18 “(D) provides information regarding satis-
19 faction of other eligibility requirements of the
20 *TIFIA* program.

21 “(6) *LINE OF CREDIT*.—The term “‘line of cred-
22 it’” means an agreement entered into by the Sec-
23 retary with an obligor under section 604 to provide
24 a direct loan at a future date upon the occurrence of
25 certain events.

1 “(7) *LIMITED BUYDOWN.*—*The term ‘limited*
2 *buydown’ means, subject to the conditions described*
3 *in section 603(b)(4)(C), a buydown of the interest*
4 *rate by the Secretary and by the obligor if the interest*
5 *rate has increased between—*

6 “(A)(i) *the date on which a project applica-*
7 *tion acceptable to the Secretary is submitted; or*

8 “(ii) *the date on which the Secretary en-*
9 *tered into a master credit agreement; and*

10 “(B) *the date on which the Secretary exe-*
11 *cutes the Federal credit instrument.*

12 “(8) *LOAN GUARANTEE.*—*The term ‘loan guar-*
13 *antee’ means any guarantee or other pledge by the*
14 *Secretary to pay all or part of the principal of and*
15 *interest on a loan or other debt obligation issued by*
16 *an obligor and funded by a lender.*

17 “(9) *MASTER CREDIT AGREEMENT.*—*The term*
18 *‘master credit agreement’ means an agreement to ex-*
19 *tend credit assistance for a program of projects se-*
20 *cured by a common security pledge (which shall re-*
21 *ceive an investment grade rating from a rating agen-*
22 *cy), or for a single project covered under section*
23 *602(b)(2) that would—*

24 “(A) *make contingent commitments of 1 or*
25 *more secured loans or other Federal credit in-*

1 *struments at future dates, subject to the avail-*
2 *ability of future funds being made available to*
3 *carry out this chapter;*

4 *“(B) establish the maximum amounts and*
5 *general terms and conditions of the secured loans*
6 *or other Federal credit instruments;*

7 *“(C) identify the 1 or more dedicated non-*
8 *Federal revenue sources that will secure the re-*
9 *payment of the secured loans or secured Federal*
10 *credit instruments;*

11 *“(D) provide for the obligation of funds for*
12 *the secured loans or secured Federal credit in-*
13 *struments after all requirements have been met*
14 *for the projects subject to the master credit agree-*
15 *ment, including—*

16 *“(i) completion of an environmental*
17 *impact statement or similar analysis re-*
18 *quired under the National Environmental*
19 *Policy Act of 1969 (42 U.S.C. 4321 et seq.);*

20 *“(ii) compliance with such other re-*
21 *quirements as are specified in section*
22 *602(c); and*

23 *“(iii) the availability of funds to carry*
24 *out this chapter; and*

1 “(E) require that contingent commitments
2 result in a financial close and obligation of cred-
3 it assistance not later than 3 years after the date
4 of entry into the master credit agreement, or re-
5 lease of the commitment, unless otherwise ex-
6 tended by the Secretary.

7 “(10) OBLIGOR.—The term ‘obligor’ means a
8 party that—

9 “(A) is primarily liable for payment of the
10 principal of or interest on a Federal credit in-
11 strument; and

12 “(B) may be a corporation, partnership,
13 joint venture, trust, or governmental entity,
14 agency, or instrumentality.

15 “(11) PROJECT.—The term ‘project’ means—

16 “(A) any surface transportation project eli-
17 gible for Federal assistance under this title or
18 chapter 53 of title 49;

19 “(B) a project for an international bridge
20 or tunnel for which an international entity au-
21 thorized under Federal or State law is respon-
22 sible;

23 “(C) a project for intercity passenger bus or
24 rail facilities and vehicles, including facilities
25 and vehicles owned by the National Railroad

1 *Passenger Corporation and components of mag-*
2 *netic levitation transportation systems; and*

3 “(D) a project that—

4 “(i) is a project—

5 “(I) for a public freight rail facil-

6 *ity or a private facility providing pub-*

7 *lic benefit for highway users by way of*

8 *direct freight interchange between high-*

9 *way and rail carriers;*

10 “(II) for an intermodal freight

11 *transfer facility;*

12 “(III) for a means of access to a

13 *facility described in subclause (I) or*

14 *(II);*

15 “(IV) for a service improvement

16 *for a facility described in subclause (I)*

17 *or (II) (including a capital investment*

18 *for an intelligent transportation sys-*

19 *tem); or*

20 “(V) that comprises a series of

21 *projects described in subclauses (I)*

22 *through (IV) with the common objective*

23 *of improving the flow of goods;*

24 “(ii) may involve the combining of pri-

25 *vate and public sector funds, including in-*

1 *vestment of public funds in private sector*
2 *facility improvements;*

3 *“(iii) if located within the boundaries*
4 *of a port terminal, includes only such sur-*
5 *face transportation infrastructure modifica-*
6 *tions as are necessary to facilitate direct*
7 *intermodal interchange, transfer, and access*
8 *into and out of the port; and*

9 *“(iv) is composed of related highway,*
10 *surface transportation, transit, rail, or*
11 *intermodal capital improvement projects el-*
12 *igible for assistance under this subsection in*
13 *order to meet the eligible project cost thresh-*
14 *old under section 602, by grouping related*
15 *projects together for that purpose, on the*
16 *condition that the credit assistance for the*
17 *projects is secured by a common pledge.*

18 *“(12) PROJECT OBLIGATION.—The term ‘project*
19 *obligation’ means any note, bond, debenture, or other*
20 *debt obligation issued by an obligor in connection*
21 *with the financing of a project, other than a Federal*
22 *credit instrument.*

23 *“(13) RATING AGENCY.—The term ‘rating agen-*
24 *cy’ means a credit rating agency registered with the*
25 *Securities and Exchange Commission as a nationally*

1 *recognized statistical rating organization (as that*
2 *term is defined in section 3(a) of the Securities Ex-*
3 *change Act of 1934 (15 U.S.C. 78c(a)).*

4 “(14) *RURAL INFRASTRUCTURE PROJECT.*—*The*
5 *term ‘rural infrastructure project’ means a surface*
6 *transportation infrastructure project either—*

7 “(A) *located in any area other than an ur-*
8 *banized area that has a population of greater*
9 *than 250,000 inhabitants; or*

10 “(B) *connects a rural area to a city with a*
11 *population of less than 250,000 inhabitants*
12 *within the city limits.*

13 “(15) *SECURED LOAN.*—*The term ‘secured loan’*
14 *means a direct loan or other debt obligation issued by*
15 *an obligor and funded by the Secretary in connection*
16 *with the financing of a project under section 603.*

17 “(16) *STATE.*—*The term ‘State’ has the meaning*
18 *given the term in section 101.*

19 “(17) *SUBSIDY AMOUNT.*—*The term ‘subsidy*
20 *amount’ means the amount of budget authority suffi-*
21 *cient to cover the estimated long-term cost to the Fed-*
22 *eral Government of a Federal credit instrument, cal-*
23 *culated on a net present value basis, excluding ad-*
24 *ministrative costs and any incidental effects on gov-*
25 *ernmental receipts or outlays in accordance with the*

1 *Federal Credit Reform Act of 1990 (2 U.S.C. 661 et*
2 *seq.).*

3 “(18) *SUBSTANTIAL COMPLETION.*—*The term*
4 *‘substantial completion’ means—*

5 “(A) *the opening of a project to vehicular or*
6 *passenger traffic; or*

7 “(B) *a comparable event, as determined by*
8 *the Secretary and specified in the credit agree-*
9 *ment.*

10 “(19) *TIFIA PROGRAM.*—*The term ‘TIFIA pro-*
11 *gram’ means the transportation infrastructure fi-*
12 *nance and innovation program of the Department.*

13 “(20) *CONTINGENT COMMITMENT.*—*The term*
14 *‘contingent commitment’ means a commitment to ob-*
15 *ligate an amount from future available budget au-*
16 *thority that is—*

17 “(A) *contingent upon those funds being*
18 *made available in law at a future date; and*

19 “(B) *not an obligation of the Federal Gov-*
20 *ernment.*

21 “(b) *TREATMENT OF CHAPTER.*—*For purposes of this*
22 *title, this chapter shall be treated as being part of chapter*
23 *1.*

1 **“§ 602. Determination of eligibility and project selec-**
2 **tion**

3 “(a) *ELIGIBILITY.*—*A project shall be eligible to receive*
4 *credit assistance under this chapter if the entity proposing*
5 *to carry out the project submits a letter of interest prior*
6 *to submission of a formal application for the project, and*
7 *the project meets the following criteria:*

8 “(1) *CREDITWORTHINESS.*—

9 “(A) *IN GENERAL.*—*The project shall satisfy*
10 *applicable creditworthiness standards, which, at*
11 *a minimum, includes—*

12 “(i) *a rate covenant, if applicable;*

13 “(ii) *adequate coverage requirements to*
14 *ensure repayment;*

15 “(iii) *an investment grade rating from*
16 *at least 2 rating agencies on debt senior to*
17 *the Federal credit instrument; and*

18 “(iv) *a rating from at least 2 rating*
19 *agencies on the Federal credit instrument,*
20 *subject to the condition that, with respect to*
21 *clause (iii), if the senior debt and Federal*
22 *credit instrument is for an amount less*
23 *than \$75,000,000 or for a rural infrastruc-*
24 *ture project or intelligent transportation*
25 *systems project, 1 rating agency opinion for*

1 *each of the senior debt and Federal credit*
2 *instrument shall be sufficient.*

3 “(B) *SENIOR DEBT.*—*Notwithstanding sub-*
4 *paragraph (A), in a case in which the Federal*
5 *credit instrument is the senior debt, the Federal*
6 *credit instrument shall be required to receive an*
7 *investment grade rating from at least 2 rating*
8 *agencies, unless the credit instrument is for a*
9 *rural infrastructure project or intelligent trans-*
10 *portation systems project, in which case 1 rating*
11 *agency opinion shall be sufficient.*

12 “(2) *INCLUSION IN TRANSPORTATION PLANS AND*
13 *PROGRAMS.*—*The project shall satisfy the applicable*
14 *planning and programming requirements of sections*
15 *134 and 135 at such time as an agreement to make*
16 *available a Federal credit instrument is entered into*
17 *under this chapter.*

18 “(3) *APPLICATION.*—*A State, local government,*
19 *public authority, public-private partnership, or any*
20 *other legal entity undertaking the project and author-*
21 *ized by the Secretary, shall submit a project applica-*
22 *tion acceptable to the Secretary.*

23 “(4) *ELIGIBLE PROJECT COSTS.*—

24 “(A) *IN GENERAL.*—*Except as provided in*
25 *subparagraph (B), to be eligible for assistance*

1 *under this chapter, a project shall have eligible*
2 *project costs that are reasonably anticipated to*
3 *equal or exceed the lesser of—*

4 “(i)(I) \$50,000,000; or

5 “(II) *in the case of a rural infrastruc-*
6 *ture project, \$25,000,000; or*

7 “(ii) *33¹/₃ percent of the amount of*
8 *Federal highway assistance funds appor-*
9 *tioned for the most recently completed fiscal*
10 *year to the State in which the project is lo-*
11 *cated.*

12 “(B) *INTELLIGENT TRANSPORTATION SYS-*
13 *TEM PROJECTS.—In the case of a project prin-*
14 *cipally involving the installation of an intel-*
15 *ligent transportation system, eligible project costs*
16 *shall be reasonably anticipated to equal or exceed*
17 *\$15,000,000.*

18 “(5) *DEDICATED REVENUE SOURCES.—The Fed-*
19 *eral credit instrument shall be repayable, in whole or*
20 *in part, from tolls, user fees, or other dedicated rev-*
21 *enue sources that also secure the project obligations.*

22 “(6) *PUBLIC SPONSORSHIP OF PRIVATE ENTI-*
23 *TIES.—In the case of a project that is undertaken by*
24 *an entity that is not a State or local government or*
25 *an agency or instrumentality of a State or local gov-*

1 *ernment, the project that the entity is undertaking*
2 *shall be publicly sponsored as provided in paragraph*
3 *(2).*

4 *“(b) SELECTION AMONG ELIGIBLE PROJECTS.—*

5 *“(1) ESTABLISHMENT.—The Secretary shall es-*
6 *tablish a rolling application process in which projects*
7 *that are eligible to receive credit assistance under sub-*
8 *section (a) shall receive credit assistance on terms ac-*
9 *ceptable to the Secretary, if adequate funds are avail-*
10 *able to cover the subsidy costs associated with the*
11 *Federal credit instrument.*

12 *“(2) ADEQUATE FUNDING NOT AVAILABLE.—*

13 *“If the Secretary fully obligates funding to*
14 *eligible projects in a given fiscal year, and ade-*
15 *quate funding is not available to fund a credit*
16 *instrument, a project sponsor of an eligible*
17 *project may elect to enter into a master credit*
18 *agreement and wait until the following fiscal*
19 *year or until additional funds are available to*
20 *receive credit assistance.*

21 *“(3) PRELIMINARY RATING OPINION LETTER.—*

22 *The Secretary shall require each project applicant to*
23 *provide a preliminary rating opinion letter from at*
24 *least 1 rating agency—*

1 “(A) *indicating that the senior obligations*
2 *of the project, which may be the Federal credit*
3 *instrument, have the potential to achieve an in-*
4 *vestment-grade rating; and*

5 “(B) *including a preliminary rating opin-*
6 *ion on the Federal credit instrument.*

7 “(c) *FEDERAL REQUIREMENTS.—*

8 “(1) *IN GENERAL.—In addition to the require-*
9 *ments of this title for highway projects, chapter 53 of*
10 *title 49 for transit projects, and section 5333(a) of*
11 *title 49 for rail projects, the following provisions of*
12 *law shall apply to funds made available under this*
13 *chapter and projects assisted with the funds:*

14 “(A) *Title VI of the Civil Rights Act of*
15 *1964 (42 U.S.C. 2000d et seq.).*

16 “(B) *The National Environmental Policy*
17 *Act of 1969 (42 U.S.C. 4321 et seq.).*

18 “(C) *The Uniform Relocation Assistance*
19 *and Real Property Acquisition Policies Act of*
20 *1970 (42 U.S.C. 4601 et seq.).*

21 “(2) *NEPA.—No funding shall be obligated for*
22 *a project that has not received an environmental Cat-*
23 *egorical Exclusion, Finding of No Significant Im-*
24 *act, or Record of Decision under the National Envi-*

1 *ronmental Policy Act of 1969 (42 U.S.C. 4321 et*
2 *seq.).*

3 **“§ 603. Secured loans**

4 *“(a) IN GENERAL.—*

5 *“(1) AGREEMENTS.—Subject to paragraphs (2)*
6 *through (4), the Secretary may enter into agreements*
7 *with 1 or more obligors to make secured loans, the*
8 *proceeds of which shall be used—*

9 *“(A) to finance eligible project costs of any*
10 *project selected under section 602;*

11 *“(B) to refinance interim construction fi-*
12 *nancing of eligible project costs of any project se-*
13 *lected under section 602;*

14 *“(C) to refinance existing loan agreements*
15 *for rural infrastructure projects; or*

16 *“(D) to refinance long-term project obliga-*
17 *tions or Federal credit instruments if the refi-*
18 *nancing provides additional funding capacity*
19 *for the completion, enhancement, or expansion of*
20 *any project that—*

21 *“(i) is selected under section 602; or*

22 *“(ii) otherwise meets the requirements*
23 *of section 602.*

24 *“(2) LIMITATION ON REFINANCING OF INTERIM*
25 *CONSTRUCTION FINANCING.—A loan under paragraph*

1 *(1) shall not refinance interim construction financing*
2 *under paragraph (1)(B) later than 1 year after the*
3 *date of substantial completion of the project.*

4 *“(3) RISK ASSESSMENT.—Before entering into*
5 *an agreement under this subsection, the Secretary, in*
6 *consultation with the Director of the Office of Man-*
7 *agement and Budget, shall determine an appropriate*
8 *capital reserve subsidy amount for each secured loan,*
9 *taking into account each rating letter provided by an*
10 *agency under section 602(b)(3)(B).*

11 *“(b) TERMS AND LIMITATIONS.—*

12 *“(1) IN GENERAL.—A secured loan under this*
13 *section with respect to a project shall be on such terms*
14 *and conditions and contain such covenants, represen-*
15 *tations, warranties, and requirements (including re-*
16 *quirements for audits) as the Secretary determines*
17 *appropriate.*

18 *“(2) MAXIMUM AMOUNT.—The amount of the se-*
19 *cured loan shall not exceed the lesser of 49 percent of*
20 *the reasonably anticipated eligible project costs or, if*
21 *the secured loan does not receive an investment grade*
22 *rating, the amount of the senior project obligations.*

23 *“(3) PAYMENT.—The secured loan—*

24 *“(A) shall—*

1 “(i) be payable, in whole or in part,
2 from tolls, user fees, or other dedicated rev-
3 enue sources that also secure the senior
4 project obligations; and

5 “(ii) include a rate covenant, coverage
6 requirement, or similar security feature
7 supporting the project obligations; and

8 “(B) may have a lien on revenues described
9 in subparagraph (A) subject to any lien securing
10 project obligations.

11 “(4) INTEREST RATE.—

12 “(A) IN GENERAL.—Except as provided in
13 subparagraphs (B) and (C), the interest rate on
14 the secured loan shall be not less than the yield
15 on United States Treasury securities of a similar
16 maturity to the maturity of the secured loan on
17 the date of execution of the loan agreement.

18 “(B) RURAL INFRASTRUCTURE
19 PROJECTS.—A loan offered to a rural infrastruc-
20 ture project under this chapter shall be at $\frac{1}{2}$ of
21 the Treasury Rate.

22 “(C) LIMITED BUYDOWNS.—A limited
23 buydown is subject to the following conditions:

1 “(i) *The interest rate under the agree-*
2 *ment may not be lowered by more than the*
3 *lower of—*

4 “(I) *1½ percentage points (150*
5 *basis points); or*

6 “(II) *the amount of the increase*
7 *in the interest rate.*

8 “(ii) *The Secretary may pay up to 50*
9 *percent of the cost of the limited buydown,*
10 *and the obligor shall pay the balance of the*
11 *cost of the limited buydown.*

12 “(iii) *Not more than 5 percent of the*
13 *funding made available annually to carry*
14 *out this chapter may be used to carry out*
15 *limited buydowns.*

16 “(5) *MATURITY DATE.—The final maturity date*
17 *of the secured loan shall be the lesser of—*

18 “(A) *35 years after the date of substantial*
19 *completion of the project; or*

20 “(B) *if the useful life of the capital asset*
21 *being financed is of a lesser period, the useful life*
22 *of the asset.*

23 “(6) *NONSUBORDINATION.—*

24 “(A) *IN GENERAL.—Except as provided in*
25 *subparagraph (B), the secured loan shall not be*

1 *subordinated to the claims of any holder of*
2 *project obligations in the event of bankruptcy,*
3 *insolvency, or liquidation of the obligor.*

4 “(B) *PRE-EXISTING INDENTURE.*—

5 “(i) *IN GENERAL.*—*The Secretary shall*
6 *waive subparagraph (A) for public agency*
7 *borrowers that are financing ongoing cap-*
8 *ital programs and have outstanding senior*
9 *bonds under a pre-existing indenture, if—*

10 “(I) *the secured loan is rated in*
11 *the A-category or higher;*

12 “(II) *the secured loan is secured*
13 *and payable from pledged revenues not*
14 *affected by project performance, such*
15 *as a tax-backed revenue pledge or a*
16 *system-backed pledge of project reve-*
17 *nues; and*

18 “(III) *the TIFIA program share*
19 *of eligible project costs is 33 percent or*
20 *less.*

21 “(ii) *LIMITATION.*—*If the Secretary*
22 *waives the nonsubordination requirement*
23 *under this subparagraph—*

24 “(I) *the maximum credit subsidy*
25 *that will be paid by the Federal Gov-*

1 *ernment shall be limited to 10 percent*
2 *of the principal amount of the secured*
3 *loan; and*

4 *“(II) the obligor shall be respon-*
5 *sible for paying the remainder of the*
6 *subsidy cost.*

7 *“(7) FEES.—The Secretary may establish fees at*
8 *a level sufficient to cover all or a portion of the costs*
9 *to the Federal Government of making a secured loan*
10 *under this section.*

11 *“(8) NON-FEDERAL SHARE.—The proceeds of a*
12 *secured loan under this chapter may be used for any*
13 *non-Federal share of project costs required under this*
14 *title or chapter 53 of title 49, if the loan is repayable*
15 *from non-Federal funds.*

16 *“(9) MAXIMUM FEDERAL INVOLVEMENT.—The*
17 *total Federal assistance provided on a project receiv-*
18 *ing a loan under this chapter shall not exceed 80 per-*
19 *cent of the total project cost.*

20 *“(c) REPAYMENT.—*

21 *“(1) SCHEDULE.—The Secretary shall establish*
22 *a repayment schedule for each secured loan under this*
23 *section based on the projected cash flow from project*
24 *revenues and other repayment sources, and the useful*
25 *life of the project.*

1 “(2) *COMMENCEMENT.*—*Scheduled loan repay-*
2 *ments of principal or interest on a secured loan under*
3 *this section shall commence not later than 5 years*
4 *after the date of substantial completion of the project.*

5 “(3) *DEFERRED PAYMENTS.*—

6 “(A) *AUTHORIZATION.*—*If, at any time*
7 *after the date of substantial completion of the*
8 *project, the project is unable to generate suffi-*
9 *cient revenues to pay the scheduled loan repay-*
10 *ments of principal and interest on the secured*
11 *loan, the Secretary may, subject to subparagraph*
12 *(C), allow the obligor to add unpaid principal*
13 *and interest to the outstanding balance of the se-*
14 *cured loan.*

15 “(B) *INTEREST.*—*Any payment deferred*
16 *under subparagraph (A) shall—*

17 “(i) *continue to accrue interest in ac-*
18 *cordance with subsection (b)(4) until fully*
19 *repaid; and*

20 “(ii) *be scheduled to be amortized over*
21 *the remaining term of the loan.*

22 “(C) *CRITERIA.*—

23 “(i) *IN GENERAL.*—*Any payment de-*
24 *ferral under subparagraph (A) shall be con-*

1 *tingent on the project meeting criteria es-*
2 *tablished by the Secretary.*

3 *“(ii) REPAYMENT STANDARDS.—The*
4 *criteria established under clause (i) shall*
5 *include standards for reasonable assurance*
6 *of repayment.*

7 *“(4) PREPAYMENT.—*

8 *“(A) USE OF EXCESS REVENUES.—Any ex-*
9 *cess revenues that remain after satisfying sched-*
10 *uled debt service requirements on the project obli-*
11 *gations and secured loan and all deposit require-*
12 *ments under the terms of any trust agreement,*
13 *bond resolution, or similar agreement securing*
14 *project obligations may be applied annually to*
15 *prepay the secured loan without penalty.*

16 *“(B) USE OF PROCEEDS OF REFI-*
17 *NANCING.—The secured loan may be prepaid at*
18 *any time without penalty from the proceeds of*
19 *refinancing from non-Federal funding sources.*

20 *“(d) SALE OF SECURED LOANS.—*

21 *“(1) IN GENERAL.—Subject to paragraph (2), as*
22 *soon as practicable after substantial completion of a*
23 *project and after notifying the obligor, the Secretary*
24 *may sell to another entity or reoffer into the capital*
25 *markets a secured loan for the project if the Secretary*

1 *determines that the sale or reoffering can be made on*
2 *favorable terms.*

3 “(2) *CONSENT OF OBLIGOR.*—*In making a sale*
4 *or reoffering under paragraph (1), the Secretary may*
5 *not change the original terms and conditions of the*
6 *secured loan without the written consent of the obli-*
7 *gor.*

8 “(e) *LOAN GUARANTEES.*—

9 “(1) *IN GENERAL.*—*The Secretary may provide*
10 *a loan guarantee to a lender in lieu of making a se-*
11 *cured loan if the Secretary determines that the budg-*
12 *etary cost of the loan guarantee is substantially the*
13 *same as that of a secured loan.*

14 “(2) *TERMS.*—*The terms of a guaranteed loan*
15 *shall be consistent with the terms set forth in this sec-*
16 *tion for a secured loan, except that the rate on the*
17 *guaranteed loan and any prepayment features shall*
18 *be negotiated between the obligor and the lender, with*
19 *the consent of the Secretary.*

20 **“§ 604. *Lines of credit***

21 “(a) *IN GENERAL.*—

22 “(1) *AGREEMENTS.*—*Subject to paragraphs (2)*
23 *through (4), the Secretary may enter into agreements*
24 *to make available lines of credit to 1 or more obligors*
25 *in the form of direct loans to be made by the Sec-*

1 *retary at future dates on the occurrence of certain*
2 *events for any project selected under section 602.*

3 “(2) *USE OF PROCEEDS.*—*The proceeds of a line*
4 *of credit made available under this section shall be*
5 *available to pay debt service on project obligations*
6 *issued to finance eligible project costs, extraordinary*
7 *repair and replacement costs, operation and mainte-*
8 *nance expenses, and costs associated with unexpected*
9 *Federal or State environmental restrictions.*

10 “(3) *RISK ASSESSMENT.*—*Before entering into*
11 *an agreement under this subsection, the Secretary, in*
12 *consultation with the Director of the Office of Man-*
13 *agement and Budget and each rating agency pro-*
14 *viding a preliminary rating opinion letter under sec-*
15 *tion 602(b)(3), shall determine an appropriate cap-*
16 *ital reserve subsidy amount for each line of credit,*
17 *taking into account the rating opinion letter.*

18 “(4) *INVESTMENT-GRADE RATING REQUIRE-*
19 *MENT.*—*The funding of a line of credit under this sec-*
20 *tion shall be contingent on the senior obligations of*
21 *the project receiving an investment-grade rating from*
22 *2 rating agencies.*

23 “(b) *TERMS AND LIMITATIONS.*—

24 “(1) *IN GENERAL.*—*A line of credit under this*
25 *section with respect to a project shall be on such terms*

1 *and conditions and contain such covenants, represen-*
2 *tations, warranties, and requirements (including re-*
3 *quirements for audits) as the Secretary determines*
4 *appropriate.*

5 “(2) *MAXIMUM AMOUNTS.*—*The total amount of*
6 *the line of credit shall not exceed 33 percent of the*
7 *reasonably anticipated eligible project costs.*

8 “(3) *DRAWS.*—*Any draw on the line of credit*
9 *shall represent a direct loan and shall be made only*
10 *if net revenues from the project (including capitalized*
11 *interest but not including reasonably required financ-*
12 *ing reserves) are insufficient to pay the costs specified*
13 *in subsection (a)(2).*

14 “(4) *INTEREST RATE.*—*Except as otherwise pro-*
15 *vided in subparagraphs (B) and (C) of section*
16 *603(b)(4), the interest rate on a direct loan resulting*
17 *from a draw on the line of credit shall be not less*
18 *than the yield on 30-year United States Treasury se-*
19 *curities as of the date of execution of the line of credit*
20 *agreement.*

21 “(5) *SECURITY.*—*The line of credit—*

22 “(A) *shall—*

23 “(i) *be payable, in whole or in part,*
24 *from tolls, user fees, or other dedicated rev-*

1 *enue sources that also secure the senior*
2 *project obligations; and*

3 *“(ii) include a rate covenant, coverage*
4 *requirement, or similar security feature*
5 *supporting the project obligations; and*

6 *“(B) may have a lien on revenues described*
7 *in subparagraph (A) subject to any lien securing*
8 *project obligations.*

9 *“(6) PERIOD OF AVAILABILITY.—The full amount*
10 *of the line of credit, to the extent not drawn upon,*
11 *shall be available during the period beginning on the*
12 *date of substantial completion of the project and end-*
13 *ing not later than 10 years after that date.*

14 *“(7) RIGHTS OF THIRD-PARTY CREDITORS.—*

15 *“(A) AGAINST FEDERAL GOVERNMENT.—A*
16 *third-party creditor of the obligor shall not have*
17 *any right against the Federal Government with*
18 *respect to any draw on the line of credit.*

19 *“(B) ASSIGNMENT.—An obligor may assign*
20 *the line of credit to 1 or more lenders or to a*
21 *trustee on the behalf of the lenders.*

22 *“(8) NONSUBORDINATION.—*

23 *“(A) IN GENERAL.—Except as provided in*
24 *subparagraphs (B) and (C), a direct loan under*
25 *this section shall not be subordinated to the*

1 *claims of any holder of project obligations in the*
2 *event of bankruptcy, insolvency, or liquidation of*
3 *the obligor.*

4 “(B) *PRE-EXISTING INDENTURE.*—

5 “(i) *IN GENERAL.*—*The Secretary shall*
6 *waive subparagraph (A) for public agency*
7 *borrowers that are financing ongoing cap-*
8 *ital programs and have outstanding senior*
9 *bonds under a pre-existing indenture, if—*

10 “(I) *the line of credit is rated in*
11 *the A-category or higher;*

12 “(II) *the TIFIA program loan re-*
13 *sulting from a draw on the line of*
14 *credit is payable from pledged revenues*
15 *not affected by project performance,*
16 *such as a tax-backed revenue pledge or*
17 *a system-backed pledge of project reve-*
18 *nuces; and*

19 “(III) *the TIFIA program share*
20 *of eligible project costs is 33 percent or*
21 *less.*

22 “(ii) *LIMITATION.*—*If the Secretary*
23 *waives the nonsubordination requirement*
24 *under this subparagraph—*

1 “(I) *the maximum credit subsidy*
2 *that will be paid by the Federal Gov-*
3 *ernment shall be limited to 10 percent*
4 *of the principal amount of the secured*
5 *loan; and*

6 “(II) *the obligor shall be respon-*
7 *sible for paying the remainder of the*
8 *subsidy cost.*

9 “(9) *FEES.—The Secretary may establish fees at*
10 *a level sufficient to cover all or a portion of the costs*
11 *to the Federal Government of providing a line of cred-*
12 *it under this section.*

13 “(10) *RELATIONSHIP TO OTHER CREDIT INSTRU-*
14 *MENTS.—A project that receives a line of credit under*
15 *this section shall not also receive a secured loan or*
16 *loan guarantee under section 603 in an amount that,*
17 *combined with the amount of the line of credit, ex-*
18 *ceeds 49 percent of eligible project costs.*

19 “(c) *REPAYMENT.—*

20 “(1) *TERMS AND CONDITIONS.—The Secretary*
21 *shall establish repayment terms and conditions for*
22 *each direct loan under this section based on the pro-*
23 *jected cash flow from project revenues and other re-*
24 *payment sources, and the useful life of the asset being*
25 *financed.*

1 “(2) *TIMING.*—All repayments of principal or
2 *interest on a direct loan under this section shall be*
3 *scheduled to commence not later than 5 years after*
4 *the end of the period of availability specified in sub-*
5 *section (b)(6) and to conclude, with full repayment of*
6 *principal and interest, by the date that is 25 years*
7 *after the end of the period of availability specified in*
8 *subsection (b)(6).*

9 **“§ 605. Program administration**

10 “(a) *REQUIREMENT.*—The Secretary shall establish a
11 *uniform system to service the Federal credit instruments*
12 *made available under this chapter.*

13 “(b) *FEEES.*—The Secretary may collect and spend fees,
14 *contingent upon authority being provided in appropria-*
15 *tions Acts, at a level that is sufficient to cover—*

16 “(1) *the costs of services of expert firms retained*
17 *pursuant to subsection (d); and*

18 “(2) *all or a portion of the costs to the Federal*
19 *Government of servicing the Federal credit instru-*
20 *ments.*

21 “(c) *SERVICER.*—

22 “(1) *IN GENERAL.*—The Secretary may appoint
23 *a financial entity to assist the Secretary in servicing*
24 *the Federal credit instruments.*

1 “(2) *DUTIES.*—*The servicer shall act as the*
2 *agent for the Secretary.*

3 “(3) *FEE.*—*The servicer shall receive a servicing*
4 *fee, subject to approval by the Secretary.*

5 “(d) *ASSISTANCE FROM EXPERT FIRMS.*—*The Sec-*
6 *retary may retain the services of expert firms, including*
7 *counsel, in the field of municipal and project finance to*
8 *assist in the underwriting and servicing of Federal credit*
9 *instruments.*

10 **“§ 606. State and local permits**

11 *“The provision of credit assistance under this chapter*
12 *with respect to a project shall not—*

13 “(1) *relieve any recipient of the assistance of any*
14 *obligation to obtain any required State or local per-*
15 *mit or approval with respect to the project;*

16 “(2) *limit the right of any unit of State or local*
17 *government to approve or regulate any rate of return*
18 *on private equity invested in the project; or*

19 “(3) *otherwise supersede any State or local law*
20 *(including any regulation) applicable to the construc-*
21 *tion or operation of the project.*

22 **“§ 607. Regulations**

23 *“The Secretary may promulgate such regulations as*
24 *the Secretary determines appropriate to carry out this*
25 *chapter.*

1 **“§ 608. Funding**

2 “(a) *FUNDING.*—

3 “(1) *SPENDING AND BORROWING AUTHORITY.*—
4 *Spending and borrowing authority for a fiscal year*
5 *to enter into Federal credit instruments shall be*
6 *promptly apportioned to the Secretary on a fiscal*
7 *year basis.*

8 “(2) *REESTIMATES.*—*When the estimated cost of*
9 *a loan or loans is reestimated, the cost of the reesti-*
10 *mate shall be borne by or benefit the general fund of*
11 *the Treasury, consistent with section 661c(f) of title*
12 *2, United States Code.*

13 “(3) *RURAL SET-ASIDE.*—

14 “(A) *IN GENERAL.*—*Of the total amount of*
15 *funds made available to carry out this chapter*
16 *for each fiscal year, 10 percent shall be set aside*
17 *for rural infrastructure projects.*

18 “(B) *REOBLIGATION.*—*Any amounts set*
19 *aside under subparagraph (A) that remain unob-*
20 *ligated by June 1 of the fiscal year for which the*
21 *amounts were set aside shall be available for ob-*
22 *ligation by the Secretary on projects other than*
23 *rural infrastructure projects.*

24 “(4) *REDISTRIBUTION OF AUTHORIZED FUND-*
25 *ING.*—

1 “(A) *IN GENERAL.*—Beginning in the sec-
2 *ond fiscal year after the date of enactment of this*
3 *paragraph, on August 1 of that fiscal year, and*
4 *each fiscal year thereafter, if the unobligated and*
5 *uncommitted balance of funding available ex-*
6 *ceeds 150 percent of the amount made available*
7 *to carry out this chapter for that fiscal year, the*
8 *Secretary shall distribute to the States the*
9 *amount of funds and associated obligation au-*
10 *thority in excess of that amount.*

11 “(B) *DISTRIBUTION.*—The amounts and ob-
12 *ligation authority distributed under this para-*
13 *graph shall be distributed, in the same manner*
14 *as obligation authority is distributed to the*
15 *States for the fiscal year, based on the propor-*
16 *tion that—*

17 “(i) *the relative share of each State of*
18 *obligation authority for the fiscal year;*
19 *bears to*

20 “(ii) *the total amount of obligation au-*
21 *thority distributed to all States for the fis-*
22 *cal year.*

23 “(C) *PURPOSE.*—Funds distributed under
24 *subparagraph (B) shall be available for any pur-*
25 *pose described in section 133(c).*

1 “(5) *AVAILABILITY.*—Amounts made available to
2 carry out this chapter shall remain available until ex-
3 pended.

4 “(6) *ADMINISTRATIVE COSTS.*—Of the amounts
5 made available to carry out this chapter, the Sec-
6 retary may use not more than 1 percent for each fis-
7 cal year for the administration of this chapter.

8 “(b) *CONTRACT AUTHORITY.*—

9 “(1) *IN GENERAL.*—Notwithstanding any other
10 provision of law, execution of a term sheet by the Sec-
11 retary of a Federal credit instrument that uses
12 amounts made available under this chapter shall im-
13 pose on the United States a contractual obligation to
14 fund the Federal credit investment.

15 “(2) *AVAILABILITY.*—Amounts made available to
16 carry out this chapter for a fiscal year shall be avail-
17 able for obligation on October 1 of the fiscal year.

18 **“§ 609. Reports to Congress**

19 “On June 1, 2012, and every 2 years thereafter, the
20 Secretary shall submit to Congress a report summarizing
21 the financial performance of the projects that are receiving,
22 or have received, assistance under this chapter (other than
23 section 610), including a recommendation as to whether the
24 objectives of this chapter (other than section 610) are best
25 served—

1 “(1) by continuing the program under the au-
2 thority of the Secretary;

3 “(2) by establishing a Federal corporation or
4 federally sponsored enterprise to administer the pro-
5 gram; or

6 “(3) by phasing out the program and relying on
7 the capital markets to fund the types of infrastructure
8 investments assisted by this chapter (other than sec-
9 tion 610) without Federal participation.”.

10 **SEC. 2003. STATE INFRASTRUCTURE BANKS.**

11 Section 610(d)(1)(A) of title 23, United States Code,
12 is amended by striking “sections 104(b)(1)” and all that
13 follows though the semicolon and inserting “paragraphs (1)
14 and (2) of section 104(b)”.

15 **TITLE III—HIGHWAY SPENDING**
16 **CONTROLS**

17 **SEC. 3001. HIGHWAY SPENDING CONTROLS.**

18 (a) *IN GENERAL.*—Title 23, United States Code, is
19 amended by adding at the end the following:

CHAPTER 7—HIGHWAY SPENDING CONTROLS

Sec.

701. Solvency of Highway Account of the Highway Trust Fund.

20 **“SEC. 701. SOLVENCY OF HIGHWAY ACCOUNT OF THE HIGH-**
21 **WAY TRUST FUND.**

22 “(a) *SOLVENCY CALCULATION FOR FISCAL YEAR*
23 *2012.*—

1 “(1) *ADJUSTMENT OF OBLIGATION LIMITA-*
2 *TION.—Not later than 60 days after the date of enact-*
3 *ment of the MAP–21, the Secretary, in consultation*
4 *with the Secretary of Treasury, shall:*

5 “(A) *Estimate the balance of the Highway*
6 *Trust Fund (other than the Mass Transit Ac-*
7 *count) at the end of fiscal years 2012 and 2013.*
8 *For purposes of which estimation, the Secretary*
9 *shall assume that the obligation limitation on*
10 *Federal-aid highways and highway safety con-*
11 *struction programs will be equal to the obliga-*
12 *tion limitations enacted for those fiscal years in*
13 *the MAP–21.*

14 “(B) *Determine if the estimated balance of*
15 *the Highway Trust Fund (other than the Mass*
16 *Transit Account) would fall below—*

17 “(i) *\$2,000,000,000 at the end of fiscal*
18 *year 2012; or*

19 “(ii) *\$1,000,000,000 at the end of fiscal*
20 *year 2013.*

21 “(C) *If either of the conditions in subpara-*
22 *graph (B) would occur, calculate the amount by*
23 *which the fiscal year 2012 obligation limitation*
24 *must be reduced to prevent such occurrence. For*
25 *purposes of this calculation, the Secretary shall*

1 *assume that the obligation limitation on Fed-*
2 *eral-aid highways and highway safety construc-*
3 *tion programs for the fiscal year 2013 will be*
4 *equal to the obligation limitation for fiscal year*
5 *2012, as reduced pursuant to this subparagraph.*

6 *“(D) Adjust the distribution of the fiscal*
7 *year 2012 obligation limitation to reflect any re-*
8 *duction determined under subparagraph (C).*

9 *“(2) LAPSE AND RESCISSION.—*

10 *“(A) LAPSE OF OBLIGATION LIMITATION.—*
11 *Any obligation limitation that is withdrawn by*
12 *the Secretary pursuant to paragraph (1)(D)*
13 *shall lapse immediately following the adjustment*
14 *of obligation limitation under such paragraph.*

15 *“(B) RESCISSION OF CONTRACT AUTHOR-*
16 *ITY.—Upon the lapse of any obligation limita-*
17 *tion under subparagraph (A), the Secretary shall*
18 *reduce proportionately the amount authorized to*
19 *be appropriated from the Highway Trust Fund*
20 *(other than the Mass Transit Account) for fiscal*
21 *year 2012 to carry out each of the Federal-aid*
22 *highway and highway safety construction pro-*
23 *grams (other than emergency relief and funds*
24 *under the national highway performance pro-*
25 *gram that are exempt from the fiscal year 2012*

1 *obligation limitation) by an aggregate amount*
2 *equal to the amount of adjustment determined*
3 *pursuant to paragraph (1)(D). The amounts*
4 *withdrawn pursuant to this subparagraph are*
5 *permanently rescinded.*

6 “(b) *SOLVENCY CALCULATION FOR FISCAL YEAR 2013*
7 *AND FISCAL YEARS THEREAFTER.—*

8 “(1) *ADJUSTMENT OF OBLIGATION LIMITA-*
9 *TION.—Except as provided in paragraph (2), in dis-*
10 *tributing the obligation limitation on Federal-aid*
11 *highways and highway safety construction programs*
12 *for fiscal year 2013 and each fiscal year thereafter,*
13 *the Secretary shall—*

14 “(A) *estimate the balance of the Highway*
15 *Trust Fund (other than the Mass Transit Ac-*
16 *count) at the end of such fiscal year and the end*
17 *of the next fiscal year, for purposes of which esti-*
18 *mation, the Secretary shall assume that the obli-*
19 *gation limitation on Federal-aid highways and*
20 *highway safety construction programs for the*
21 *next fiscal year will be equal to the obligation*
22 *limitation enacted for the fiscal year for which*
23 *the limitation is being distributed;*

24 “(B) *determine whether the estimated bal-*
25 *ance of the Highway Trust Fund (other than the*

1 *Mass Transit Account*) would fall below
2 \$2,000,000,000 at the end of the fiscal year for
3 which the obligation limitation is being distrib-
4 uted;

5 “(C) if the condition in subparagraph (B)
6 would occur, calculate the amount by which the
7 obligation limitation in the fiscal year for which
8 the obligation limitation is being distributed
9 must be reduced to prevent that occurrence; and

10 “(D) distribute such obligation limitation
11 less any amount determined under subparagraph
12 (C).

13 “(2) *LAPSE AND RESCISSION.*—

14 “(A) *OBLIGATION LIMITATION.*—

15 “(i) *RECALCULATION.*—In a fiscal
16 year in which the Secretary withholds obli-
17 gation limitation based on the calculation
18 under paragraph (1), the Secretary shall,
19 on March 1 of such fiscal year, repeat the
20 calculations under subparagraphs (A)
21 through (C) of such paragraph. Based on
22 the results of those calculations, the Sec-
23 retary shall—

24 “(I) if the Secretary determines
25 that either of the conditions in para-

1 *graph (1)(B) would occur, withdraw*
2 *an additional amount of obligation*
3 *limitation necessary to prevent such*
4 *occurrence; or*

5 “(II) *distribute as much of the*
6 *withheld obligation limitation as may*
7 *be distributed without causing either of*
8 *the conditions specified in paragraph*
9 *(1)(B) to occur.*

10 “(ii) *LAPSE.—Any obligation limita-*
11 *tion that is enacted for a fiscal year, with-*
12 *held from distribution pursuant to para-*
13 *graph (1)(D) (or withdrawn under clause*
14 *(i)(I)), and not subsequently distributed*
15 *under clause (i)(II) shall lapse immediately*
16 *following the distribution of obligation limi-*
17 *tation under such clause.*

18 “(B) *CONTRACT AUTHORITY.—*

19 “(i) *IN GENERAL.—Upon the lapse of*
20 *any obligation limitation under subpara-*
21 *graph (A)(ii), an equal amount of the unob-*
22 *ligated balances of funds apportioned*
23 *among the States under chapter 1 and sec-*
24 *tions 1116, 1303, and 1404 of the*
25 *SAFETEA-LU (119 Stat. 1177, 1207, and*

1 1228) are permanently rescinded. In ad-
2 ministering the rescission required under
3 this clause, the Secretary shall allow each
4 State to determine the amount of the re-
5 quired rescission to be drawn from the pro-
6 grams to which the rescission applies, except
7 as provided in clause (ii).

8 “(ii) *RESCISSION OF FUNDS APPOR-*
9 *TIONED IN FISCAL YEAR 2013 AND FISCAL*
10 *YEARS THEREAFTER.*—If a State determines
11 that it will meet any of its required rescis-
12 sion amount from funds apportioned to
13 such State on or subsequent to October 1,
14 2012, the Secretary shall determine the
15 amount to be rescinded from each of the
16 programs subject to the rescission for which
17 the State was apportioned funds on or sub-
18 sequent to October 1, 2012, in proportion to
19 the cumulative amount of apportionments
20 that the State received for each such pro-
21 gram on or subsequent to October 1, 2012.

22 “(3) *OTHER ACTIONS TO PREVENT INSOL-*
23 *VENCY.*—The Secretary shall issue a regulation to es-
24 tablish any actions in addition to those described in
25 subsection (a) and paragraph (1) that may be taken

1 *by the Secretary if it becomes apparent that the*
 2 *Highway Trust Fund (other than the Mass Transit*
 3 *Account) will become insolvent, including the denial*
 4 *of further obligations.*

5 “(4) *APPLICABLE ONLY TO FULL-YEAR LIMITA-*
 6 *TION.—The requirements of paragraph (1) apply only*
 7 *to the distribution of a full-year obligation limitation*
 8 *and do not apply to partial-year limitations under*
 9 *continuing appropriations Acts.”.*

10 (b) *TABLE OF CHAPTERS.—The table of chapters for*
 11 *title 23, United States Code, is amended by inserting after*
 12 *the item relating to chapter 6 the following:*

“7. *Highway Spending Controls* 701”.

13 ***DIVISION B—PUBLIC***
 14 ***TRANSPORTATION***

15 ***SEC. 20001. SHORT TITLE.***

16 *This division may be cited as the “Federal Public*
 17 *Transportation Act of 2012”.*

18 ***SEC. 20002. REPEALS.***

19 (a) *CHAPTER 53.—Chapter 53 of title 49, United*
 20 *States Code, is amended by striking sections 5316, 5317,*
 21 *5321, 5324, 5328, and 5339.*

22 (b) *TRANSPORTATION EQUITY ACT FOR THE 21ST*
 23 *CENTURY.—Section 3038 of the Transportation Equity Act*
 24 *for the 21st Century (49 U.S.C. 5310 note) is repealed.*

1 (c) *SAFETEA-LU*.—*The following provisions are re-*
2 *pealed:*

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

5 (2) *Section 3011(c) of SAFETEA-LU (49*
6 *U.S.C. 5309 note).*

7 (3) *Section 3012(b) of SAFETEA-LU (49*
8 *U.S.C. 5310 note).*

9 (4) *Section 3045 of SAFETEA-LU (49 U.S.C.*
10 *5308 note).*

11 (5) *Section 3046 of SAFETEA-LU (49 U.S.C.*
12 *5338 note).*

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

14 *Section 5301 of title 49, United States Code, is amend-*
15 *ed to read as follows:*

16 **“§ 5301. Policies, purposes, and goals**

17 “(a) *DECLARATION OF POLICY*.—*It is in the interest*
18 *of the United States, including the economic interest of the*
19 *United States, to foster the development and revitalization*
20 *of public transportation systems.*

21 “(b) *GENERAL PURPOSES*.—*The purposes of this chap-*
22 *ter are to—*

23 “(1) *provide funding to support public transpor-*
24 *tation;*

1 “(2) improve the development and delivery of
2 *capital projects;*

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

5 “(4) establish standards for the state of good re-
6 *pair of public transportation infrastructure and vehi-*
7 *cles;*

8 “(5) promote continuing, cooperative, and com-
9 *prehensive planning that improves the performance of*
10 *the transportation network;*

11 “(6) establish a technical assistance program to
12 *assist recipients under this chapter to more effectively*
13 *and efficiently provide public transportation service;*

14 “(7) continue Federal support for public trans-
15 *portation providers to deliver high quality service to*
16 *all users, including individuals with disabilities, sen-*
17 *iors, and individuals who depend on public transpor-*
18 *tation;*

19 “(8) support research, development, demonstra-
20 *tion, and deployment projects dedicated to assisting*
21 *in the delivery of efficient and effective public trans-*
22 *portation service; and*

23 “(9) promote the development of the public trans-
24 *portation workforce.*

1 “(c) *NATIONAL GOALS.*—*The goals of this chapter are*
2 *to—*

3 “(1) *increase the availability and accessibility of*
4 *public transportation across a balanced, multimodal*
5 *transportation network;*

6 “(2) *promote the environmental benefits of public*
7 *transportation, including reduced reliance on fossil*
8 *fuels, fewer harmful emissions, and lower public*
9 *health expenditures;*

10 “(3) *improve the safety of public transportation*
11 *systems;*

12 “(4) *achieve and maintain a state of good repair*
13 *of public transportation infrastructure and vehicles;*

14 “(5) *provide an efficient and reliable alternative*
15 *to congested roadways;*

16 “(6) *increase the affordability of transportation*
17 *for all users; and*

18 “(7) *maximize economic development opportuni-*
19 *ties by—*

20 “(A) *connecting workers to jobs;*

21 “(B) *encouraging mixed-use, transit-ori-*
22 *ented development; and*

23 “(C) *leveraging private investment and*
24 *joint development.”.*

1 **SEC. 20004. DEFINITIONS.**

2 *Section 5302 of title 49, United States Code, is amend-*
3 *ed to read as follows:*

4 **“§ 5302. Definitions**

5 *“Except as otherwise specifically provided, in this*
6 *chapter the following definitions apply:*

7 *“(1) ASSOCIATED TRANSIT IMPROVEMENT.—The*
8 *term ‘associated transit improvement’ means, with re-*
9 *spect to any project or an area to be served by a*
10 *project, projects that are designed to enhance public*
11 *transportation service or use and that are physically*
12 *or functionally related to transit facilities. Eligible*
13 *projects are—*

14 *“(A) historic preservation, rehabilitation,*
15 *and operation of historic public transportation*
16 *buildings, structures, and facilities (including*
17 *historic bus and railroad facilities) intended for*
18 *use in public transportation service;*

19 *“(B) bus shelters;*

20 *“(C) landscaping and streetscaping, includ-*
21 *ing benches, trash receptacles, and street lights;*

22 *“(D) pedestrian access and walkways;*

23 *“(E) bicycle access, including bicycle stor-*
24 *age facilities and installing equipment for trans-*
25 *porting bicycles on public transportation vehi-*
26 *cles;*

1 “(F) signage; or

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

4 “(2) *BUS RAPID TRANSIT SYSTEM*.—The term
5 ‘bus rapid transit system’ means a bus transit sys-
6 tem—

7 “(A) in which the majority of each line op-
8 erates in a separated right-of-way dedicated for
9 public transportation use during peak periods;
10 and

11 “(B) that includes features that emulate the
12 services provided by rail fixed guideway public
13 transportation systems, including—

14 “(i) defined stations;

15 “(ii) traffic signal priority for public
16 transportation vehicles;

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

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

1 “(3) *CAPITAL PROJECT*.—The term ‘capital
2 *project*’ means a project for—

3 “(A) *acquiring, constructing, supervising,*
4 *or inspecting equipment or a facility for use in*
5 *public transportation, expenses incidental to the*
6 *acquisition or construction (including designing,*
7 *engineering, location surveying, mapping, and*
8 *acquiring rights-of-way), payments for the cap-*
9 *ital portions of rail trackage rights agreements,*
10 *transit-related intelligent transportation systems,*
11 *relocation assistance, acquiring replacement*
12 *housing sites, and acquiring, constructing, relo-*
13 *cating, and rehabilitating replacement housing;*

14 “(B) *rehabilitating a bus;*

15 “(C) *remanufacturing a bus;*

16 “(D) *overhauling rail rolling stock;*

17 “(E) *preventive maintenance;*

18 “(F) *leasing equipment or a facility for use*
19 *in public transportation, subject to regulations*
20 *that the Secretary prescribes limiting the leasing*
21 *arrangements to those that are more cost-effective*
22 *than purchase or construction;*

23 “(G) *a joint development improvement*
24 *that—*

1 “(i) enhances economic development or
2 incorporates private investment, such as
3 commercial and residential development;

4 “(ii)(I) enhances the effectiveness of
5 public transportation and is related phys-
6 ically or functionally to public transpor-
7 tation; or

8 “(II) establishes new or enhanced co-
9 ordination between public transportation
10 and other transportation;

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

13 “(iv) provides that a person making an
14 agreement to occupy space in a facility con-
15 structed under this paragraph shall pay a
16 fair share of the costs of the facility through
17 rental payments and other means;

18 “(v) may include—

19 “(I) property acquisition;

20 “(II) demolition of existing struc-
21 tures;

22 “(III) site preparation;

23 “(IV) utilities;

24 “(V) building foundations;

25 “(VI) walkways;

1 “(VII) pedestrian and bicycle ac-
2 cess to a public transportation facility;

3 “(VIII) construction, renovation,
4 and improvement of intercity bus and
5 intercity rail stations and terminals;

6 “(IX) renovation and improve-
7 ment of historic transportation facili-
8 ties;

9 “(X) open space;

10 “(XI) safety and security equip-
11 ment and facilities (including lighting,
12 surveillance, and related intelligent
13 transportation system applications);

14 “(XII) facilities that incorporate
15 community services such as daycare or
16 health care;

17 “(XIII) a capital project for, and
18 improving, equipment or a facility for
19 an intermodal transfer facility or
20 transportation mall; and

21 “(XIV) construction of space for
22 commercial uses; and

23 “(vi) does not include outfitting of
24 commercial space (other than an intercity
25 bus or rail station or terminal) or a part

1 *of a public facility not related to public*
2 *transportation;*

3 “(H) *the introduction of new technology,*
4 *through innovative and improved products, into*
5 *public transportation;*

6 “(I) *the provision of nonfixed route para-*
7 *transit transportation services in accordance*
8 *with section 223 of the Americans with Disabil-*
9 *ities Act of 1990 (42 U.S.C. 12143), but only for*
10 *grant recipients that are in compliance with ap-*
11 *licable requirements of that Act, including both*
12 *fixed route and demand responsive service, and*
13 *only for amounts not to exceed 10 percent of such*
14 *recipient’s annual formula apportionment under*
15 *sections 5307 and 5311;*

16 “(J) *establishing a debt service reserve,*
17 *made up of deposits with a bondholder’s trustee,*
18 *to ensure the timely payment of principal and*
19 *interest on bonds issued by a grant recipient to*
20 *finance an eligible project under this chapter;*

21 “(K) *mobility management—*

22 “(i) *consisting of short-range planning*
23 *and management activities and projects for*
24 *improving coordination among public*
25 *transportation and other transportation*

1 *service providers carried out by a recipient*
2 *or subrecipient through an agreement en-*
3 *tered into with a person, including a gov-*
4 *ernmental entity, under this chapter (other*
5 *than section 5309); but*

6 “(ii) *excluding operating public trans-*
7 *portation services; or*

8 “(L) *associated capital maintenance, in-*
9 *cluding—*

10 “(i) *equipment, tires, tubes, and mate-*
11 *rial, each costing at least .5 percent of the*
12 *current fair market value of rolling stock*
13 *comparable to the rolling stock for which the*
14 *equipment, tires, tubes, and material are to*
15 *be used; and*

16 “(ii) *reconstruction of equipment and*
17 *material, each of which after reconstruction*
18 *will have a fair market value of at least .5*
19 *percent of the current fair market value of*
20 *rolling stock comparable to the rolling stock*
21 *for which the equipment and material will*
22 *be used.*

23 “(4) *DESIGNATED RECIPIENT.—The term ‘des-*
24 *ignated recipient’ means—*

1 “(A) an entity designated, in accordance
2 with the planning process under sections 5303
3 and 5304, by the Governor of a State, responsible
4 local officials, and publicly owned operators of
5 public transportation, to receive and apportion
6 amounts under section 5336 to urbanized areas
7 of 200,000 or more in population; or

8 “(B) a State or regional authority, if the
9 authority is responsible under the laws of a
10 State for a capital project and for financing and
11 directly providing public transportation.

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

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

17 “(A) that is effective temporarily before the
18 expiration of the otherwise specified periods of
19 time for public notice and comment under sec-
20 tion 5334(c); and

21 “(B) prescribed by the Secretary as the re-
22 sult of a finding that a delay in the effective date
23 of the regulation—

24 “(i) would injure seriously an impor-
25 tant public interest;

1 “(ii) would frustrate substantially leg-
2 islative policy and intent; or

3 “(iii) would damage seriously a person
4 or class without serving an important pub-
5 lic interest.

6 “(7) *FIXED GUIDEWAY*.—The term ‘fixed guide-
7 way’ means a public transportation facility—

8 “(A) using and occupying a separate right-
9 of-way for the exclusive use of public transpor-
10 tation;

11 “(B) using rail;

12 “(C) using a fixed catenary system;

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

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

15 “(8) *GOVERNOR*.—The term ‘Governor’—

16 “(A) means the Governor of a State, the
17 mayor of the District of Columbia, and the chief
18 executive officer of a territory of the United
19 States; and

20 “(B) includes the designee of the Governor.

21 “(9) *LOCAL GOVERNMENTAL AUTHORITY*.—The
22 term ‘local governmental authority’ includes—

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

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

1 “(C) *an Indian tribe; and*

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

4 “(10) *LOW-INCOME INDIVIDUAL.—The term ‘low-*
5 *income individual’ means an individual whose family*
6 *income is at or below 150 percent of the poverty line,*
7 *as that term is defined in section 673(2) of the Com-*
8 *munity Services Block Grant Act (42 U.S.C.*
9 *9902(2)), including any revision required by that sec-*
10 *tion, for a family of the size involved.*

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

14 “(12) *NEW BUS MODEL.—The term ‘new bus*
15 *model’ means a bus model (including a model using*
16 *alternative fuel)—*

17 “(A) *that has not been used in public trans-*
18 *portation in the United States before the date of*
19 *production of the model; or*

20 “(B) *used in public transportation in the*
21 *United States, but being produced with a major*
22 *change in configuration or components.*

23 “(13) *PUBLIC TRANSPORTATION.—The term*
24 *‘public transportation’—*

1 “(A) means regular, continuing shared-ride
2 surface transportation services that are open to
3 the general public or open to a segment of the
4 general public defined by age, disability, or low
5 income; and

6 “(B) does not include—

7 “(i) intercity passenger rail transpor-
8 tation provided by the entity described in
9 chapter 243 (or a successor to such entity);

10 “(ii) intercity bus service;

11 “(iii) charter bus service;

12 “(iv) school bus service;

13 “(v) sightseeing service;

14 “(vi) courtesy shuttle service for pa-
15 trons of one or more specific establishments;

16 or

17 “(vii) intra-terminal or intra-facility
18 shuttle services.

19 “(14) *REGULATION.*—The term ‘regulation’
20 means any part of a statement of general or par-
21 ticular applicability of the Secretary designed to
22 carry out, interpret, or prescribe law or policy in car-
23 rying out this chapter.

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

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

3 “(17) STATE.—The term ‘State’ means a State
4 of the United States, the District of Columbia, Puerto
5 Rico, the Northern Mariana Islands, Guam, Amer-
6 ican Samoa, and the Virgin Islands.

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

10 “(19) TRANSIT.—The term ‘transit’ means pub-
11 lic transportation.

12 “(20) URBAN AREA.—The term ‘urban area’
13 means an area that includes a municipality or other
14 built-up place that the Secretary, after considering
15 local patterns and trends of urban growth, decides is
16 appropriate for a local public transportation system
17 to serve individuals in the locality.

18 “(21) URBANIZED AREA.—The term ‘urbanized
19 area’ means an area encompassing a population of
20 not less than 50,000 people that has been defined and
21 designated in the most recent decennial census as an
22 ‘urbanized area’ by the Secretary of Commerce.”.

23 **SEC. 20005. METROPOLITAN TRANSPORTATION PLANNING.**

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

1 **“§ 5303. Metropolitan transportation planning**

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

3 “(1) *to encourage and promote the safe, cost-ef-*
4 *fective, and efficient management, operation, and de-*
5 *velopment of surface transportation systems that will*
6 *serve efficiently the mobility needs of individuals and*
7 *freight, reduce transportation-related fatalities and*
8 *serious injuries, and foster economic growth and de-*
9 *velopment within and between States and urbanized*
10 *areas, while fitting the needs and complexity of indi-*
11 *vidual communities, maximizing value for taxpayers,*
12 *leveraging cooperative investments, and minimizing*
13 *transportation-related fuel consumption and air pol-*
14 *lution through the metropolitan and statewide trans-*
15 *portation planning processes identified in this chap-*
16 *ter;*

17 “(2) *to encourage the continued improvement,*
18 *evolution, and coordination of the metropolitan and*
19 *statewide transportation planning processes by and*
20 *among metropolitan planning organizations, State*
21 *departments of transportation, regional planning or-*
22 *ganizations, interstate partnerships, and public*
23 *transportation and intercity service operators as*
24 *guided by the planning factors identified in sub-*
25 *section (h) of this section and section 5304(d);*

1 “(3) to encourage and promote transportation
2 needs and decisions that are integrated with other
3 planning needs and priorities; and

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

6 “(b) *DEFINITIONS.*—In this section and section 5304,
7 the following definitions shall apply:

8 “(1) *EXISTING MPO.*—The term ‘existing MPO’
9 means a metropolitan planning organization that
10 was designated as a metropolitan planning organiza-
11 tion on the day before the date of enactment of the
12 *Federal Public Transportation Act of 2012.*

13 “(2) *LOCAL OFFICIAL.*—The term ‘local official’
14 means any elected or appointed official of general
15 purpose local government with responsibility for
16 transportation in a designated area.

17 “(3) *MAINTENANCE AREA.*—The term ‘mainte-
18 nance area’ means an area that was designated as an
19 air quality nonattainment area, but was later reded-
20 icated by the Administrator of the Environmental
21 Protection Agency as an air quality attainment area,
22 under section 107(d) of the Clean Air Act (42 U.S.C.
23 7407(d)).

24 “(4) *METROPOLITAN PLANNING AREA.*—The term
25 ‘metropolitan planning area’ means a geographical

1 *area determined by agreement between the metropoli-*
2 *tan planning organization for the area and the appli-*
3 *cable Governor under subsection (c).*

4 “(5) *METROPOLITAN PLANNING ORGANIZA-*
5 *TION.—The term ‘metropolitan planning organiza-*
6 *tion’ means the policy board of an organization estab-*
7 *lished pursuant to subsection (c).*

8 “(6) *METROPOLITAN TRANSPORTATION PLAN.—*
9 *The term ‘metropolitan transportation plan’ means a*
10 *plan developed by a metropolitan planning organiza-*
11 *tion under subsection (i).*

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

15 “(8) *NONMETROPOLITAN AREA.—*

16 “(A) *IN GENERAL.—The term ‘nonmetro-*
17 *politan area’ means a geographical area outside*
18 *the boundaries of a designated metropolitan*
19 *planning area.*

20 “(B) *INCLUSIONS.—The term ‘nonmetro-*
21 *politan area’ includes—*

22 “(i) *a small urbanized area with a*
23 *population of more than 50,000, but fewer*
24 *than 200,000 individuals, as calculated ac-*

1 *ording to the most recent decennial census;*

2 *and*

3 *“(ii) a nonurbanized area.*

4 *“(9) NONMETROPOLITAN PLANNING ORGANIZA-*
5 *TION.—The term ‘nonmetropolitan planning organi-*
6 *zation’ means an organization that—*

7 *“(A) was designated as a metropolitan*
8 *planning organization as of the day before the*
9 *date of enactment of the Federal Public Trans-*
10 *portation Act of 2012; and*

11 *“(B) is not designated as a tier I MPO or*
12 *tier II MPO.*

13 *“(10) REGIONALLY SIGNIFICANT.—The term ‘re-*
14 *gionally significant’, with respect to a transportation*
15 *project, program, service, or strategy, means a project,*
16 *program, service, or strategy that—*

17 *“(A) serves regional transportation needs*
18 *(such as access to and from the area outside of*
19 *the region, major activity centers in the region,*
20 *and major planned developments); and*

21 *“(B) would normally be included in the*
22 *modeling of a transportation network of a metro-*
23 *politan area.*

1 “(11) *RURAL PLANNING ORGANIZATION.*—*The*
2 *term ‘rural planning organization’ means an organi-*
3 *zation that—*

4 “(A) *is responsible for the planning, coordi-*
5 *nation, and implementation of statewide trans-*
6 *portation plans and programs outside of metro-*
7 *politan areas, with an emphasis on addressing*
8 *the needs of rural areas of a State;*

9 “(B) *is not designated as a tier I MPO, a*
10 *tier II MPO, or a nonmetropolitan planning or-*
11 *ganization.*

12 “(12) *STATEWIDE TRANSPORTATION IMPROVE-*
13 *MENT PROGRAM.*—*The term ‘statewide transportation*
14 *improvement program’ means a statewide transpor-*
15 *tation improvement program developed by a State*
16 *under section 5304(g).*

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

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

23 “(15) *TIER II MPO.*—*The term ‘tier II MPO’*
24 *means a metropolitan planning organization des-*
25 *ignated as a tier II MPO under subsection (e)(4)(B).*

1 “(16) *TRANSPORTATION IMPROVEMENT PRO-*
2 *GRAM.—The term ‘transportation improvement pro-*
3 *gram’ means a program developed by a metropolitan*
4 *planning organization under subsection (j).*

5 “(17) *URBANIZED AREA.—The term ‘urbanized*
6 *area’ means a geographical area with a population of*
7 *50,000 or more individuals, as calculated according*
8 *to the most recent decennial census.*

9 “(c) *DESIGNATION OF METROPOLITAN PLANNING OR-*
10 *GANIZATIONS.—*

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

17 “(A) *by agreement between the applicable*
18 *Governor and local officials that, in the aggre-*
19 *gate, represent at least 75 percent of the affected*
20 *population (including the largest incorporated*
21 *city (based on population), as calculated accord-*
22 *ing to the most recent decennial census); or*

23 “(B) *in accordance with procedures estab-*
24 *lished by applicable State or local law.*

1 “(2) *SMALL URBANIZED AREAS.*—*To carry out*
2 *the metropolitan transportation planning process*
3 *under this section, a metropolitan planning organiza-*
4 *tion may be designated for any urbanized area with*
5 *a population of 50,000 or more individuals, but fewer*
6 *than 200,000 individuals, as calculated according to*
7 *the most recent decennial census—*

8 “(A) *by agreement between the applicable*
9 *Governor and local officials that, in the aggre-*
10 *gate, represent at least 75 percent of the affected*
11 *population (including the largest incorporated*
12 *city (based on population), as calculated accord-*
13 *ing to the most recent decennial census); and*

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

18 “(3) *STRUCTURE.*—*Not later than 1 year after*
19 *the date of enactment of the Federal Public Transpor-*
20 *tation Act of 2012, a metropolitan planning organi-*
21 *zation shall consist of—*

22 “(A) *elected local officials in the relevant*
23 *metropolitan area;*

24 “(B) *officials of public agencies that admin-*
25 *ister or operate major modes of transportation in*

1 *the relevant metropolitan area, including pro-*
2 *viders of public transportation; and*

3 *“(C) appropriate State officials.*

4 *“(4) EFFECT OF SUBSECTION.—Nothing in this*
5 *subsection interferes with any authority under any*
6 *State law in effect on December 18, 1991, of a public*
7 *agency with multimodal transportation responsibil-*
8 *ities—*

9 *“(A) to develop the metropolitan transpor-*
10 *tation plans and transportation improvement*
11 *programs for adoption by a metropolitan plan-*
12 *ning organization; or*

13 *“(B) to develop capital plans, coordinate*
14 *public transportation services and projects, or*
15 *carry out other activities pursuant to State law.*

16 *“(5) CONTINUING DESIGNATION.—*

17 *“(A) POPULATION OF 200,000 OR MORE.—A*
18 *designation of an existing MPO for an urbanized*
19 *area with a population of 200,000 or more indi-*
20 *viduals, as calculated according to the most re-*
21 *cent decennial census, shall remain in effect—*

22 *“(i) for the period during which the*
23 *structure of the existing MPO complies with*
24 *the requirements of paragraph (1); or*

1 “(i) until the date on which the exist-
2 ing MPO is redesignated under paragraph
3 (6).

4 “(B) POPULATION OF FEWER THAN
5 200,000.—

6 “(i) IN GENERAL.—A designation of an
7 existing MPO for an urbanized area with a
8 population of fewer than 200,000 individ-
9 uals, as calculated according to the most re-
10 cent decennial census, shall remain in effect
11 until the date on which the existing MPO is
12 redesignated under paragraph (6) unless—

13 “(I) the existing MPO requests
14 that its planning responsibilities be
15 transferred to the State or to another
16 planning organization designated by
17 the State; or

18 “(II)(aa) the Secretary determines
19 3 years after the date on which the
20 Secretary issues a rule pursuant to
21 subsection (e)(4)(B)(i), that the exist-
22 ing MPO is not meeting the minimum
23 requirements established by the rule;
24 and

1 “(bb) the Secretary approves the
2 Governor’s determination.

3 “(ii) WRITTEN JUSTIFICATION.—The
4 Secretary shall in a timely manner provide
5 a substantive written justification to each
6 metropolitan planning organization that is
7 the subject of a negative determination of
8 the Secretary under clause (i)(II).

9 “(C) EXTENSION.—If a metropolitan plan-
10 ning organization for an urbanized area with a
11 population of less than 200,000 that would other-
12 wise be terminated under subparagraph (B), re-
13 quests a probationary continuation before the
14 termination of the metropolitan planning orga-
15 nization, the Secretary shall—

16 “(i) delay the termination of the met-
17 ropolitan planning organization under sub-
18 paragraph (B) for a period of 1 year;

19 “(ii) provide additional technical as-
20 sistance to all metropolitan planning orga-
21 nizations provided an extension under this
22 paragraph to assist the metropolitan plan-
23 ning organization in meeting the minimum
24 requirements under subsection (e)(4)(B)(i);
25 and

1 “(iii) make a determination 1 year
2 after the date on which the Secretary issues
3 an extension, whether the MPO has meet the
4 minimum requirements established under
5 subsection (e)(4)(B)(i).

6 “(D) DESIGNATION AS TIER II MPO.—If the
7 Secretary determines the existing MPO has met
8 the minimum requirements under the rule issued
9 under subsection (e)(4)(B)(i), the Secretary shall
10 designate the existing MPO as a tier II MPO.

11 “(6) REDESIGNATION.—

12 “(A) IN GENERAL.—The designation of a
13 metropolitan planning organization under this
14 subsection shall remain in effect until the date
15 on which the metropolitan planning organiza-
16 tion is redesignated, as appropriate, in accord-
17 ance with the requirements of this subsection
18 pursuant to an agreement between—

19 “(i) the applicable Governor; and

20 “(ii) affected local officials who, in the
21 aggregate, represent at least 75 percent of
22 the existing metropolitan planning area
23 population (including the largest incor-
24 porated city (based on population), as cal-

1 *culated according to the most recent decen-*
2 *nial census).*

3 “(B) *RESTRUCTURING.*—*A metropolitan*
4 *planning organization may be restructured to*
5 *meet the requirements of paragraph (3) without*
6 *undertaking a redesignation.*

7 “(7) *ABSENCE OF DESIGNATION.*—

8 “(A) *IN GENERAL.*—*A metropolitan plan-*
9 *ning organization that is the subject of a nega-*
10 *tive determination of the Secretary under para-*
11 *graph (5)(B)(i)(II) shall submit to the State in*
12 *which the metropolitan planning organization is*
13 *located, or to a planning organization designated*
14 *by the State, by not later than 180 days after the*
15 *date on which a notice of the negative deter-*
16 *mination is received, a 6-month plan that in-*
17 *cludes a description of a method—*

18 “(i) *to transfer the responsibilities of*
19 *the metropolitan planning organization to*
20 *the State; and*

21 “(ii) *to dissolve the metropolitan plan-*
22 *ning organization.*

23 “(B) *ACTION ON DISSOLUTION.*—*On sub-*
24 *mission of a plan under subparagraph (A), the*
25 *metropolitan planning area served by the appli-*

1 *cable metropolitan planning organization*
2 *shall—*

3 “(i) *continue to receive metropolitan*
4 *transportation planning funds until the*
5 *earlier of—*

6 “(I) *the date of dissolution of the*
7 *metropolitan planning organization;*
8 *and*

9 “(II) *the date that is 4 years after*
10 *the date of enactment of the Federal*
11 *Public Transportation Act of 2012;*
12 *and*

13 “(ii) *be treated by the State as a non-*
14 *metropolitan area for purposes of this chap-*
15 *ter.*

16 “(8) *DESIGNATION OF MULTIPLE MPOS.—*

17 “(A) *IN GENERAL.—More than 1 metropoli-*
18 *tan planning organization may be designated*
19 *within an existing metropolitan planning area*
20 *only if the applicable Governor and an existing*
21 *MPO determine that the size and complexity of*
22 *the existing metropolitan planning area make*
23 *the designation of more than 1 metropolitan*
24 *planning organization for the metropolitan plan-*
25 *ning area appropriate.*

1 “(B) *SERVICE JURISDICTIONS.*—If more
2 than 1 metropolitan planning organization is
3 designated for an existing metropolitan planning
4 area under subparagraph (A), the existing met-
5 ropolitan planning area shall be split into mul-
6 tiple metropolitan planning areas, each of which
7 shall be served by the existing MPO or a new
8 metropolitan planning organization.

9 “(C) *TIER DESIGNATION.*—The tier designa-
10 tion of each metropolitan planning organization
11 subject to a designation under this paragraph
12 shall be determined based on the size of each re-
13 spective metropolitan planning area, in accord-
14 ance with subsection (e)(4).

15 “(d) *METROPOLITAN PLANNING AREA BOUNDARIES.*—

16 “(1) *IN GENERAL.*—For purposes of this section,
17 the boundaries of a metropolitan planning area shall
18 be determined by agreement between the applicable
19 metropolitan planning organization and the Governor
20 of the State in which the metropolitan planning area
21 is located.

22 “(2) *INCLUDED AREA.*—Each metropolitan plan-
23 ning area—

24 “(A) shall encompass at least the relevant
25 existing urbanized area and any contiguous area

1 *expected to become urbanized within a 20-year*
2 *forecast period under the applicable metropolitan*
3 *transportation plan; and*

4 “(B) *may encompass the entire relevant*
5 *metropolitan statistical area, as defined by the*
6 *Office of Management and Budget.*

7 “(3) *IDENTIFICATION OF NEW URBANIZED*
8 *AREAS.—The designation by the Bureau of the Census*
9 *of a new urbanized area within the boundaries of an*
10 *existing metropolitan planning area shall not require*
11 *the redesignation of the relevant existing MPO.*

12 “(4) *NONATTAINMENT AND MAINTENANCE*
13 *AREAS.—*

14 “(A) *EXISTING METROPOLITAN PLANNING*
15 *AREAS.—*

16 “(i) *IN GENERAL.—Except as provided*
17 *in clause (ii), notwithstanding paragraph*
18 *(2), in the case of an urbanized area des-*
19 *ignated as a nonattainment area or mainte-*
20 *nance area as of the date of enactment of*
21 *the Federal Public Transportation Act of*
22 *2012, the boundaries of the existing metro-*
23 *politan planning area as of that date of en-*
24 *actment shall remain in force and effect.*

1 “(ii) *EXCEPTION.*—*Notwithstanding*
2 *clause (i), the boundaries of an existing*
3 *metropolitan planning area described in*
4 *that clause may be adjusted by agreement of*
5 *the applicable Governor and the affected*
6 *metropolitan planning organizations in ac-*
7 *cordance with paragraph (1).*

8 “(B) *NEW METROPOLITAN PLANNING*
9 *AREAS.*—*In the case of an urbanized area des-*
10 *ignated as a nonattainment area or maintenance*
11 *area after the date of enactment of the Federal*
12 *Public Transportation Act of 2012, the bound-*
13 *aries of the applicable metropolitan planning*
14 *area—*

15 “(i) *shall be established in accordance*
16 *with subsection (c)(1);*

17 “(ii) *shall encompass the areas de-*
18 *scribed in paragraph (2)(A);*

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

21 “(iv) *may address any appropriate*
22 *nonattainment area or maintenance area.*

23 “(e) *REQUIREMENTS.*—

24 “(1) *DEVELOPMENT OF PLANS AND TIPS.*—*To*
25 *accomplish the policy objectives described in sub-*

1 *section (a), each metropolitan planning organization,*
2 *in cooperation with the applicable State and public*
3 *transportation operators, shall develop metropolitan*
4 *transportation plans and transportation improvement*
5 *programs for metropolitan planning areas of the*
6 *State through a performance-driven, outcome-based*
7 *approach to metropolitan transportation planning*
8 *consistent with subsection (h).*

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

17 “(A) *an intermodal transportation system*
18 *for the metropolitan planning area; and*

19 “(B) *an integral part of an intermodal*
20 *transportation system for the applicable State*
21 *and the United States.*

22 “(3) *PROCESS OF DEVELOPMENT.—The process*
23 *for developing metropolitan transportation plans and*
24 *transportation improvement programs shall—*

1 “(A) provide for consideration of all modes
2 of transportation; and

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

7 “(4) TIERING.—

8 “(A) TIER I MPOS.—

9 “(i) IN GENERAL.—A metropolitan
10 planning organization shall be designated
11 as a tier I MPO if—

12 “(I) as certified by the Governor
13 of each applicable State, the metropoli-
14 tan planning organization operates
15 within, and primarily serves, a metro-
16 politan planning area with a popu-
17 lation of 1,000,000 or more individ-
18 uals, as calculated according to the
19 most recent decennial census; and

20 “(II) the Secretary determines the
21 metropolitan planning organization—

22 “(aa) meets the minimum
23 technical requirements under
24 clause (iv); and

1 “(bb) not later than 2 years
2 after the date of enactment of the
3 Federal Public Transportation
4 Act of 2012, will fully implement
5 the processes described in sub-
6 sections (h) through (j).

7 “(ii) *ABSENCE OF DESIGNATION.*—*In*
8 *the absence of designation as a tier I MPO*
9 *under clause (i), a metropolitan planning*
10 *organization shall operate as a tier II MPO*
11 *until the date on which the Secretary deter-*
12 *mines the metropolitan planning organiza-*
13 *tion can meet the minimum technical re-*
14 *quirements under clause (iv).*

15 “(iii) *REDESIGNATION AS TIER I.*—*A*
16 *metropolitan planning organization oper-*
17 *ating within a metropolitan planning area*
18 *with a population of 200,000 or more and*
19 *fewer than 1,000,000 individuals and pri-*
20 *marily within urbanized areas with popu-*
21 *lations of 200,000 or more individuals, as*
22 *calculated according to the most recent de-*
23 *cennial census, that is designated as a tier*
24 *II MPO under subparagraph (B) may re-*
25 *quest, with the support of the applicable*

1 *Governor, a redesignation as a tier I MPO*
2 *on a determination by the Secretary that*
3 *the metropolitan planning organization has*
4 *met the minimum technical requirements*
5 *under clause (iv).*

6 “(iv) *MINIMUM TECHNICAL REQUIRE-*
7 *MENTS.—Not later than 1 year after the*
8 *date of enactment of the Federal Public*
9 *Transportation Act of 2012, the Secretary*
10 *shall issue a rule that establishes the min-*
11 *imum technical requirements necessary for*
12 *a metropolitan planning organization to be*
13 *designated as a tier I MPO, including, at*
14 *a minimum, modeling, data, staffing, and*
15 *other technical requirements.*

16 “(B) *TIER II MPOS.—*

17 “(i) *IN GENERAL.—Not later than 1*
18 *year after the date of enactment of the Fed-*
19 *eral Public Transportation Act of 2012, the*
20 *Secretary shall issue a rule that establishes*
21 *minimum requirements necessary for a met-*
22 *ropolitan planning organization to be des-*
23 *ignated as a tier II MPO.*

1 “(ii) *REQUIREMENTS.*—*The minimum*
2 *requirements established under clause (i)*
3 *shall—*

4 “(I) *be limited to ensuring that*
5 *each metropolitan planning organiza-*
6 *tion has the capabilities necessary to*
7 *develop the metropolitan transpor-*
8 *tation plan and transportation im-*
9 *provement program under this section;*
10 *and*

11 “(II) *include—*

12 “(aa) *only the staffing capa-*
13 *bilities necessary to operate the*
14 *metropolitan planning organiza-*
15 *tion; and*

16 “(bb) *a requirement that the*
17 *metropolitan planning organiza-*
18 *tion has the technical capacity to*
19 *conduct the travel demand model*
20 *and forecasting necessary, as ap-*
21 *propriate to the size and resources*
22 *of the metropolitan planning or-*
23 *ganization, to fulfill the require-*
24 *ments of this section, except that*
25 *in cases in which a metropolitan*

1 *planning organization has a for-*
2 *mal agreement with a State to*
3 *conduct the modeling on behalf of*
4 *the metropolitan planning organi-*
5 *zation, the metropolitan planning*
6 *organization shall be exempt from*
7 *the technical capacity require-*
8 *ment.*

9 “(iii) *LIMITATION.—The rule issued*
10 *pursuant to this subparagraph shall only*
11 *include the minimum requirements estab-*
12 *lished in clause (ii).*

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

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

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

25 “(C) *CONSOLIDATION.—*

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

8 “(ii) *EFFECT OF SUBSECTION.*—Noth-
9 ing in this subsection requires or prevents
10 consolidation among multiple metropolitan
11 planning organizations located within a
12 single urbanized area.

13 “(f) *COORDINATION IN MULTISTATE AREAS.*—

14 “(1) *IN GENERAL.*—The Secretary shall encour-
15 age each Governor with responsibility for a portion of
16 a multistate metropolitan area and the appropriate
17 metropolitan planning organizations to provide co-
18 ordinated transportation planning for the entire met-
19 ropolitan area.

20 “(2) *COORDINATION ALONG DESIGNATED TRANS-*
21 *PORTATION CORRIDORS.*—The Secretary shall encour-
22 age each Governor with responsibility for a portion of
23 a multistate metropolitan area and the appropriate
24 metropolitan planning organizations to provide co-

1 *ordinated transportation planning for the entire des-*
2 *ignated transportation corridor.*

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

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

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

1 *maintenance area and the State in the development*
2 *of metropolitan transportation plans and transpor-*
3 *tation improvement programs under this section.*

4 “(2) *TRANSPORTATION IMPROVEMENTS LOCATED*
5 *IN MULTIPLE METROPOLITAN PLANNING AREAS.—If a*
6 *transportation improvement project funded under this*
7 *chapter or title 23 is located within the boundaries of*
8 *more than 1 metropolitan planning area, the affected*
9 *metropolitan planning organizations shall coordinate*
10 *metropolitan transportation plans and transportation*
11 *improvement programs regarding the project.*

12 “(3) *COORDINATION OF ADJACENT PLANNING OR-*
13 *GANIZATIONS.—*

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

23 “(B) *NONMETROPOLITAN PLANNING ORGANI-*
24 *ZATIONS.—A metropolitan planning organiza-*
25 *tion that is adjacent or located in reasonably*

1 *close proximity to a nonmetropolitan planning*
2 *organization shall consult with that nonmetro-*
3 *politan planning organization with respect to*
4 *planning processes, to the maximum extent prac-*
5 *ticable.*

6 “(4) *RELATIONSHIP WITH OTHER PLANNING OF-*
7 *FICIALS.*—

8 “(A) *IN GENERAL.*—*The Secretary shall en-*
9 *courage each metropolitan planning organiza-*
10 *tion to cooperate with Federal, State, tribal, and*
11 *local officers and entities responsible for other*
12 *types of planning activities that are affected by*
13 *transportation in the relevant area (including*
14 *planned growth, economic development, infra-*
15 *structure services, housing, other public services,*
16 *environmental protection, airport operations,*
17 *high-speed and intercity passenger rail, freight*
18 *rail, port access, and freight movements), to the*
19 *maximum extent practicable, to ensure that the*
20 *metropolitan transportation planning process,*
21 *metropolitan transportation plans, and trans-*
22 *portation improvement programs are developed*
23 *in cooperation with other related planning ac-*
24 *tivities in the area.*

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

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

7 “(ii) recipients of assistance under this
8 title;

9 “(iii) government agencies and non-
10 profit organizations (including representa-
11 tives of the agencies and organizations) that
12 receive Federal assistance from a source
13 other than the Department of Transpor-
14 tation to provide nonemergency transpor-
15 tation services; and

16 “(iv) sponsors of regionally significant
17 programs, projects, and services that are re-
18 lated to transportation and receive assist-
19 ance from any public or private source.

20 “(5) *COORDINATION OF OTHER FEDERALLY RE-*
21 *QUIRED PLANNING PROGRAMS.*—The Secretary shall
22 encourage each metropolitan planning organization to
23 coordinate, to the maximum extent practicable, the
24 development of metropolitan transportation plans and

1 *transportation improvement programs with other rel-*
2 *evant federally required planning programs.*

3 “(h) *SCOPE OF PLANNING PROCESS.*—

4 “(1) *IN GENERAL.*—*The metropolitan transpor-*
5 *tation planning process for a metropolitan planning*
6 *area under this section shall provide for consideration*
7 *of projects and strategies that will—*

8 “(A) *support the economic vitality of the*
9 *metropolitan area, especially by enabling global*
10 *competitiveness, travel and tourism (where ap-*
11 *licable), productivity, and efficiency;*

12 “(B) *increase the safety of the transpor-*
13 *tation system for motorized and nonmotorized*
14 *users;*

15 “(C) *increase the security of the transpor-*
16 *tation system for motorized and nonmotorized*
17 *users;*

18 “(D) *increase the accessibility and mobility*
19 *of individuals and freight;*

20 “(E) *protect and enhance the environment,*
21 *promote energy conservation, improve the qual-*
22 *ity of life, and promote consistency between*
23 *transportation improvements and State and*
24 *local planned growth and economic development*
25 *patterns;*

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

4 “(G) increase efficient system management
5 and operation; and

6 “(H) emphasize the preservation of the ex-
7 isting transportation system.

8 “(2) PERFORMANCE-BASED APPROACH.—

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

16 “(B) PERFORMANCE TARGETS.—

17 “(i) SURFACE TRANSPORTATION PER-
18 FORMANCE TARGETS.—

19 “(I) IN GENERAL.—Each metro-
20 politan planning organization shall es-
21 tablish performance targets that ad-
22 dress the performance measures de-
23 scribed in sections 119(f), 148(h),
24 149(k) (where applicable), and 167(i)
25 of title 23, to use in tracking attain-

1 *ment of critical outcomes for the region*
2 *of the metropolitan planning organiza-*
3 *tion.*

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

10 “(ii) PUBLIC TRANSPORTATION PER-
11 FORMANCE TARGETS.—*Each metropolitan*
12 *planning organization shall adopt the per-*
13 *formance targets identified by providers of*
14 *public transportation pursuant to sections*
15 *5326(c) and 5329(d), for use in tracking at-*
16 *tainment of critical outcomes for the region*
17 *of the metropolitan planning organization.*

18 “(C) TIMING.—*Each metropolitan planning*
19 *organization shall establish the performance tar-*
20 *gets under subparagraph (B) not later than 90*
21 *days after the date on which the relevant State*
22 *or provider of public transportation establishes*
23 *the performance targets.*

24 “(D) INTEGRATION OF OTHER PERFORM-
25 ANCE-BASED PLANS.—*A metropolitan planning*

1 *organization shall integrate in the metropolitan*
2 *transportation planning process, directly or by*
3 *reference, the goals, objectives, performance meas-*
4 *ures, and targets described in other State plans*
5 *and processes, as well as asset management and*
6 *safety plans developed by providers of public*
7 *transportation, required as part of a perform-*
8 *ance-based program, including plans such as—*

9 *“(i) the State National Highway Sys-*
10 *tem asset management plan;*

11 *“(ii) asset management plans devel-*
12 *oped by providers of public transportation;*

13 *“(iii) the State strategic highway safe-*
14 *ty plan;*

15 *“(iv) a congestion mitigation and air*
16 *quality performance plan developed under*
17 *section 149(k) of title 23 by a tier I MPO*
18 *representing a nonattainment or mainte-*
19 *nance area;*

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

22 *“(vi) the national freight strategic*
23 *plan.*

24 *“(E) USE OF PERFORMANCE MEASURES*
25 *AND TARGETS.—The performance measures and*

1 *targets established under this paragraph shall be*
2 *used, at a minimum, by the relevant metropoli-*
3 *tan planning organization as the basis for devel-*
4 *opment of policies, programs, and investment*
5 *priorities reflected in the metropolitan transpor-*
6 *tation plan and transportation improvement*
7 *program.*

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

17 “(4) *PARTICIPATION BY INTERESTED PARTIES.*—

18 “(A) *IN GENERAL.*—*Each metropolitan*
19 *planning organization shall provide to affected*
20 *individuals, public agencies, and other interested*
21 *parties (including State representatives of non-*
22 *motorized users) notice and a reasonable oppor-*
23 *tunity to comment on the metropolitan transpor-*
24 *tation plan and transportation improvement*
25 *program and any relevant scenarios.*

1 “(B) *CONTENTS OF PARTICIPATION PLAN.*—
2 *Each metropolitan planning organization shall*
3 *establish a participation plan that—*

4 “(i) *is developed in consultation with*
5 *interested parties and local officials; and*

6 “(ii) *provides that interested parties*
7 *and local officials have reasonable opportu-*
8 *nities to comment on the contents of the*
9 *metropolitan transportation plan of the*
10 *metropolitan planning organization.*

11 “(C) *METHODS.*—*In carrying out subpara-*
12 *graph (A), the metropolitan planning organiza-*
13 *tion shall, to the maximum extent practicable—*

14 “(i) *develop the metropolitan transpor-*
15 *tation plan and transportation improve-*
16 *ment program in consultation with inter-*
17 *ested parties (including State representa-*
18 *tives of nonmotorized users), as appro-*
19 *priate, including by the formation of advi-*
20 *sory groups representative of the community*
21 *and interested parties that participate in*
22 *the development of the metropolitan trans-*
23 *portation plan and transportation improve-*
24 *ment program;*

1 “(ii) hold any public meetings at times
2 and locations that are, as applicable—

3 “(I) convenient; and

4 “(II) in compliance with the
5 Americans with Disabilities Act of
6 1990 (42 U.S.C. 12101 et seq.);

7 “(iii) employ visualization techniques
8 to describe metropolitan transportation
9 plans and transportation improvement pro-
10 grams; and

11 “(iv) make public information avail-
12 able in appropriate electronically accessible
13 formats and means, such as the Internet, to
14 afford reasonable opportunity for consider-
15 ation of public information under subpara-
16 graph (A).

17 “(i) *DEVELOPMENT OF METROPOLITAN TRANSPOR-*
18 *TATION PLAN.—*

19 “(1) *DEVELOPMENT.—*

20 “(A) *IN GENERAL.—*Except as provided in
21 subparagraph (B), not later than 5 years after
22 the date of enactment of the Federal Public
23 Transportation Act of 2012, and not less fre-
24 quently than once every 5 years thereafter, each
25 metropolitan planning organization shall pre-

1 *pare and update, respectively, a metropolitan*
2 *transportation plan for the relevant metropolitan*
3 *planning area in accordance with this section.*

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

10 “(i) *a nonattainment area; or*

11 “(ii) *a maintenance area.*

12 “(2) *OTHER REQUIREMENTS.*—*A metropolitan*
13 *transportation plan under this section shall—*

14 “(A) *be in a form that the Secretary deter-*
15 *mines to be appropriate;*

16 “(B) *have a term of not less than 20 years;*
17 *and*

18 “(C) *contain, at a minimum—*

19 “(i) *an identification of the existing*
20 *transportation infrastructure, including*
21 *highways, local streets and roads, bicycle*
22 *and pedestrian facilities, public transpor-*
23 *tation facilities and services, commuter rail*
24 *facilities and services, high-speed and inter-*
25 *city passenger rail facilities and services,*

1 *freight facilities (including freight railroad*
2 *and port facilities), multimodal and inter-*
3 *modal facilities, and intermodal connectors*
4 *that, evaluated in the aggregate, function as*
5 *an integrated metropolitan transportation*
6 *system;*

7 *“(ii) a description of the performance*
8 *measures and performance targets used in*
9 *assessing the existing and future perform-*
10 *ance of the transportation system in accord-*
11 *ance with subsection (h)(2);*

12 *“(iii) a description of the current and*
13 *projected future usage of the transportation*
14 *system, including a projection based on a*
15 *preferred scenario, and further including, to*
16 *the extent practicable, an identification of*
17 *existing or planned transportation rights-of-*
18 *way, corridors, facilities, and related real*
19 *properties;*

20 *“(iv) a system performance report eval-*
21 *uating the existing and future condition*
22 *and performance of the transportation sys-*
23 *tem with respect to the performance targets*
24 *described in subsection (h)(2) and updates*

1 *in subsequent system performance reports,*
2 *including—*

3 *“(I) progress achieved by the met-*
4 *ropolitan planning organization in*
5 *meeting the performance targets in*
6 *comparison with system performance*
7 *recorded in previous reports;*

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

14 *“(aa) the projects included in*
15 *the transportation improvement*
16 *program; and*

17 *“(bb) the projects that have*
18 *been removed from the previous*
19 *transportation improvement pro-*
20 *gram; and*

21 *“(III) when appropriate, an anal-*
22 *ysis of how the preferred scenario has*
23 *improved the conditions and perform-*
24 *ance of the transportation system and*
25 *how changes in local policies, invest-*

1 *ments, and growth have impacted the*
2 *costs necessary to achieve the identified*
3 *performance targets;*

4 *“(v) recommended strategies and in-*
5 *vestments for improving system perform-*
6 *ance over the planning horizon, including*
7 *transportation systems management and*
8 *operations strategies, maintenance strate-*
9 *gies, demand management strategies, asset*
10 *management strategies, capacity and en-*
11 *hancement investments, State and local eco-*
12 *nommic development and land use improve-*
13 *ments, intelligent transportation systems*
14 *deployment, and technology adoption strate-*
15 *gies, as determined by the projected support*
16 *of the performance targets described in sub-*
17 *section (h)(2);*

18 *“(vi) recommended strategies and in-*
19 *vestments to improve and integrate dis-*
20 *ability-related access to transportation in-*
21 *frastructure, including strategies and in-*
22 *vestments based on a preferred scenario,*
23 *when appropriate;*

24 *“(vii) investment priorities for using*
25 *projected available and proposed revenues*

1 *over the short- and long-term stages of the*
2 *planning horizon, in accordance with the fi-*
3 *nanacial plan required under paragraph (4);*

4 *“(viii) a description of interstate com-*
5 *pacts entered into in order to promote co-*
6 *ordinated transportation planning in*
7 *multistate areas, if applicable;*

8 *“(ix) an optional illustrative list of*
9 *projects containing investments that—*

10 *“(I) are not included in the met-*
11 *ropolitan transportation plan; but*

12 *“(II) would be so included if re-*
13 *sources in addition to the resources*
14 *identified in the financial plan under*
15 *paragraph (4) were available;*

16 *“(x) a discussion (developed in con-*
17 *sultation with Federal, State, and tribal*
18 *wildlife, land management, and regulatory*
19 *agencies) of types of potential environ-*
20 *mental and stormwater mitigation activi-*
21 *ties and potential areas to carry out those*
22 *activities, including activities that may*
23 *have the greatest potential to restore and*
24 *maintain the environmental functions af-*

1 *fected by the metropolitan transportation*
2 *plan; and*

3 *“(xi) recommended strategies and in-*
4 *vestments, including those developed by the*
5 *State as part of interstate compacts, agree-*
6 *ments, or organizations, that support inter-*
7 *city transportation.*

8 “(3) *SCENARIO DEVELOPMENT.—*

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

17 “(B) *COMPONENTS OF SCENARIOS.—The*
18 *scenarios—*

19 “(i) *shall include potential regional in-*
20 *vestment strategies for the planning horizon;*

21 “(ii) *shall include assumed distribu-*
22 *tion of population and employment;*

23 “(iii) *may include a scenario that, to*
24 *the maximum extent practicable, maintains*

1 *baseline conditions for the performance*
2 *measures identified in subsection (h)(2);*

3 “(iv) *may include a scenario that im-*
4 *proves the baseline conditions for as many*
5 *of the performance measures under sub-*
6 *section (h)(2) as possible;*

7 “(v) *shall be revenue constrained based*
8 *on the total revenues expected to be avail-*
9 *able over the forecast period of the plan;*
10 *and*

11 “(vi) *may include estimated costs and*
12 *potential revenues available to support each*
13 *scenario.*

14 “(C) *METRICS.—In addition to the per-*
15 *formance measures identified in subsection*
16 *(h)(2), scenarios developed under this paragraph*
17 *may be evaluated using locally developed metrics*
18 *for the following categories:*

19 “(i) *Congestion and mobility, includ-*
20 *ing transportation use by mode.*

21 “(ii) *Freight movement.*

22 “(iii) *Safety.*

23 “(iv) *Efficiency and costs to taxpayers.*

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

1 “(A) be prepared by each metropolitan
2 planning organization to support the metropoli-
3 tan transportation plan; and

4 “(B) contain a description of the following:

5 “(i) Projected resource requirements for
6 implementing projects, strategies, and serv-
7 ices recommended in the metropolitan
8 transportation plan, including existing and
9 projected system operating and mainte-
10 nance needs, proposed enhancement and ex-
11 pansions to the system, projected available
12 revenue from Federal, State, local, and pri-
13 vate sources, and innovative financing tech-
14 niques to finance projects and programs.

15 “(ii) The projected difference between
16 costs and revenues, and strategies for secur-
17 ing additional new revenue (such as by cap-
18 ture of some of the economic value created
19 by any new investment).

20 “(iii) Estimates of future funds, to be
21 developed cooperatively by the metropolitan
22 planning organization, any public trans-
23 portation agency, and the State, that are
24 reasonably expected to be available to sup-

1 *port the investment priorities recommended*
2 *in the metropolitan transportation plan.*

3 *“(iv) Each applicable project only if*
4 *full funding can reasonably be anticipated*
5 *to be available for the project within the*
6 *time period contemplated for completion of*
7 *the project.*

8 *“(5) COORDINATION WITH CLEAN AIR ACT AGEN-*
9 *CIES.—The metropolitan planning organization for*
10 *any metropolitan area that is a nonattainment area*
11 *or maintenance area shall coordinate the development*
12 *of a transportation plan with the process for develop-*
13 *ment of the transportation control measures of the*
14 *State implementation plan required by the Clean Air*
15 *Act (42 U.S.C. 7401 et seq.).*

16 *“(6) PUBLICATION.—On approval by the rel-*
17 *evant metropolitan planning organization, a metro-*
18 *politan transportation plan involving Federal par-*
19 *ticipation shall be, at such times and in such manner*
20 *as the Secretary shall require—*

21 *“(A) published or otherwise made readily*
22 *available by the metropolitan planning organiza-*
23 *tion for public review, including (to the max-*
24 *imum extent practicable) in electronically acces-*

1 sible formats and means, such as the Internet;
2 and

3 “(B) submitted for informational purposes
4 to the applicable Governor.

5 “(7) CONSULTATION.—

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

14 “(B) ISSUES.—The consultation under sub-
15 paragraph (A) shall involve, as available, consid-
16 eration of—

17 “(i) metropolitan transportation plans
18 with Federal, State, tribal, and local con-
19 servation plans or maps; and

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

22 “(8) SELECTION OF PROJECTS FROM ILLUS-
23 TRATIVE LIST.—Notwithstanding paragraph (4), a
24 State or metropolitan planning organization shall not
25 be required to select any project from the illustrative

1 *list of additional projects included in the metropoli-*
2 *tan transportation plan under paragraph (2)(C)(ix).*

3 “(j) *TRANSPORTATION IMPROVEMENT PROGRAM.—*

4 “(1) *DEVELOPMENT.—*

5 “(A) *IN GENERAL.—In cooperation with the*
6 *applicable State and any affected public trans-*
7 *portation operator, the metropolitan planning*
8 *organization designated for a metropolitan area*
9 *shall develop a transportation improvement pro-*
10 *gram for the metropolitan planning area that—*

11 “(i) *contains projects consistent with*
12 *the current metropolitan transportation*
13 *plan;*

14 “(ii) *reflects the investment priorities*
15 *established in the current metropolitan*
16 *transportation plan; and*

17 “(iii) *once implemented, will make sig-*
18 *nificant progress toward achieving the per-*
19 *formance targets established under sub-*
20 *section (h)(2).*

21 “(B) *OPPORTUNITY FOR PARTICIPATION.—*

22 *In developing the transportation improvement*
23 *program, the metropolitan planning organiza-*
24 *tion, in cooperation with the State and any af-*
25 *ected public transportation operator, shall pro-*

1 *vide an opportunity for participation by inter-*
2 *ested parties, in accordance with subsection*
3 *(h)(4).*

4 “(C) *UPDATING AND APPROVAL.*—*The*
5 *transportation improvement program shall be—*

6 “(i) *updated not less frequently than*
7 *once every 4 years, on a cycle compatible*
8 *with the development of the relevant state-*
9 *wide transportation improvement program*
10 *under section 5304; and*

11 “(ii) *approved by the applicable Gov-*
12 *ernor.*

13 “(2) *CONTENTS.*—

14 “(A) *PRIORITY LIST.*—*The transportation*
15 *improvement program shall include a priority*
16 *list of proposed federally supported projects and*
17 *strategies to be carried out during the 4-year pe-*
18 *riod beginning on the date of adoption of the*
19 *transportation improvement program, and each*
20 *4-year period thereafter, using existing and rea-*
21 *sonably available revenues in accordance with*
22 *the financial plan under paragraph (3).*

23 “(B) *DESCRIPTIONS.*—*Each project de-*
24 *scribed in the transportation improvement pro-*
25 *gram shall include sufficient descriptive material*

1 *(such as type of work, termini, length, and other*
2 *similar factors) to identify the project or phase*
3 *of the project and the effect that the project or*
4 *project phase will have in addressing the targets*
5 *described in subsection (h)(2).*

6 “(C) *PERFORMANCE TARGET ACHIEVE-*
7 *MENT.—The transportation improvement pro-*
8 *gram shall include, to the maximum extent prac-*
9 *ticable, a description of the anticipated effect of*
10 *the transportation improvement program on at-*
11 *tainment of the performance targets established*
12 *in the metropolitan transportation plan, linking*
13 *investment priorities to those performance tar-*
14 *gets.*

15 “(D) *ILLUSTRATIVE LIST OF PROJECTS.—In*
16 *developing a transportation improvement pro-*
17 *gram, an optional illustrative list of projects*
18 *may be prepared containing additional invest-*
19 *ment priorities that—*

20 “(i) *are not included in the transpor-*
21 *tation improvement program; but*

22 “(ii) *would be so included if resources*
23 *in addition to the resources identified in the*
24 *financial plan under paragraph (3) were*
25 *available.*

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

3 “(A) be prepared by each metropolitan
4 planning organization to support the transpor-
5 tation improvement program; and

6 “(B) contain a description of the following:

7 “(i) Projected resource requirements for
8 implementing projects, strategies, and serv-
9 ices recommended in the transportation im-
10 provement program, including existing and
11 projected system operating and mainte-
12 nance needs, proposed enhancement and ex-
13 pansions to the system, projected available
14 revenue from Federal, State, local, and pri-
15 vate sources, and innovative financing tech-
16 niques to finance projects and programs.

17 “(ii) The projected difference between
18 costs and revenues, and strategies for secur-
19 ing additional new revenue (such as by cap-
20 ture of some of the economic value created
21 by any new investment).

22 “(iii) Estimates of future funds, to be
23 developed cooperatively by the metropolitan
24 planning organization, any public trans-
25 portation agency, and the State, that are

1 *reasonably expected to be available to sup-*
2 *port the investment priorities recommended*
3 *in the transportation improvement pro-*
4 *gram.*

5 “(iv) *Each applicable project, only if*
6 *full funding can reasonably be anticipated*
7 *to be available for the project within the*
8 *time period contemplated for completion of*
9 *the project.*

10 “(4) *INCLUDED PROJECTS.—*

11 “(A) *PROJECTS UNDER THIS CHAPTER AND*
12 *TITLE 23.—A transportation improvement pro-*
13 *gram developed under this subsection for a met-*
14 *ropolitan area shall include a description of the*
15 *projects within the area that are proposed for*
16 *funding under this chapter and chapter 1 of title*
17 *23.*

18 “(B) *PROJECTS UNDER CHAPTER 2.—*

19 “(i) *REGIONALLY SIGNIFICANT.—Each*
20 *regionally significant project proposed for*
21 *funding under chapter 2 of title 23 shall be*
22 *identified individually in the transpor-*
23 *tation improvement program.*

24 “(ii) *NONREGIONALLY SIGNIFICANT.—*
25 *A description of each project proposed for*

1 *funding under chapter 2 of title 23 that is*
2 *not determined to be regionally significant*
3 *shall be contained in 1 line item or identi-*
4 *fied individually in the transportation im-*
5 *provement program.*

6 “(5) *OPPORTUNITY FOR PARTICIPATION.*—*Before*
7 *approving a transportation improvement program, a*
8 *metropolitan planning organization, in cooperation*
9 *with the State and any affected public transportation*
10 *operator, shall provide an opportunity for participa-*
11 *tion by interested parties in the development of the*
12 *transportation improvement program, in accordance*
13 *with subsection (h)(4).*

14 “(6) *SELECTION OF PROJECTS.*—

15 “(A) *IN GENERAL.*—*Each tier I MPO and*
16 *tier II MPO shall select projects carried out*
17 *within the boundaries of the applicable metro-*
18 *politan planning area from the transportation*
19 *improvement program, in consultation with the*
20 *relevant State and on concurrence of the affected*
21 *facility owner, for funds apportioned to the State*
22 *under section 104(b)(2) of title 23 and suballo-*
23 *cated to the metropolitan planning area under*
24 *section 133(d) of title 23.*

1 “(B) *PROJECTS UNDER CHAPTER 53.*—*In*
2 *the case of projects under this chapter, the selec-*
3 *tion of federally funded projects in metropolitan*
4 *areas shall be carried out, from the approved*
5 *transportation improvement program, by the*
6 *designated recipients of public transportation*
7 *funding in cooperation with the metropolitan*
8 *planning organization.*

9 “(C) *CONGESTION MITIGATION AND AIR*
10 *QUALITY PROJECTS.*—*Each tier I MPO shall se-*
11 *lect projects carried out within the boundaries of*
12 *the applicable metropolitan planning area from*
13 *the transportation improvement program, in*
14 *consultation with the relevant State and on con-*
15 *currence of the affected facility owner, for funds*
16 *apportioned to the State under section 104(b)(4)*
17 *of title 23 and suballocated to the metropolitan*
18 *planning area under section 149(j) of title 23.*

19 “(D) *MODIFICATIONS TO PROJECT PRI-*
20 *ORITY.*—*Notwithstanding any other provision of*
21 *law, approval by the Secretary shall not be re-*
22 *quired to carry out a project included in a*
23 *transportation improvement program in place of*
24 *another project in the transportation improve-*
25 *ment program.*

1 “(7) *PUBLICATION.*—

2 “(A) *IN GENERAL.*—*A transportation im-*
3 *provement program shall be published or other-*
4 *wise made readily available by the applicable*
5 *metropolitan planning organization for public*
6 *review in electronically accessible formats and*
7 *means, such as the Internet.*

8 “(B) *ANNUAL LIST OF PROJECTS.*—*An an-*
9 *annual list of projects, including investments in pe-*
10 *destrian walkways, bicycle transportation facili-*
11 *ties, and intermodal facilities that support inter-*
12 *city transportation, for which Federal funds*
13 *have been obligated during the preceding fiscal*
14 *year shall be published or otherwise made avail-*
15 *able by the cooperative effort of the State, public*
16 *transportation operator, and metropolitan plan-*
17 *ning organization in electronically accessible for-*
18 *mat and means, such as the Internet, in a man-*
19 *ner that is consistent with the categories identi-*
20 *fied in the relevant transportation improvement*
21 *program.*

22 “(k) *PLANNING REQUIREMENTS FOR TIER II MPOS.*—

23 “(1) *IN GENERAL.*—*The Secretary may provide*
24 *for the performance-based development of a metropoli-*
25 *tan transportation plan and transportation improve-*

1 *ment program for the metropolitan planning area of*
2 *a tier II MPO, as the Secretary determines to be ap-*
3 *propriate, taking into account—*

4 *“(A) the complexity of transportation needs*
5 *in the area; and*

6 *“(B) the technical capacity of the metropoli-*
7 *tan planning organization.*

8 *“(2) EVALUATION OF PERFORMANCE-BASED*
9 *PLANNING.—In reviewing a tier II MPO under sub-*
10 *section (m), the Secretary shall take into consider-*
11 *ation the effectiveness of the tier II MPO in imple-*
12 *menting and maintaining a performance-based plan-*
13 *ning process that—*

14 *“(A) addresses the performance targets de-*
15 *scribed in subsection (h)(2); and*

16 *“(B) demonstrates progress on the achieve-*
17 *ment of those performance targets.*

18 *“(l) CERTIFICATION.—*

19 *“(1) IN GENERAL.—The Secretary shall—*

20 *“(A) ensure that the metropolitan transpor-*
21 *tation planning process of a metropolitan plan-*
22 *ning organization is being carried out in accord-*
23 *ance with applicable Federal law; and*

24 *“(B) subject to paragraph (2), certify, not*
25 *less frequently than once every 4 years, that the*

1 *requirements of subparagraph (A) are met with*
2 *respect to the metropolitan transportation plan-*
3 *ning process.*

4 “(2) *REQUIREMENTS FOR CERTIFICATION.—The*
5 *Secretary may make a certification under paragraph*
6 *(1)(B) if—*

7 “(A) *the metropolitan transportation plan-*
8 *ning process complies with the requirements of*
9 *this section and other applicable Federal law;*

10 “(B) *representation on the metropolitan*
11 *planning organization board includes officials of*
12 *public agencies that administer or operate major*
13 *modes of transportation in the relevant metro-*
14 *politan area, including providers of public*
15 *transportation; and*

16 “(C) *a transportation improvement pro-*
17 *gram for the metropolitan planning area has*
18 *been approved by the relevant metropolitan plan-*
19 *ning organization and applicable Governor.*

20 “(3) *DELEGATION OF AUTHORITY.—The Sec-*
21 *retary may—*

22 “(A) *delegate to the appropriate State fact-*
23 *finding authority regarding the certification of a*
24 *tier II MPO under this subsection; and*

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

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

4 “(A) *WITHHOLDING OF PROJECT FUNDS.—*

5 *If a metropolitan transportation planning proc-*
6 *ess of a metropolitan planning organization is*
7 *not certified under paragraph (1), the Secretary*
8 *may withhold up to 20 percent of the funds at-*
9 *tributable to the metropolitan planning area of*
10 *the metropolitan planning organization for*
11 *projects funded under this chapter and title 23.*

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

18 “(5) *PUBLIC INVOLVEMENT.—In making a deter-*
19 *mination regarding certification under this sub-*
20 *section, the Secretary shall provide for public involve-*
21 *ment appropriate to the metropolitan planning area*
22 *under review.*

23 “(m) *PERFORMANCE-BASED PLANNING PROCESSES*
24 *EVALUATION.—*

1 “(1) *IN GENERAL.*—*The Secretary shall establish*
2 *criteria to evaluate the effectiveness of the perform-*
3 *ance-based planning processes of metropolitan plan-*
4 *ning organizations under this section, taking into*
5 *consideration the following:*

6 “(A) *The extent to which the metropolitan*
7 *planning organization has achieved, or is cur-*
8 *rently making substantial progress toward*
9 *achieving, the performance targets specified in*
10 *subsection (h)(2), taking into account whether*
11 *the metropolitan planning organization devel-*
12 *oped meaningful performance targets.*

13 “(B) *The extent to which the metropolitan*
14 *planning organization has used proven best*
15 *practices that help ensure transportation invest-*
16 *ment that is efficient and cost-effective.*

17 “(C) *The extent to which the metropolitan*
18 *planning organization—*

19 “(i) *has developed an investment proc-*
20 *ess that relies on public input and aware-*
21 *ness to ensure that investments are trans-*
22 *parent and accountable; and*

23 “(ii) *provides regular reports allowing*
24 *the public to access the information being*
25 *collected in a format that allows the public*

1 *to meaningfully assess the performance of*
2 *the metropolitan planning organization.*

3 “(2) *REPORT.—*

4 “(A) *IN GENERAL.—Not later than 5 years*
5 *after the date of enactment of the Federal Public*
6 *Transportation Act of 2012, the Secretary shall*
7 *submit to Congress a report evaluating—*

8 “(i) *the overall effectiveness of perform-*
9 *ance-based planning as a tool for guiding*
10 *transportation investments; and*

11 “(ii) *the effectiveness of the perform-*
12 *ance-based planning process of each metro-*
13 *politan planning organization under this*
14 *section.*

15 “(B) *PUBLICATION.—The report under sub-*
16 *paragraph (A) shall be published or otherwise*
17 *made available in electronically accessible for-*
18 *formats and means, including on the Internet.*

19 “(n) *ADDITIONAL REQUIREMENTS FOR CERTAIN NON-*
20 *ATTAINMENT AREAS.—*

21 “(1) *IN GENERAL.—Notwithstanding any other*
22 *provision of this chapter or title 23, Federal funds*
23 *may not be advanced in any metropolitan planning*
24 *area classified as a nonattainment area or mainte-*
25 *nance area for any highway project that will result*

1 *in a significant increase in the carrying capacity for*
2 *single-occupant vehicles, unless the owner or operator*
3 *of the project demonstrates that the project will*
4 *achieve or make substantial progress toward achieving*
5 *the performance targets described in subsection (h)(2).*

6 *“(2) APPLICABILITY.—This subsection applies to*
7 *any nonattainment area or maintenance area within*
8 *the boundaries of a metropolitan planning area, as*
9 *determined under subsection (c).*

10 *“(o) EFFECT OF SECTION.—Nothing in this section*
11 *provides to any metropolitan planning organization the au-*
12 *thority to impose any legal requirement on any transpor-*
13 *tation facility, provider, or project not subject to the re-*
14 *quirements of this chapter or title 23.*

15 *“(p) FUNDING.—Funds apportioned under section*
16 *104(b)(6) of title 23 and set aside under section 5305(g)*
17 *of this title shall be available to carry out this section.*

18 *“(q) CONTINUATION OF CURRENT REVIEW PRAC-*
19 *TICE.—*

20 *“(1) IN GENERAL.—In consideration of the fac-*
21 *tors described in paragraph (2), any decision by the*
22 *Secretary concerning a metropolitan transportation*
23 *plan or transportation improvement program shall*
24 *not be considered to be a Federal action subject to re-*

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

3 “(2) *DESCRIPTION OF FACTORS.*—*The factors re-*
4 *ferred to in paragraph (1) are that—*

5 “(A) *metropolitan transportation plans and*
6 *transportation improvement programs are sub-*
7 *ject to a reasonable opportunity for public com-*
8 *ment;*

9 “(B) *the projects included in metropolitan*
10 *transportation plans and transportation im-*
11 *provement programs are subject to review under*
12 *the National Environmental Policy Act of 1969*
13 *(42 U.S.C. 4321 et seq.); and*

14 “(C) *decisions by the Secretary concerning*
15 *metropolitan transportation plans and transpor-*
16 *tation improvement programs have not been re-*
17 *viewed under the National Environmental Policy*
18 *Act of 1969 (42 U.S.C. 4321 et seq.) as of Janu-*
19 *ary 1, 1997.*

20 “(r) *SCHEDULE FOR IMPLEMENTATION.*—*The Sec-*
21 *retary shall issue guidance on a schedule for implementa-*
22 *tion of the changes made by this section, taking into consid-*
23 *eration the established planning update cycle for metropoli-*
24 *tan planning organizations. The Secretary shall not require*
25 *a metropolitan planning organization to deviate from its*

1 *established planning update cycle to implement changes*
2 *made by this section. Metropolitan planning organizations*
3 *shall reflect changes made to their transportation plan or*
4 *transportation improvement program updates not later*
5 *than 2 years after the date of issuance of guidance by the*
6 *Secretary.”.*

7 (b) *PILOT PROGRAM FOR TRANSIT-ORIENTED DEVEL-*
8 *OPMENT PLANNING.—*

9 (1) *DEFINITIONS.—In this subsection the fol-*
10 *lowing definitions shall apply:*

11 (A) *ELIGIBLE PROJECT.—The term “eligible*
12 *project” means a new fixed guideway capital*
13 *project or a core capacity improvement project,*
14 *as those terms are defined in section 5309 of title*
15 *49, United States Code, as amended by this divi-*
16 *sion.*

17 (B) *SECRETARY.—The term “Secretary”*
18 *means the Secretary of Transportation.*

19 (2) *GENERAL AUTHORITY.—The Secretary may*
20 *make grants under this subsection to a State or local*
21 *governmental authority to assist in financing com-*
22 *prehensive planning associated with an eligible*
23 *project that seeks to—*

1 (A) enhance economic development, rider-
2 ship, and other goals established during the
3 project development and engineering processes;

4 (B) facilitate multimodal connectivity and
5 accessibility;

6 (C) increase access to transit hubs for pedes-
7 trian and bicycle traffic;

8 (D) enable mixed-use development;

9 (E) identify infrastructure needs associated
10 with the eligible project; and

11 (F) include private sector participation.

12 (3) *ELIGIBILITY.*—A State or local governmental
13 authority that desires to participate in the program
14 under this subsection shall submit to the Secretary an
15 application that contains, at a minimum—

16 (A) identification of an eligible project;

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

19 (C) a description of how the eligible project
20 and the proposed comprehensive plan advance
21 the metropolitan transportation plan of the met-
22 ropolitan planning organization;

23 (D) proposed performance criteria for the
24 development and implementation of the com-
25 prehensive plan; and

- 1 (E) identification of—
- 2 (i) partners;
- 3 (ii) availability of and authority for
- 4 funding; and
- 5 (iii) potential State, local or other im-
- 6 pediments to the implementation of the
- 7 comprehensive plan.

8 **SEC. 20006. STATEWIDE AND NONMETROPOLITAN TRANS-**

9 **PORTATION PLANNING.**

10 Section 5304 of title 49, United States Code, is amend-

11 ed to read as follows:

12 **“§5304. Statewide and nonmetropolitan transpor-**

13 **tation planning**

14 “(a) STATEWIDE TRANSPORTATION PLANS AND

15 STIPS.—

16 “(1) DEVELOPMENT.—

17 “(A) IN GENERAL.—To accomplish the pol-

18 icy objectives described in section 5303(a), each

19 State shall develop a statewide transportation

20 plan and a statewide transportation improve-

21 ment program for all areas of the State in ac-

22 cordance with this section.

23 “(B) INCORPORATION OF METROPOLITAN

24 TRANSPORTATION PLANS AND TIPS.—Each State

25 shall incorporate in the statewide transportation

1 *plan and statewide transportation improvement*
2 *program, without change or by reference, the*
3 *metropolitan transportation plans and transpor-*
4 *tation improvement programs, respectively, for*
5 *each metropolitan planning area in the State.*

6 “(C) *NONMETROPOLITAN AREAS.—Each*
7 *State shall consult with local officials in small*
8 *urbanized areas with a population of 50,000 or*
9 *more individuals, but fewer than 200,000 indi-*
10 *viduals, as calculated according to the most re-*
11 *cent decennial census, and nonurbanized areas of*
12 *the State in preparing the nonmetropolitan por-*
13 *tions of statewide transportation plans and*
14 *statewide transportation improvement programs.*

15 “(2) *CONTENTS.—The statewide transportation*
16 *plan and statewide transportation improvement pro-*
17 *gram developed for each State shall provide for the*
18 *development and integrated management and oper-*
19 *ation of transportation systems and facilities (includ-*
20 *ing accessible pedestrian walkways, bicycle transpor-*
21 *tation facilities, and intermodal facilities that sup-*
22 *port intercity transportation) that will function as—*

23 “(A) *an intermodal transportation system*
24 *for the State; and*

1 “(B) *an integral part of an intermodal*
2 *transportation system for the United States.*

3 “(3) *PROCESS.—The process for developing the*
4 *statewide transportation plan and statewide trans-*
5 *portation improvement program shall—*

6 “(A) *provide for consideration of all modes*
7 *of transportation; and*

8 “(B) *be continuing, cooperative, and com-*
9 *prehensive to the degree appropriate, based on*
10 *the complexity of the transportation needs to be*
11 *addressed.*

12 “(b) *COORDINATION AND CONSULTATION.—*

13 “(1) *IN GENERAL.—Each State shall—*

14 “(A) *coordinate planning carried out under*
15 *this section with—*

16 “(i) *the transportation planning ac-*
17 *tivities carried out under section 5303 for*
18 *metropolitan areas of the State; and*

19 “(ii) *statewide trade and economic de-*
20 *velopment planning activities and related*
21 *multistate planning efforts;*

22 “(B) *coordinate planning carried out under*
23 *this section with the transportation planning ac-*
24 *tivities carried out by each nonmetropolitan*

1 *planning organization in the State, as applica-*
2 *ble;*

3 “(C) *consult on planning carried out under*
4 *this section with the transportation planning ac-*
5 *tivities carried out by each rural planning orga-*
6 *nization in the State, as applicable; and*

7 “(D) *develop the transportation portion of*
8 *the State implementation plan as required by*
9 *the Clean Air Act (42 U.S.C. 7401 et seq.).*

10 “(2) *MULTISTATE AREAS.—*

11 “(A) *IN GENERAL.—The Secretary shall en-*
12 *courage each Governor with responsibility for a*
13 *portion of a multistate metropolitan planning*
14 *area and the appropriate metropolitan planning*
15 *organizations to provide coordinated transpor-*
16 *tation planning for the entire metropolitan area.*

17 “(B) *COORDINATION ALONG DESIGNATED*
18 *TRANSPORTATION CORRIDORS.—The Secretary*
19 *shall encourage each Governor with responsi-*
20 *bility for a portion of a multistate transpor-*
21 *tation corridor to provide coordinated transpor-*
22 *tation planning for the entire designated cor-*
23 *ridor.*

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

1 “(i) may enter into compacts, agree-
2 ments, or organizations not in conflict with
3 any Federal law for cooperative efforts and
4 mutual assistance in support of activities
5 authorized under this section, as the activi-
6 ties relate to interstate areas and localities
7 within the States;

8 “(ii) may establish such agencies (joint
9 or otherwise) as the States determine to be
10 appropriate for ensuring the effectiveness of
11 the agreements and compacts; and

12 “(iii) are encouraged to enter into such
13 compacts, agreements, or organizations as
14 are appropriate to develop planning docu-
15 ments in support of intercity or multistate
16 area projects, facilities, and services, the rel-
17 evant components of which shall be reflected
18 in statewide transportation improvement
19 programs and statewide transportation
20 plans.

21 “(D) *RESERVATION OF RIGHTS.*—The right
22 to alter, amend, or repeal any interstate compact
23 or agreement entered into under this subsection
24 is expressly reserved.

1 “(c) *RELATIONSHIP WITH OTHER PLANNING OFFI-*
2 *CIALS.—*

3 “(1) *IN GENERAL.—The Secretary shall encour-*
4 *age each State to cooperate with Federal, State, trib-*
5 *al, and local officers and entities responsible for other*
6 *types of planning activities that are affected by trans-*
7 *portation in the relevant area (including planned*
8 *growth, economic development, infrastructure services,*
9 *housing, other public services, environmental protec-*
10 *tion, airport operations, high-speed and intercity pas-*
11 *senger rail, freight rail, port access, and freight move-*
12 *ments), to the maximum extent practicable, to ensure*
13 *that the statewide and nonmetropolitan planning*
14 *process, statewide transportation plans, and statewide*
15 *transportation improvement programs are developed*
16 *with due consideration for other related planning ac-*
17 *tivities in the State.*

18 “(2) *INCLUSION.—Cooperation under paragraph*
19 *(1) shall include the design and delivery of transpor-*
20 *tation services within the State that are provided*
21 *by—*

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

24 “(B) *recipients of assistance under this*
25 *chapter;*

1 “(C) government agencies and nonprofit or-
2 ganizations (including representatives of the
3 agencies and organizations) that receive Federal
4 assistance from a source other than the Depart-
5 ment of Transportation to provide nonemergency
6 transportation services; and

7 “(D) sponsors of regionally significant pro-
8 grams, projects, and services that are related to
9 transportation and receive assistance from any
10 public or private source.

11 “(d) SCOPE OF PLANNING PROCESS.—

12 “(1) IN GENERAL.—The statewide transportation
13 planning process for a State under this section shall
14 provide for consideration of projects, strategies, and
15 services that will—

16 “(A) support the economic vitality of the
17 United States, the State, nonmetropolitan areas,
18 and metropolitan areas, especially by enabling
19 global competitiveness, travel and tourism (where
20 applicable), productivity, and efficiency;

21 “(B) increase the safety of the transpor-
22 tation system for motorized and nonmotorized
23 users;

1 “(C) increase the security of the transpor-
2 tation system for motorized and nonmotorized
3 users;

4 “(D) increase the accessibility and mobility
5 of individuals and freight;

6 “(E) protect and enhance the environment,
7 promote energy conservation, improve the qual-
8 ity of life, and promote consistency between
9 transportation improvements and State and
10 local planned growth and economic development
11 patterns;

12 “(F) enhance the integration and
13 connectivity of the transportation system, across
14 and between modes, for individuals and freight;

15 “(G) increase efficient system management
16 and operation; and

17 “(H) emphasize the preservation of the ex-
18 isting transportation system.

19 “(2) PERFORMANCE-BASED APPROACH.—

20 “(A) IN GENERAL.—The statewide transpor-
21 tation planning process shall provide for the es-
22 tablishment and use of a performance-based ap-
23 proach to transportation decisionmaking to sup-
24 port the national goals described in section

1 5301(c) of this title and in section 150(b) of title
2 23.

3 “(B) *SURFACE TRANSPORTATION PERFORM-*
4 *ANCE TARGETS.—*

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

11 “(ii) *COORDINATION.—Selection of per-*
12 *formance targets by a State shall be coordi-*
13 *nated with relevant metropolitan planning*
14 *organizations to ensure consistency, to the*
15 *maximum extent practicable.*

16 “(C) *PUBLIC TRANSPORTATION PERFORM-*
17 *ANCE TARGETS.—For providers of public trans-*
18 *portation operating in urbanized areas with a*
19 *population of fewer than 200,000 individuals, as*
20 *calculated according to the most recent decennial*
21 *census, and not represented by a metropolitan*
22 *planning organization, each State shall adopt*
23 *the performance targets identified by such pro-*
24 *viders of public transportation pursuant to sec-*
25 *tions 5326(c) and 5329(d), for use in tracking*

1 *attainment of critical outcomes for the region of*
2 *the metropolitan planning organization.*

3 “(D) *INTEGRATION OF OTHER PERFORM-*
4 *ANCE-BASED PLANS.—A State shall integrate*
5 *into the statewide transportation planning proc-*
6 *ess, directly or by reference, the goals, objectives,*
7 *performance measures, and performance targets*
8 *described in this paragraph in other State plans*
9 *and processes, and asset management and safety*
10 *plans developed by providers of public transpor-*
11 *tation in urbanized areas with a population of*
12 *fewer than 200,000 individuals, as calculated ac-*
13 *ording to the most recent decennial census, and*
14 *not represented by a metropolitan planning or-*
15 *ganization, required as part of a performance-*
16 *based program, including plans such as—*

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

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

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

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

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

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

9 “(3) *FAILURE TO CONSIDER FACTORS.*—*The fail-*
10 *ure to take into consideration 1 or more of the factors*
11 *specified in paragraphs (1) and (2) shall not be sub-*
12 *ject to review by any court under this chapter, title*
13 *23, subchapter II of chapter 5 of title 5, or chapter*
14 *7 of title 5 in any matter affecting a statewide trans-*
15 *portation plan, a statewide transportation improve-*
16 *ment program, a project or strategy, or the certifi-*
17 *cation of a planning process.*

18 “(4) *PARTICIPATION BY INTERESTED PARTIES.*—

19 “(A) *IN GENERAL.*—*Each State shall pro-*
20 *vide to—*

21 “(i) *nonmetropolitan local elected offi-*
22 *cial* *an opportunity to participate in ac-*
23 *cordance with subparagraph (B)(i); and*

24 “(ii) *affected individuals, public agen-*
25 *cies, and other interested parties notice and*

1 *a reasonable opportunity to comment on the*
2 *statewide transportation plan and statewide*
3 *transportation improvement program.*

4 “(B) *METHODS.*—*In carrying out this*
5 *paragraph, the State shall—*

6 “(i) *develop and document a consult-*
7 *ative process to carry out subparagraph*
8 *(A)(i) that is separate and discrete from the*
9 *public involvement process developed under*
10 *clause (ii);*

11 “(ii) *develop the statewide transpor-*
12 *tation plan and statewide transportation*
13 *improvement program in consultation with*
14 *interested parties, as appropriate, including*
15 *by the formation of advisory groups rep-*
16 *resentative of the State and interested par-*
17 *ties that participate in the development of*
18 *the statewide transportation plan and state-*
19 *wide transportation improvement program;*

20 “(iii) *hold any public meetings at*
21 *times and locations that are, as applica-*
22 *ble—*

23 “(I) *convenient; and*

1 “(II) in compliance with the
2 *Americans with Disabilities Act of*
3 *1990 (42 U.S.C. 12101 et seq.);*

4 “(iv) employ visualization techniques
5 *to describe statewide transportation plans*
6 *and statewide transportation improvement*
7 *programs; and*

8 “(v) make public information available
9 *in appropriate electronically accessible for-*
10 *formats and means, such as the Internet, to af-*
11 *ford reasonable opportunity for consider-*
12 *ation of public information under subpara-*
13 *graph (A).*

14 “(e) *COORDINATION AND CONSULTATION.—*

15 “(1) *METROPOLITAN AREAS.—*

16 “(A) *IN GENERAL.—Each State shall de-*
17 *velop a statewide transportation plan and state-*
18 *wide transportation improvement program for*
19 *each metropolitan area in the State by incor-*
20 *porating, without change or by reference, at a*
21 *minimum, as prepared by each metropolitan*
22 *planning organization designated for the metro-*
23 *politan area under section 5303—*

24 “(i) *all regionally significant projects*
25 *to be carried out during the 10-year period*

1 *beginning on the effective date of the rel-*
2 *evant existing metropolitan transportation*
3 *plan; and*

4 “(ii) *all projects to be carried out dur-*
5 *ing the 4-year period beginning on the effec-*
6 *tive date of the relevant transportation im-*
7 *provement program.*

8 “(B) *PROJECTED COSTS.—Each metropoli-*
9 *tan planning organization shall provide to each*
10 *applicable State a description of the projected*
11 *costs of implementing the projects included in*
12 *the metropolitan transportation plan of the met-*
13 *ropolitan planning organization for purposes of*
14 *metropolitan financial planning and fiscal con-*
15 *straint.*

16 “(2) *NONMETROPOLITAN AREAS.—With respect*
17 *to nonmetropolitan areas in a State, the statewide*
18 *transportation plan and statewide transportation im-*
19 *provement program of the State shall be developed in*
20 *consultation with affected nonmetropolitan local offi-*
21 *cial with responsibility for transportation, including*
22 *providers of public transportation.*

23 “(3) *INDIAN TRIBAL AREAS.—With respect to*
24 *each area of a State under the jurisdiction of an In-*
25 *Indian tribe, the statewide transportation plan and*

1 *statewide transportation improvement program of the*
2 *State shall be developed in consultation with—*

3 *“(A) the tribal government; and*

4 *“(B) the Secretary of the Interior.*

5 *“(4) FEDERAL LAND MANAGEMENT AGENCIES.—*

6 *With respect to each area of a State under the juris-*
7 *isdiction of a Federal land management agency, the*
8 *statewide transportation plan and statewide trans-*
9 *portation improvement program of the State shall be*
10 *developed in consultation with the relevant Federal*
11 *land management agency.*

12 *“(5) CONSULTATION, COMPARISON, AND CONSID-*
13 *ERATION.—*

14 *“(A) IN GENERAL.—A statewide transpor-*
15 *tation plan shall be developed, as appropriate, in*
16 *consultation with Federal, State, tribal, and*
17 *local agencies responsible for land use manage-*
18 *ment, natural resources, infrastructure permit-*
19 *ting, environmental protection, conservation, and*
20 *historic preservation.*

21 *“(B) COMPARISON AND CONSIDERATION.—*

22 *Consultation under subparagraph (A) shall in-*
23 *volve the comparison of statewide transportation*
24 *plans to, as available—*

1 “(i) *Federal, State, tribal, and local*
2 *conservation plans or maps; and*

3 “(ii) *inventories of natural or historic*
4 *resources.*

5 “(f) *STATEWIDE TRANSPORTATION PLAN.—*

6 “(1) *DEVELOPMENT.—*

7 “(A) *IN GENERAL.—Each State shall de-*
8 *velop a statewide transportation plan, the fore-*
9 *cast period of which shall be not less than 20*
10 *years for all areas of the State, that provides for*
11 *the development and implementation of the*
12 *intermodal transportation system of the State.*

13 “(B) *INITIAL PERIOD.—A statewide trans-*
14 *portation plan shall include, at a minimum, for*
15 *the first 10-year period of the statewide trans-*
16 *portation plan, the identification of existing and*
17 *future transportation facilities that will function*
18 *as an integrated statewide transportation sys-*
19 *tem, giving emphasis to those facilities that serve*
20 *important national, statewide, and regional*
21 *transportation functions.*

22 “(C) *SUBSEQUENT PERIOD.—For the second*
23 *10-year period of the statewide transportation*
24 *plan (referred to in this subsection as the ‘outer*

1 *years period*'), a statewide transportation
2 *plan—*

3 “(i) may include identification of fu-
4 *ture transportation facilities; and*

5 “(ii) shall describe the policies and
6 *strategies that provide for the development*
7 *and implementation of the intermodal*
8 *transportation system of the State.*

9 “(D) *OTHER REQUIREMENTS.—A statewide*
10 *transportation plan shall—*

11 “(i) include, for the 20-year period
12 *covered by the statewide transportation*
13 *plan, a description of—*

14 “(I) the projected aggregate cost of
15 *projects anticipated by a State to be*
16 *implemented; and*

17 “(II) the revenues necessary to
18 *support the projects;*

19 “(ii) include, in such form as the Sec-
20 *retary determines to be appropriate, a de-*
21 *scription of—*

22 “(I) the existing transportation
23 *infrastructure, including an identifica-*
24 *tion of highways, local streets and*
25 *roads, bicycle and pedestrian facilities,*

1 *public transportation facilities and*
2 *services, commuter rail facilities and*
3 *services, high-speed and intercity pas-*
4 *senger rail facilities and services,*
5 *freight facilities (including freight rail-*
6 *road and port facilities), multimodal*
7 *and intermodal facilities, and inter-*
8 *modal connectors that, evaluated in the*
9 *aggregate, function as an integrated*
10 *transportation system;*

11 *“(II) the performance measures*
12 *and performance targets used in assess-*
13 *ing the existing and future perform-*
14 *ance of the transportation system de-*
15 *scribed in subsection (d)(2);*

16 *“(III) the current and projected*
17 *future usage of the transportation sys-*
18 *tem, including, to the maximum extent*
19 *practicable, an identification of exist-*
20 *ing or planned transportation rights-*
21 *of-way, corridors, facilities, and related*
22 *real properties;*

23 *“(IV) a system performance report*
24 *evaluating the existing and future con-*
25 *dition and performance of the trans-*

1 *portation system with respect to the*
2 *performance targets described in sub-*
3 *section (d)(2) and updates to subse-*
4 *quent system performance reports, in-*
5 *cluding—*

6 *“(aa) progress achieved by*
7 *the State in meeting performance*
8 *targets, as compared to system*
9 *performance recorded in previous*
10 *reports; and*

11 *“(bb) an accounting of the*
12 *performance by the State on out-*
13 *lay of obligated project funds and*
14 *delivery of projects that have*
15 *reached substantial completion, in*
16 *relation to the projects currently*
17 *on the statewide transportation*
18 *improvement program and those*
19 *projects that have been removed*
20 *from the previous statewide trans-*
21 *portation improvement program;*

22 *“(V) recommended strategies and*
23 *investments for improving system per-*
24 *formance over the planning horizon,*
25 *including transportation systems man-*

1 *agement and operations strategies,*
2 *maintenance strategies, demand man-*
3 *agement strategies, asset management*
4 *strategies, capacity and enhancement*
5 *investments, land use improvements,*
6 *intelligent transportation systems de-*
7 *ployment and technology adoption*
8 *strategies as determined by the pro-*
9 *jected support of performance targets*
10 *described in subsection (d)(2);*

11 *“(VI) recommended strategies and*
12 *investments to improve and integrate*
13 *disability-related access to transpor-*
14 *tation infrastructure;*

15 *“(VII) investment priorities for*
16 *using projected available and proposed*
17 *revenues over the short- and long-term*
18 *stages of the planning horizon, in ac-*
19 *cordance with the financial plan re-*
20 *quired under paragraph (2);*

21 *“(VIII) a description of interstate*
22 *compacts entered into in order to pro-*
23 *mote coordinated transportation plan-*
24 *ning in multistate areas, if applicable;*

1 “(IX) an optional illustrative list
2 of projects containing investments
3 that—

4 “(aa) are not included in the
5 statewide transportation plan; but

6 “(bb) would be so included if
7 resources in addition to the re-
8 sources identified in the financial
9 plan under paragraph (2) were
10 available;

11 “(X) a discussion (developed in
12 consultation with Federal, State, and
13 tribal wildlife, land management, and
14 regulatory agencies) of types of poten-
15 tial environmental and stormwater
16 mitigation activities and potential
17 areas to carry out those activities, in-
18 cluding activities that may have the
19 greatest potential to restore and main-
20 tain the environmental functions af-
21 fected by the statewide transportation
22 plan; and

23 “(XI) recommended strategies and
24 investments, including those developed
25 by the State as part of interstate com-

1 *pacts, agreements, or organizations,*
2 *that support intercity transportation;*
3 *and*

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

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

8 *“(A) be prepared by each State to support*
9 *the statewide transportation plan; and*

10 *“(B) contain a description of the following:*

11 *“(i) Projected resource requirements*
12 *during the 20-year planning horizon for*
13 *implementing projects, strategies, and serv-*
14 *ices recommended in the statewide transpor-*
15 *tation plan, including existing and pro-*
16 *jected system operating and maintenance*
17 *needs, proposed enhancement and expan-*
18 *sions to the system, projected available rev-*
19 *enue from Federal, State, local, and private*
20 *sources, and innovative financing tech-*
21 *niques to finance projects and programs.*

22 *“(ii) The projected difference between*
23 *costs and revenues, and strategies for secur-*
24 *ing additional new revenue (such as by cap-*

1 *ture of some of the economic value created*
2 *by any new investment).*

3 *“(iii) Estimates of future funds, to be*
4 *developed cooperatively by the State, any*
5 *public transportation agency, and relevant*
6 *metropolitan planning organizations, that*
7 *are reasonably expected to be available to*
8 *support the investment priorities rec-*
9 *ommended in the statewide transportation*
10 *plan.*

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

16 *“(v) For the outer years period of the*
17 *statewide transportation plan, a description*
18 *of the aggregate cost ranges or bands, sub-*
19 *ject to the condition that any future fund-*
20 *ing source shall be reasonably expected to be*
21 *available to support the projected cost*
22 *ranges or bands.*

23 *“(3) COORDINATION WITH CLEAN AIR ACT AGEN-*
24 *CIES.—For any nonmetropolitan area that is a non-*
25 *attainment area or maintenance area, the State shall*

1 *coordinate the development of the statewide transpor-*
2 *tation plan with the process for development of the*
3 *transportation control measures of the State imple-*
4 *mentation plan required by the Clean Air Act (42*
5 *U.S.C. 7401 et seq.).*

6 “(4) *PUBLICATION.*—*A statewide transportation*
7 *plan involving Federal and non-Federal participation*
8 *programs, projects, and strategies shall be published*
9 *or otherwise made readily available by the State for*
10 *public review, including (to the maximum extent*
11 *practicable) in electronically accessible formats and*
12 *means, such as the Internet, in such manner as the*
13 *Secretary shall require.*

14 “(5) *SELECTION OF PROJECTS FROM ILLUS-*
15 *TRATIVE LIST.*—*Notwithstanding paragraph (2), a*
16 *State shall not be required to select any project from*
17 *the illustrative list of additional projects included in*
18 *the statewide transportation plan under paragraph*
19 *(1)(D)(ii)(IX).*

20 “(6) *USE OF POLICY PLANS.*—*Notwithstanding*
21 *any other provision of this section, a State that has*
22 *in effect, as of the date of enactment of the Federal*
23 *Public Transportation Act of 2012, a statewide trans-*
24 *portation plan that follows a policy plan approach—*

1 “(A) may, for 4 years after the date of en-
2 actment of the Federal Public Transportation
3 Act of 2012, continue to use a policy plan ap-
4 proach to the statewide transportation plan; and

5 “(B) shall be subject to the requirements of
6 this subsection only to the extent that such re-
7 quirements were applicable under this section (as
8 in effect on the day before the date of enactment
9 of the Federal Public Transportation Act of
10 2012).

11 “(g) STATEWIDE TRANSPORTATION IMPROVEMENT
12 PROGRAMS.—

13 “(1) DEVELOPMENT.—

14 “(A) IN GENERAL.—In consultation with
15 nonmetropolitan officials with responsibility for
16 transportation and affected public transpor-
17 tation operators, the State shall develop a state-
18 wide transportation improvement program for
19 the State that—

20 “(i) includes projects consistent with
21 the statewide transportation plan;

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

1 “(iii) once implemented, makes signifi-
2 cant progress toward achieving the perform-
3 ance targets described in subsection (d)(2).

4 “(B) *OPPORTUNITY FOR PARTICIPATION.*—
5 *In developing a statewide transportation im-*
6 *provement program, the State, in cooperation*
7 *with affected public transportation operators,*
8 *shall provide an opportunity for participation*
9 *by interested parties (including State representa-*
10 *tives of nonmotorized users) in the development*
11 *of the statewide transportation improvement pro-*
12 *gram, in accordance with subsection (e).*

13 “(C) *OTHER REQUIREMENTS.*—

14 “(i) *IN GENERAL.*—*A statewide trans-*
15 *portation improvement program shall—*

16 “(I) *cover a period of not less*
17 *than 4 years; and*

18 “(II) *be updated not less fre-*
19 *quently than once every 4 years, or*
20 *more frequently, as the Governor deter-*
21 *mines to be appropriate.*

22 “(ii) *INCORPORATION OF TIPS.*—*A*
23 *statewide transportation improvement pro-*
24 *gram shall incorporate any relevant trans-*
25 *portation improvement program developed*

1 by a metropolitan planning organization
2 under section 5303, without change.

3 “(iii) *PROJECTS*.—Each project in-
4 cluded in a statewide transportation im-
5 provement program shall be—

6 “(I) consistent with the statewide
7 transportation plan developed under
8 this section for the State;

9 “(II) identical to a project or
10 phase of a project described in a rel-
11 evant transportation improvement pro-
12 gram; and

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

19 “(2) *CONTENTS*.—

20 “(A) *PRIORITY LIST*.—A statewide trans-
21 portation improvement program shall include a
22 priority list of proposed federally supported
23 projects and strategies, to be carried out during
24 the 4-year period beginning on the date of adop-
25 tion of the statewide transportation improvement

1 *program, and during each 4-year period there-*
2 *after, using existing and reasonably available*
3 *revenues in accordance with the financial plan*
4 *under paragraph (3).*

5 “(B) *DESCRIPTIONS.—Each project or*
6 *phase of a project included in a statewide trans-*
7 *portation improvement program shall include*
8 *sufficient descriptive material (such as type of*
9 *work, termini, length, estimated completion date,*
10 *and other similar factors) to identify—*

11 “(i) *the project or project phase; and*

12 “(ii) *the effect that the project or*
13 *project phase will have in addressing the*
14 *performance targets described in subsection*
15 *(d)(2).*

16 “(C) *PERFORMANCE TARGET ACHIEVE-*
17 *MENT.—A statewide transportation improvement*
18 *program shall include, to the maximum extent*
19 *practicable, a discussion of the anticipated effect*
20 *of the statewide transportation improvement pro-*
21 *gram toward achieving the performance targets*
22 *established in the statewide transportation plan,*
23 *linking investment priorities to those perform-*
24 *ance targets.*

1 “(D) *ILLUSTRATIVE LIST OF PROJECTS.*—

2 *An optional illustrative list of projects may be*
3 *prepared containing additional investment pri-*
4 *orities that—*

5 “(i) *are not included in the statewide*
6 *transportation improvement program; but*

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

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

13 “(A) *be prepared by each State to support*
14 *the statewide transportation improvement pro-*
15 *gram; and*

16 “(B) *contain a description of the following:*

17 “(i) *Projected resource requirements for*
18 *implementing projects, strategies, and serv-*
19 *ices recommended in the statewide transpor-*
20 *tation improvement program, including ex-*
21 *isting and projected system operating and*
22 *maintenance needs, proposed enhancement*
23 *and expansions to the system, projected*
24 *available revenue from Federal, State, local,*
25 *and private sources, and innovative financ-*

1 *ing techniques to finance projects and pro-*
2 *grams.*

3 *“(ii) The projected difference between*
4 *costs and revenues, and strategies for secur-*
5 *ing additional new revenue (such as by cap-*
6 *ture of some of the economic value created*
7 *by any new investment).*

8 *“(iii) Estimates of future funds, to be*
9 *developed cooperatively by the State and*
10 *relevant metropolitan planning organiza-*
11 *tions and public transportation agencies,*
12 *that are reasonably expected to be available*
13 *to support the investment priorities rec-*
14 *ommended in the statewide transportation*
15 *improvement program.*

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

21 *“(4) INCLUDED PROJECTS.—*

22 *“(A) PROJECTS UNDER THIS CHAPTER AND*
23 *TITLE 23.—A statewide transportation improve-*
24 *ment program developed under this subsection*
25 *for a State shall include the projects within the*

1 *State that are proposed for funding under this*
2 *chapter and chapter 1 of title 23.*

3 “(B) *PROJECTS UNDER THIS CHAPTER AND*
4 *CHAPTER 2.—*

5 “(i) *REGIONALLY SIGNIFICANT.—Each*
6 *regionally significant project proposed for*
7 *funding under this chapter and chapter 2 of*
8 *title 23 shall be identified individually in*
9 *the statewide transportation improvement*
10 *program.*

11 “(ii) *NONREGIONALLY SIGNIFICANT.—*
12 *A description of each project proposed for*
13 *funding under this chapter and chapter 2 of*
14 *title 23 that is not determined to be region-*
15 *ally significant shall be contained in 1 line*
16 *item or identified individually in the state-*
17 *wide transportation improvement program.*

18 “(5) *PUBLICATION.—*

19 “(A) *IN GENERAL.—A statewide transpor-*
20 *tation improvement program shall be published*
21 *or otherwise made readily available by the State*
22 *for public review in electronically accessible for-*
23 *mats and means, such as the Internet.*

24 “(B) *ANNUAL LIST OF PROJECTS.—An an-*
25 *annual list of projects, including investments in pe-*

1 *destrian walkways, bicycle transportation facili-*
2 *ties, and intermodal facilities that support inter-*
3 *city transportation, for which Federal funds*
4 *have been obligated during the preceding fiscal*
5 *year shall be published or otherwise made avail-*
6 *able by the cooperative effort of the State, public*
7 *transportation operator, and relevant metropoli-*
8 *tan planning organizations in electronically ac-*
9 *cessible formats and means, such as the Internet,*
10 *in a manner that is consistent with the cat-*
11 *egories identified in the relevant statewide trans-*
12 *portation improvement program.*

13 “(6) *PROJECT SELECTION FOR URBANIZED*
14 *AREAS WITH POPULATIONS OF FEWER THAN 200,000*
15 *NOT REPRESENTED BY DESIGNATED MPOS.—Projects*
16 *carried out in urbanized areas with populations of*
17 *fewer than 200,000 individuals, as calculated accord-*
18 *ing to the most recent decennial census, and that are*
19 *not represented by designated metropolitan planning*
20 *organizations, shall be selected from the approved*
21 *statewide transportation improvement program (in-*
22 *cluding projects carried out under this chapter and*
23 *projects carried out on the National Highway Sys-*
24 *tem) by the State, in cooperation with the affected*
25 *nonmetropolitan planning organization, if any exists,*

1 *and in consultation with the affected nonmetropolitan*
2 *area local officials with responsibility for transpor-*
3 *tation.*

4 “(7) *APPROVAL BY SECRETARY.*—

5 “(A) *IN GENERAL.*—*Not less frequently than*
6 *once every 4 years, a statewide transportation*
7 *improvement program developed under this sub-*
8 *section shall be reviewed and approved by the*
9 *Secretary, based on the current planning finding*
10 *of the Secretary under subparagraph (B).*

11 “(B) *PLANNING FINDING.*—*The Secretary*
12 *shall make a planning finding referred to in sub-*
13 *paragraph (A) not less frequently than once*
14 *every 5 years regarding whether the transpor-*
15 *tation planning process through which statewide*
16 *transportation plans and statewide transpor-*
17 *tation improvement programs are developed is*
18 *consistent with this section and section 5303.*

19 “(8) *MODIFICATIONS TO PROJECT PRIORITY.*—

20 *Notwithstanding any other provision of law, approval*
21 *by the Secretary shall not be required to carry out a*
22 *project included in an approved statewide transpor-*
23 *tation improvement program in place of another*
24 *project in the statewide transportation improvement*
25 *program.*

1 “(h) *CERTIFICATION.*—

2 “(1) *IN GENERAL.*—*The Secretary shall—*

3 “(A) *ensure that the statewide transpor-*
4 *tation planning process of a State is being car-*
5 *ried out in accordance with this section and ap-*
6 *licable Federal law (including rules and regula-*
7 *tions); and*

8 “(B) *subject to paragraph (2), certify, not*
9 *later than 180 days after the date of enactment*
10 *of the Federal Public Transportation Act of 2012*
11 *and not less frequently than once every 5 years*
12 *thereafter, that the requirements of subparagraph*
13 *(A) are met with respect to the statewide trans-*
14 *portation planning process.*

15 “(2) *REQUIREMENTS FOR CERTIFICATION.*—*The*
16 *Secretary may make a certification under paragraph*
17 *(1)(B) if—*

18 “(A) *the statewide transportation planning*
19 *process complies with the requirements of this*
20 *section and other applicable Federal law; and*

21 “(B) *a statewide transportation improve-*
22 *ment program for the State has been approved*
23 *by the Governor of the State.*

24 “(3) *EFFECT OF FAILURE TO CERTIFY.*—

1 “(A) *WITHHOLDING OF PROJECT FUNDS.*—
2 If a statewide transportation planning process of
3 a State is not certified under paragraph (1), the
4 Secretary may withhold up to 20 percent of the
5 funds attributable to the State for projects fund-
6 ed under this chapter and title 23.

7 “(B) *RESTORATION OF WITHHELD*
8 *FUNDS.*—Any funds withheld under subpara-
9 graph (A) shall be restored to the State on the
10 date of certification of the statewide transpor-
11 tation planning process by the Secretary.

12 “(4) *PUBLIC INVOLVEMENT.*—In making a deter-
13 mination regarding certification under this sub-
14 section, the Secretary shall provide for public involve-
15 ment appropriate to the State under review.

16 “(i) *PERFORMANCE-BASED PLANNING PROCESSES*
17 *EVALUATION.*—

18 “(1) *IN GENERAL.*—The Secretary shall establish
19 criteria to evaluate the effectiveness of the perform-
20 ance-based planning processes of States, taking into
21 consideration the following:

22 “(A) *The extent to which the State has*
23 *achieved, or is currently making substantial*
24 *progress toward achieving, the performance tar-*
25 *gets described in subsection (d)(2), taking into*

1 *account whether the State developed meaningful*
2 *performance targets.*

3 “(B) *The extent to which the State has used*
4 *proven best practices that help ensure transpor-*
5 *tation investment that is efficient and cost-effec-*
6 *tive.*

7 “(C) *The extent to which the State—*

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

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

17 “(2) *REPORT.—*

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

22 “(i) *the overall effectiveness of perform-*
23 *ance-based planning as a tool for guiding*
24 *transportation investments; and*

1 “(ii) *the effectiveness of the perform-*
2 *ance-based planning process of each State.*

3 “(B) *PUBLICATION.—The report under sub-*
4 *paragraph (A) shall be published or otherwise*
5 *made available in electronically accessible for-*
6 *mats and means, including on the Internet.*

7 “(j) *FUNDING.—Funds apportioned under section*
8 *104(b)(6) of title 23 and set aside under section 5305(g)*
9 *shall be available to carry out this section.*

10 “(k) *CONTINUATION OF CURRENT REVIEW PRAC-*
11 *TICE.—*

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

19 “(2) *DESCRIPTION OF FACTORS.—The factors re-*
20 *ferred to in paragraph (1) are that—*

21 “(A) *statewide transportation plans and*
22 *statewide transportation improvement programs*
23 *are subject to a reasonable opportunity for public*
24 *comment;*

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

6 “(C) decisions by the Secretary concerning
7 statewide transportation plans and statewide
8 transportation improvement programs have not
9 been reviewed under the National Environmental
10 Policy Act of 1969 (42 U.S.C. 4321 et seq.) as
11 of January 1, 1997.

12 “(l) SCHEDULE FOR IMPLEMENTATION.—The Sec-
13 retary shall issue guidance on a schedule for implementa-
14 tion of the changes made by this section, taking into consid-
15 eration the established planning update cycle for States.
16 The Secretary shall not require a State to deviate from its
17 established planning update cycle to implement changes
18 made by this section. States shall reflect changes made to
19 their transportation plan or transportation improvement
20 program updates not later than 2 years after the date of
21 issuance of guidance by the Secretary under this sub-
22 section.”.

1 **SEC. 20007. PUBLIC TRANSPORTATION EMERGENCY RELIEF**
2 **PROGRAM.**

3 (a) *IN GENERAL.*—Section 5306 of title 49, United
4 States Code, is amended to read as follows:

5 **“§ 5306. Public transportation emergency relief pro-**
6 **gram**

7 “(a) *DEFINITION.*—In this section the following defini-
8 tions shall apply:

9 “(1) *ELIGIBLE OPERATING COSTS.*—The term ‘el-
10 igible operating costs’ means costs relating to—

11 “(A) evacuation services;

12 “(B) rescue operations;

13 “(C) temporary public transportation serv-
14 ice; or

15 “(D) reestablishing, expanding, or relo-
16 cating public transportation route service before,
17 during, or after an emergency.

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

23 “(A) the Governor of a State has declared
24 an emergency and the Secretary has concurred;

25 or

1 “(B) *the President has declared a major*
2 *disaster under section 401 of the Robert T. Staf-*
3 *ford Disaster Relief and Emergency Assistance*
4 *Act (42 U.S.C. 5170).*

5 “(b) *GENERAL AUTHORITY.—The Secretary may make*
6 *grants and enter into contracts and other agreements (in-*
7 *cluding agreements with departments, agencies, and instru-*
8 *mentalities of the Government) for—*

9 “(1) *capital projects to protect, repair, recon-*
10 *struct, or replace equipment and facilities of a public*
11 *transportation system operating in the United States*
12 *or on an Indian reservation that the Secretary deter-*
13 *mines is in danger of suffering serious damage, or has*
14 *suffered serious damage, as a result of an emergency;*
15 *and*

16 “(2) *eligible operating costs of public transpor-*
17 *tation equipment and facilities in an area directly af-*
18 *ected by an emergency during—*

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

22 “(B) *if the Secretary determines there is a*
23 *compelling need, the 2-year period beginning on*
24 *the date of a declaration described in subsection*
25 *(a)(2).*

1 “(c) *COORDINATION OF EMERGENCY FUNDS.*—

2 “(1) *USE OF FUNDS.*—*Funds appropriated to*
3 *carry out this section shall be in addition to any*
4 *other funds available under this chapter.*

5 “(2) *NO EFFECT ON OTHER GOVERNMENT ACTIV-*
6 *ITY.*—*The provision of funds under this section shall*
7 *not affect the ability of any other agency of the Gov-*
8 *ernment, including the Federal Emergency Manage-*
9 *ment Agency, or a State agency, a local governmental*
10 *entity, organization, or person, to provide any other*
11 *funds otherwise authorized by law.*

12 “(3) *NOTIFICATION.*—*The Secretary shall notify*
13 *the Secretary of Homeland Security of the purpose*
14 *and amount of any grant made or contract or other*
15 *agreement entered into under this section.*

16 “(d) *GRANT REQUIREMENTS.*—*A grant awarded*
17 *under this section or under section 5307 or 5311 that is*
18 *made to address an emergency defined under subsection*
19 *(a)(2) shall be—*

20 “(1) *subject to the terms and conditions the Sec-*
21 *retary determines are necessary; and*

22 “(2) *made only for expenses that are not reim-*
23 *bursed under the Robert T. Stafford Disaster Relief*
24 *and Emergency Assistance Act (42 U.S.C. 5121 et*
25 *seq.).*

1 “(e) *GOVERNMENT SHARE OF COSTS.*—

2 “(1) *CAPITAL PROJECTS AND OPERATING ASSIST-*
3 *ANCE.*—*A grant, contract, or other agreement for a*
4 *capital project or eligible operating costs under this*
5 *section shall be, at the option of the recipient, for not*
6 *more than 80 percent of the net project cost, as deter-*
7 *mined by the Secretary.*

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

12 “(3) *WAIVER.*—*The Secretary may waive, in*
13 *whole or part, the non-Federal share required*
14 *under—*

15 “(A) *paragraph (2); or*

16 “(B) *section 5307 or 5311, in the case of a*
17 *grant made available under section 5307 or*
18 *5311, respectively, to address an emergency.”.*

19 (b) *MEMORANDUM OF AGREEMENT.*—

20 (1) *PURPOSES.*—*The purposes of this subsection*
21 *are—*

22 (A) *to improve coordination between the De-*
23 *partment of Transportation and the Department*
24 *of Homeland Security; and*

1 (B) to expedite the provision of Federal as-
2 sistance for public transportation systems for ac-
3 tivities relating to a major disaster or emergency
4 declared by the President under the Robert T.
5 Stafford Disaster Relief and Emergency Assist-
6 ance Act (42 U.S.C. 5121 et seq.) (referred to in
7 this subsection as a “major disaster or emer-
8 gency”).

9 (2) AGREEMENT.—Not later than 180 days after
10 the date of enactment of this Act, the Secretary of
11 Transportation and the Secretary of Homeland Secu-
12 rity shall enter into a memorandum of agreement to
13 coordinate the roles and responsibilities of the Depart-
14 ment of Transportation and the Department of
15 Homeland Security in providing assistance for public
16 transportation, including the provision of public
17 transportation services and the repair and restoration
18 of public transportation systems in areas for which
19 the President has declared a major disaster or emer-
20 gency.

21 (3) CONTENTS OF AGREEMENT.—The memo-
22 randum of agreement required under paragraph (2)
23 shall—

24 (A) provide for improved coordination and
25 expeditious use of public transportation, as ap-

1 *appropriate, in response to and recovery from a*
2 *major disaster or emergency;*

3 *(B) establish procedures to address—*

4 *(i) issues that have contributed to*
5 *delays in the reimbursement of eligible*
6 *transportation-related expenses relating to a*
7 *major disaster or emergency;*

8 *(ii) any challenges identified in the re-*
9 *view under paragraph (4); and*

10 *(iii) the coordination of assistance for*
11 *public transportation provided under the*
12 *Robert T. Stafford Disaster Relief and*
13 *Emergency Assistance Act and section 5306*
14 *of title 49, United States Code, as amended*
15 *by this Act, as appropriate; and*

16 *(C) provide for the development and dis-*
17 *tribution of clear guidelines for State, local, and*
18 *tribal governments, including public transpor-*
19 *tation systems, relating to—*

20 *(i) assistance available for public*
21 *transportation systems for activities relat-*
22 *ing to a major disaster or emergency—*

23 *(I) under the Robert T. Stafford*
24 *Disaster Relief and Emergency Assist-*
25 *ance Act;*

1 (II) under section 5306 of title 49,
2 United States Code, as amended by
3 this Act; and

4 (III) from other sources, including
5 other Federal agencies; and

6 (ii) reimbursement procedures that
7 speed the process of—

8 (I) applying for assistance under
9 the Robert T. Stafford Disaster Relief
10 and Emergency Assistance Act and sec-
11 tion 5306 of title 49, United States
12 Code, as amended by this Act; and

13 (II) distributing assistance for
14 public transportation systems under
15 the Robert T. Stafford Disaster Relief
16 and Emergency Assistance Act and sec-
17 tion 5306 of title 49, United States
18 Code, as amended by this Act.

19 (4) *AFTER ACTION REVIEW.*—Before entering
20 into a memorandum of agreement under paragraph
21 (2), the Secretary of Transportation and the Sec-
22 retary of Homeland Security (acting through the Ad-
23 ministrators of the Federal Emergency Management
24 Agency), in consultation with State, local, and tribal
25 governments (including public transportation sys-

1 *tems) that have experienced a major disaster or emer-*
2 *gency, shall review after action reports relating to*
3 *major disasters, emergencies, and exercises, to identify*
4 *areas where coordination between the Department of*
5 *Transportation and the Department of Homeland Se-*
6 *curity and the provision of public transportation*
7 *services should be improved.*

8 (5) *FACTORS FOR DECLARATIONS OF MAJOR DIS-*
9 *ASTERS AND EMERGENCIES.—The Administrator of*
10 *the Federal Emergency Management Agency shall*
11 *make available to State, local, and tribal govern-*
12 *ments, including public transportation systems, a de-*
13 *scription of the factors that the President considers in*
14 *declaring a major disaster or emergency, including*
15 *any pre-disaster emergency declaration policies.*

16 (6) *BRIEFINGS.—*

17 (A) *INITIAL BRIEFING.—Not later than 180*
18 *days after the date of enactment of this Act, the*
19 *Secretary of Transportation and the Secretary of*
20 *Homeland Security shall jointly brief the Com-*
21 *mittee on Banking, Housing, and Urban Affairs*
22 *and the Committee on Homeland Security and*
23 *Governmental Affairs of the Senate on the memo-*
24 *randum of agreement required under paragraph*
25 *(2).*

1 (B) *QUARTERLY BRIEFINGS.*—*Each quarter*
2 *of the 1-year period beginning on the date on*
3 *which the Secretary of Transportation and the*
4 *Secretary of Homeland Security enter into the*
5 *memorandum of agreement required under para-*
6 *graph (2), the Secretary of Transportation and*
7 *the Secretary of Homeland Security shall jointly*
8 *brief the Committee on Banking, Housing, and*
9 *Urban Affairs and the Committee on Homeland*
10 *Security and Governmental Affairs of the Senate*
11 *on the implementation of the memorandum of*
12 *agreement.*

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

14 *Section 5307 of title 49, United States Code, is amend-*
15 *ed to read as follows:*

16 **“§ 5307. Urbanized area formula grants**

17 “(a) *GENERAL AUTHORITY.*—

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

20 “(A) *capital projects;*

21 “(B) *planning; and*

22 “(C) *operating costs of equipment and fa-*
23 *cilities for use in public transportation in an ur-*
24 *banized area with a population of fewer than*

1 200,000 individuals, as determined by the Bu-
2 reau of the Census.

3 “(2) *SPECIAL RULE.*—*The Secretary may make*
4 *grants under this section to finance the operating cost*
5 *of equipment and facilities for use in public transpor-*
6 *tation, excluding rail fixed guideway, in an urban-*
7 *ized area with a population of not fewer than 200,000*
8 *individuals, as determined by the Bureau of the Cen-*
9 *sus—*

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

16 “(B) *for public transportation systems that*
17 *operate a minimum of 76 buses and a maximum*
18 *of 100 buses during peak service hours, in an*
19 *amount not to exceed 50 percent of the share of*
20 *the apportionment which is attributable to such*
21 *systems within the urbanized area, as measured*
22 *by vehicle revenue hours.*

23 “(3) *TEMPORARY AND TARGETED ASSISTANCE.*—

24 “(A) *ELIGIBILITY.*—*The Secretary may*
25 *make a grant under this section to finance the*

1 *operating cost of equipment and facilities to a*
2 *recipient for use in public transportation in an*
3 *area that the Secretary determines has—*

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

7 “(ii) *a 3-month unemployment rate, as*
8 *reported by the Bureau of Labor Statistics,*
9 *that is—*

10 “(I) *greater than 7 percent; and*

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

16 “(B) *AWARD OF GRANT.—*

17 “(i) *IN GENERAL.—Except as otherwise*
18 *provided in this subparagraph, the Sec-*
19 *retary may make a grant under this section*
20 *for not more than 2 consecutive fiscal years.*

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

1 *that the 3-month unemployment rate for the*
2 *area is at least 2 percentage points greater*
3 *than the unemployment rate for the area at*
4 *the time the Secretary made the determina-*
5 *tion under subparagraph (A), the Secretary*
6 *may make a grant to a recipient in the*
7 *area for 1 additional consecutive fiscal*
8 *year.*

9 “(iii) *EXCLUSION PERIOD.*—*Beginning*
10 *on the last day of the last consecutive fiscal*
11 *year for which a recipient receives a grant*
12 *under this paragraph, the Secretary may*
13 *not make a subsequent grant under this*
14 *paragraph to the recipient for a number of*
15 *fiscal years equal to the number of consec-*
16 *utive fiscal years in which the recipient re-*
17 *ceived a grant under this paragraph.*

18 “(C) *LIMITATION.*—

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

1 *available for operating assistance for the*
2 *area.*

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

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

22 “(E) *CERTIFICATION.—The Secretary may*
23 *make a grant for operating assistance under this*
24 *paragraph for a fiscal year only if the recipient*
25 *certifies that—*

1 “(i) the recipient will maintain public
2 transportation service levels at or above the
3 current service level, which shall be dem-
4 onstrated by providing an equal or greater
5 number of vehicle hours of service in the fis-
6 cal year than the number of vehicle hours of
7 service provided in the preceding fiscal
8 year;

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

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

21 “(iv) the recipient will not use funding
22 under this section for new capital assets ex-
23 cept as necessary for the existing system to
24 maintain or achieve a state of good repair,
25 assure safety, or replace obsolete technology.

1 “(b) *ACCESS TO JOBS PROJECTS.*—

2 “(1) *IN GENERAL.*—*A designated recipient shall*
3 *expend not less than 3 percent of the amount appor-*
4 *tioned to the designated recipient under section 5336*
5 *or an amount equal to the amount apportioned to the*
6 *designated recipient in fiscal year 2011 to carry out*
7 *section 5316 (as in effect for fiscal year 2011), which-*
8 *ever is less, to carry out a program to develop and*
9 *maintain job access projects. Eligible projects may in-*
10 *clude—*

11 “(A) *a project relating to the development*
12 *and maintenance of public transportation serv-*
13 *ices designed to transport eligible low-income in-*
14 *dividuals to and from jobs and activities related*
15 *to their employment, including—*

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

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

24 “(iii) *promoting the use of public*
25 *transportation vouchers for welfare recipi-*

1 ents and eligible low-income individuals;
2 and

3 “(iv) promoting the use of employer-
4 provided transportation, including the tran-
5 sit pass benefit program under section 132
6 of the Internal Revenue Code of 1986; and

7 “(B) a transportation project designed to
8 support the use of public transportation includ-
9 ing—

10 “(i) enhancements to existing public
11 transportation service for workers with non-
12 traditional hours or reverse commutes;

13 “(ii) guaranteed ride home programs;

14 “(iii) bicycle storage facilities; and

15 “(iv) projects that otherwise facilitate
16 the provision of public transportation serv-
17 ices to employment opportunities.

18 “(2) *PROJECT SELECTION AND PLAN DEVELOP-*
19 *MENT.*—Each grant recipient under this subsection
20 shall certify that—

21 “(A) the projects selected were included in a
22 locally developed, coordinated public transit-
23 human services transportation plan;

24 “(B) the plan was developed and approved
25 through a process that included individuals with

1 *low incomes, representatives of public, private,*
2 *and nonprofit transportation and human serv-*
3 *ices providers, and participation by the public;*

4 “(C) *services funded under this subsection*
5 *are coordinated with transportation services*
6 *funded by other Federal departments and agen-*
7 *cies to the maximum extent feasible; and*

8 “(D) *allocations of the grant to subrecipi-*
9 *ents, if any, are distributed on a fair and equi-*
10 *table basis.*

11 “(3) *COMPETITIVE PROCESS FOR GRANTS TO*
12 *SUBRECIPIENTS.—*

13 “(A) *AREAWIDE SOLICITATIONS.—A recipi-*
14 *ent of funds apportioned under this subsection*
15 *may conduct, in cooperation with the appro-*
16 *priate metropolitan planning organization, an*
17 *areawide solicitation for applications for grants*
18 *to the recipient and subrecipients under this sub-*
19 *section.*

20 “(B) *APPLICATION.—If the recipient elects*
21 *to engage in a competitive process, recipients*
22 *and subrecipients seeking to receive a grant from*
23 *apportioned funds shall submit to the recipient*
24 *an application in the form and in accordance*

1 *with such requirements as the recipient shall es-*
2 *tablish.*

3 “(c) *PROGRAM OF PROJECTS.—Each recipient of a*
4 *grant shall—*

5 “(1) *make available to the public information on*
6 *amounts available to the recipient under this section;*

7 “(2) *develop, in consultation with interested par-*
8 *ties, including private transportation providers, a*
9 *proposed program of projects for activities to be fi-*
10 *nanced;*

11 “(3) *publish a proposed program of projects in*
12 *a way that affected individuals, private transpor-*
13 *tation providers, and local elected officials have the*
14 *opportunity to examine the proposed program and*
15 *submit comments on the proposed program and the*
16 *performance of the recipient;*

17 “(4) *provide an opportunity for a public hearing*
18 *in which to obtain the views of individuals on the*
19 *proposed program of projects;*

20 “(5) *ensure that the proposed program of projects*
21 *provides for the coordination of public transportation*
22 *services assisted under section 5336 of this title with*
23 *transportation services assisted from other United*
24 *States Government sources;*

1 “(6) consider comments and views received, espe-
2 cially those of private transportation providers, in
3 preparing the final program of projects; and

4 “(7) make the final program of projects available
5 to the public.

6 “(d) *GRANT RECIPIENT REQUIREMENTS.*—A recipient
7 may receive a grant in a fiscal year only if—

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

14 “(A) has or will have the legal, financial,
15 and technical capacity to carry out the program,
16 including safety and security aspects of the pro-
17 gram;

18 “(B) has or will have satisfactory con-
19 tinuing control over the use of equipment and fa-
20 cilities;

21 “(C) will maintain equipment and facili-
22 ties;

23 “(D) will ensure that, during non-peak
24 hours for transportation using or involving a fa-
25 cility or equipment of a project financed under

1 *this section, a fare that is not more than 50 per-*
2 *cent of the peak hour fare will be charged for*
3 *any—*

4 “(i) *senior;*

5 “(ii) *individual who, because of illness,*
6 *injury, age, congenital malfunction, or other*
7 *incapacity or temporary or permanent dis-*
8 *ability (including an individual who is a*
9 *wheelchair user or has semiambulatory ca-*
10 *pability), cannot use a public transpor-*
11 *tation service or a public transportation fa-*
12 *ility effectively without special facilities,*
13 *planning, or design; and*

14 “(iii) *individual presenting a Medicare*
15 *card issued to that individual under title II*
16 *or XVIII of the Social Security Act (42*
17 *U.S.C. 401 et seq. and 1395 et seq.);*

18 “(E) *in carrying out a procurement under*
19 *this section, will comply with sections 5323 and*
20 *5325;*

21 “(F) *has complied with subsection (c) of*
22 *this section;*

23 “(G) *has available and will provide the re-*
24 *quired amounts as provided by subsection (e) of*
25 *this section;*

1 “(H) will comply with sections 5303 and
2 5304;

3 “(I) has a locally developed process to so-
4 licit and consider public comment before raising
5 a fare or carrying out a major reduction of
6 transportation;

7 “(J)(i) will expend for each fiscal year for
8 public transportation security projects, including
9 increased lighting in or adjacent to a public
10 transportation system (including bus stops, sub-
11 way stations, parking lots, and garages), in-
12 creased camera surveillance of an area in or ad-
13 jacent to that system, providing an emergency
14 telephone line to contact law enforcement or se-
15 curity personnel in an area in or adjacent to
16 that system, and any other project intended to
17 increase the security and safety of an existing or
18 planned public transportation system, at least 1
19 percent of the amount the recipient receives for
20 each fiscal year under section 5336 of this title;
21 or

22 “(ii) has decided that the expenditure for se-
23 curity projects is not necessary;

24 “(K) in the case of a recipient for an ur-
25 banized area with a population of not fewer than

1 200,000 individuals, as determined by the Bu-
2 reau of the Census—

3 “(i) will expend not less than 1 percent
4 of the amount the recipient receives each fis-
5 cal year under this section for associated
6 transit improvements, as defined in section
7 5302; and

8 “(ii) will submit an annual report list-
9 ing projects carried out in the preceding fis-
10 cal year with those funds; and

11 “(L) will comply with section 5329(d); and
12 “(2) the Secretary accepts the certification.

13 “(e) GOVERNMENT SHARE OF COSTS.—

14 “(1) CAPITAL PROJECTS.—A grant for a capital
15 project under this section shall be for 80 percent of the
16 net project cost of the project. The recipient may pro-
17 vide additional local matching amounts.

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

21 “(3) REMAINING COSTS.—Subject to paragraph
22 (4), the remainder of the net project costs shall be pro-
23 vided—

1 “(A) *in cash from non-Government sources*
2 *other than revenues from providing public trans-*
3 *portation services;*

4 “(B) *from revenues from the sale of adver-*
5 *tising and concessions;*

6 “(C) *from an undistributed cash surplus, a*
7 *replacement or depreciation cash fund or reserve,*
8 *or new capital;*

9 “(D) *from amounts appropriated or other-*
10 *wise made available to a department or agency*
11 *of the Government (other than the Department of*
12 *Transportation) that are eligible to be expended*
13 *for transportation; and*

14 “(E) *from amounts received under a service*
15 *agreement with a State or local social service*
16 *agency or private social service organization.*

17 “(4) *USE OF CERTAIN FUNDS.—For purposes of*
18 *subparagraphs (D) and (E) of paragraph (3), the*
19 *prohibitions on the use of funds for matching require-*
20 *ments under section 403(a)(5)(C)(vii) of the Social*
21 *Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not*
22 *apply to Federal or State funds to be used for trans-*
23 *portation purposes.*

24 “(f) *UNDERTAKING PROJECTS IN ADVANCE.—*

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

8 “(A) *the recipient applies for the payment;*

9 “(B) *the Secretary approves the payment;*

10 *and*

11 “(C) *before carrying out any part of the*
12 *project, the Secretary approves the plans and*
13 *specifications for the part in the same way as for*
14 *other projects under this section.*

15 “(2) *APPROVAL OF APPLICATION.*—*The Secretary*
16 *may approve an application under paragraph (1) of*
17 *this subsection only if an authorization for this sec-*
18 *tion is in effect for the fiscal year to which the appli-*
19 *cation applies. The Secretary may not approve an*
20 *application if the payment will be more than—*

21 “(A) *the recipient’s expected apportionment*
22 *under section 5336 of this title if the total*
23 *amount authorized to be appropriated for the fis-*
24 *cal year to carry out this section is appro-*
25 *priated; less*

1 “(B) *the maximum amount of the appor-*
2 *tionment that may be made available for projects*
3 *for operating expenses under this section.*

4 “(3) *FINANCING COSTS.—*

5 “(A) *IN GENERAL.—The cost of carrying*
6 *out part of a project includes the amount of in-*
7 *terest earned and payable on bonds issued by the*
8 *recipient to the extent proceeds of the bonds are*
9 *expended in carrying out the part.*

10 “(B) *LIMITATION ON THE AMOUNT OF IN-*
11 *TEREST.—The amount of interest allowed under*
12 *this paragraph may not be more than the most*
13 *favorable financing terms reasonably available*
14 *for the project at the time of borrowing.*

15 “(C) *CERTIFICATION.—The applicant shall*
16 *certify, in a manner satisfactory to the Sec-*
17 *retary, that the applicant has shown reasonable*
18 *diligence in seeking the most favorable financing*
19 *terms.*

20 “(g) *REVIEWS, AUDITS, AND EVALUATIONS.—*

21 “(1) *ANNUAL REVIEW.—*

22 “(A) *IN GENERAL.—At least annually, the*
23 *Secretary shall carry out, or require a recipient*
24 *to have carried out independently, reviews and*

1 *audits the Secretary considers appropriate to es-*
2 *tablish whether the recipient has carried out—*

3 *“(i) the activities proposed under sub-*
4 *section (d) of this section in a timely and*
5 *effective way and can continue to do so; and*

6 *“(ii) those activities and its certifi-*
7 *cations and has used amounts of the Gov-*
8 *ernment in the way required by law.*

9 *“(B) AUDITING PROCEDURES.—An audit of*
10 *the use of amounts of the Government shall com-*
11 *ply with the auditing procedures of the Comp-*
12 *troller General.*

13 *“(2) TRIENNIAL REVIEW.—At least once every 3*
14 *years, the Secretary shall review and evaluate com-*
15 *pletely the performance of a recipient in carrying out*
16 *the recipient’s program, specifically referring to com-*
17 *pliance with statutory and administrative require-*
18 *ments and the extent to which actual program activi-*
19 *ties are consistent with the activities proposed under*
20 *subsection (d) of this section and the planning process*
21 *required under sections 5303, 5304, and 5305 of this*
22 *title. To the extent practicable, the Secretary shall co-*
23 *ordinate such reviews with any related State or local*
24 *reviews.*

1 “(3) *ACTIONS RESULTING FROM REVIEW, AUDIT,*
2 *OR EVALUATION.*—*The Secretary may take appro-*
3 *prate action consistent with a review, audit, and*
4 *evaluation under this subsection, including making*
5 *an appropriate adjustment in the amount of a grant*
6 *or withdrawing the grant.*

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

10 “(i) *PASSENGER FERRY GRANT PROGRAM.*—

11 “(1) *IN GENERAL.*—*The Secretary may make*
12 *grants under this subsection to recipients for pas-*
13 *senger ferry projects that are eligible for a grant*
14 *under subsection (a).*

15 “(2) *GRANT REQUIREMENTS.*—*Except as other-*
16 *wise provided in this subsection, a grant under this*
17 *subsection shall be subject to the same terms and con-*
18 *ditions as a grant under subsection (a).*

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

22 “(4) *GEOGRAPHICALLY CONSTRAINED AREAS.*—
23 *Of the amounts made available to carry out this sub-*
24 *section, \$10,000,000 shall be for capital grants relat-*
25 *ing to passenger ferries in areas with limited or no*

1 *access to public transportation as a result of geo-*
2 *graphical constraints.”.*

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

4 *Section 5308 of title 49, United States Code, is amend-*
5 *ed to read as follows:*

6 **“§ 5308. Clean fuel grant program**

7 “(a) *DEFINITIONS.—In this section, the following defi-*
8 *initions shall apply:*

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

11 “(2) *CLEAN FUEL VEHICLE.—The term ‘clean*
12 *fuel vehicle’ means—*

13 “(A) *a passenger vehicle used to provide*
14 *public transportation that the Administrator of*
15 *the Environmental Protection Agency has cer-*
16 *tified sufficiently reduces energy consumption or*
17 *reduces harmful emissions, including direct car-*
18 *bon emissions, when compared to a comparable*
19 *standard vehicle; or*

20 “(B) *a zero emission bus used to provide*
21 *public transportation.*

22 “(3) *DIRECT CARBON EMISSIONS.—The term ‘di-*
23 *rect carbon emissions’ means the quantity of direct*
24 *greenhouse gas emissions from a vehicle, as deter-*

1 *mined by the Administrator of the Environmental*
2 *Protection Agency.*

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

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

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

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

14 “(A) *acquiring or leasing clean fuel vehicles;*

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

17 “(C) *constructing new public transportation*
18 *facilities to accommodate clean fuel vehicles; or*

19 “(D) *rehabilitating or improving existing*
20 *public transportation facilities to accommodate*
21 *clean fuel vehicles.*

22 “(6) *RECIPIENT.*—*The term ‘recipient’ means—*

23 “(A) *for an eligible area that is an urban-*
24 *ized area with a population of fewer than*
25 *200,000 individuals, as determined by the Bu-*

1 *reau of the Census, the State in which the eligi-*
2 *ble area is located; and*

3 *“(B) for an eligible area not described in*
4 *subparagraph (A), the designated recipient for*
5 *the eligible area.*

6 *“(7) ZERO EMISSION BUS.—The term ‘zero emis-*
7 *sion bus’ means a clean fuel vehicle that produces no*
8 *carbon or particulate matter.*

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

11 *“(c) GRANT REQUIREMENTS.—*

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

14 *“(2) GOVERNMENT SHARE OF COSTS FOR CER-*
15 *TAIN PROJECTS.—Section 5323(j) applies to projects*
16 *carried out under this section, unless the grant recipi-*
17 *ent requests a lower grant percentage.*

18 *“(3) COMBINATION OF FUNDING SOURCES.—*

19 *“(A) COMBINATION PERMITTED.—A project*
20 *carried out under this section may receive fund-*
21 *ing under section 5307, or any other provision*
22 *of law.*

23 *“(B) GOVERNMENT SHARE.—Nothing in*
24 *this paragraph may be construed to alter the*

1 *Government share required under this section,*
2 *section 5307, or any other provision of law.*

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

6 “(1) *not less than 65 percent shall be made*
7 *available to fund eligible projects relating to clean*
8 *fuel buses; and*

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

12 “(e) *COMPETITIVE PROCESS.—The Secretary shall so-*
13 *licit grant applications and make grants for eligible*
14 *projects on a competitive basis.*

15 “(f) *PRIORITY CONSIDERATION.—In making grants*
16 *under this section, the Secretary shall give priority to*
17 *projects relating to clean fuel buses that make greater reduc-*
18 *tions in energy consumption and harmful emissions, in-*
19 *cluding direct carbon emissions, than comparable standard*
20 *buses or other clean fuel buses.*

21 “(g) *AVAILABILITY OF FUNDS.—Any amounts made*
22 *available or appropriated to carry out this section—*

23 “(1) *shall remain available to an eligible project*
24 *for 2 years after the fiscal year for which the amount*
25 *is made available or appropriated; and*

1 *tation use during peak periods and includes*
2 *other physical elements that reduce public*
3 *transportation vehicle travel time and in-*
4 *crease service reliability;*

5 *“(B) that represents a substantial invest-*
6 *ment in a single route in a defined corridor or*
7 *subarea; and*

8 *“(C) that includes features that emulate the*
9 *services provided by rail fixed guideway public*
10 *transportation systems, including—*

11 *“(i) defined stations;*

12 *“(ii) traffic signal priority for public*
13 *transportation vehicles;*

14 *“(iii) short headway bidirectional serv-*
15 *ices for a substantial part of weekdays and*
16 *weekend days; and*

17 *“(iv) any other features the Secretary*
18 *may determine are necessary to produce*
19 *high-quality public transportation services*
20 *that emulate the services provided by rail*
21 *fixed guideway public transportation sys-*
22 *tems.*

23 *“(3) CORE CAPACITY IMPROVEMENT PROJECT.—*
24 *The term ‘core capacity improvement project’ means*
25 *a substantial corridor-based capital investment in an*

1 *existing fixed guideway system that adds capacity*
2 *and functionality.*

3 “(4) *NEW FIXED GUIDEWAY CAPITAL PROJECT.*—
4 *The term ‘new fixed guideway capital project’*
5 *means—*

6 “(A) *a new fixed guideway project that is*
7 *a minimum operable segment or extension to an*
8 *existing fixed guideway system; or*

9 “(B) *a bus rapid transit project that is a*
10 *minimum operable segment or an extension to*
11 *an existing bus rapid transit system.*

12 “(5) *PROGRAM OF INTERRELATED PROJECTS.*—
13 *The term ‘program of interrelated projects’ means the*
14 *simultaneous development of—*

15 “(A) *2 or more new fixed guideway capital*
16 *projects or core capacity improvement projects;*
17 *or*

18 “(B) *1 or more new fixed guideway capital*
19 *projects and 1 or more core capacity improve-*
20 *ment projects.*

21 “(b) *GENERAL AUTHORITY.*—*The Secretary may make*
22 *grants under this section to State and local governmental*
23 *authorities to assist in financing—*

24 “(1) *new fixed guideway capital projects, includ-*
25 *ing the acquisition of real property, the initial acqui-*

1 *sition of rolling stock for the system, the acquisition*
2 *of rights-of-way, and relocation, for fixed guideway*
3 *corridor development for projects in the advanced*
4 *stages of project development or engineering; and*

5 *“(2) core capacity improvement projects, includ-*
6 *ing the acquisition of real property, the acquisition of*
7 *rights-of-way, double tracking, signalization improve-*
8 *ments, electrification, expanding system platforms,*
9 *acquisition of rolling stock, construction of infill sta-*
10 *tions, and such other capacity improvement projects*
11 *as the Secretary determines are appropriate.*

12 *“(c) GRANT REQUIREMENTS.—*

13 *“(1) IN GENERAL.—The Secretary may make a*
14 *grant under this section for new fixed guideway cap-*
15 *ital projects or core capacity improvement projects, if*
16 *the Secretary determines that—*

17 *“(A) the project is part of an approved*
18 *transportation plan required under sections 5303*
19 *and 5304; and*

20 *“(B) the applicant has, or will have—*

21 *“(i) the legal, financial, and technical*
22 *capacity to carry out the project, including*
23 *the safety and security aspects of the*
24 *project;*

1 “(ii) *satisfactory continuing control*
2 *over the use of the equipment or facilities;*
3 *and*

4 “(iii) *the technical and financial ca-*
5 *capacity to maintain new and existing equip-*
6 *ment and facilities.*

7 “(2) *CERTIFICATION.*—*An applicant that has*
8 *submitted the certifications required under subpara-*
9 *graphs (A), (B), (C), and (H) of section 5307(d)(1)*
10 *shall be deemed to have provided sufficient informa-*
11 *tion upon which the Secretary may make the deter-*
12 *minations required under this subsection.*

13 “(3) *TECHNICAL CAPACITY.*—*The Secretary shall*
14 *use an expedited technical capacity review process for*
15 *applicants that have recently and successfully com-*
16 *pleted at least 1 new bus rapid transit project, new*
17 *fixed guideway capital project, or core capacity im-*
18 *provement project, if—*

19 “(A) *the applicant achieved budget, cost,*
20 *and ridership outcomes for the project that are*
21 *consistent with or better than projections; and*

22 “(B) *the applicant demonstrates that the*
23 *applicant continues to have the staff expertise*
24 *and other resources necessary to implement a*
25 *new project.*

1 “(4) *RECIPIENT REQUIREMENTS.*—*A recipient of*
2 *a grant awarded under this section shall be subject to*
3 *all terms, conditions, requirements, and provisions*
4 *that the Secretary determines to be necessary or ap-*
5 *propriate for purposes of this section.*

6 “(d) *NEW FIXED GUIDEWAY GRANTS.*—

7 “(1) *PROJECT DEVELOPMENT PHASE.*—

8 “(A) *ENTRANCE INTO PROJECT DEVELOP-*
9 *MENT PHASE.*—*A new fixed guideway capital*
10 *project shall enter into the project development*
11 *phase when—*

12 “(i) *the applicant—*

13 “(I) *submits a letter to the Sec-*
14 *retary describing the project and re-*
15 *questing entry into the project develop-*
16 *ment phase; and*

17 “(II) *initiates activities required*
18 *to be carried out under the National*
19 *Environmental Policy Act of 1969 (42*
20 *U.S.C. 4321 et seq.) with respect to the*
21 *project; and*

22 “(ii) *the Secretary responds in writing*
23 *to the applicant within 45 days whether the*
24 *information provided is sufficient to enter*
25 *into the project development phase, includ-*

1 *ing, when necessary, a detailed description*
2 *of any information deemed insufficient.*

3 “(B) *ACTIVITIES DURING PROJECT DEVELOP-*
4 *MENT PHASE.—Concurrent with the analysis*
5 *required to be made under the National Environ-*
6 *mental Policy Act of 1969 (42 U.S.C. 4321 et*
7 *seq.), each applicant shall develop sufficient in-*
8 *formation to enable the Secretary to make find-*
9 *ings of project justification, policies and land use*
10 *patterns that promote public transportation, and*
11 *local financial commitment under this sub-*
12 *section.*

13 “(C) *COMPLETION OF PROJECT DEVELOP-*
14 *MENT ACTIVITIES REQUIRED.—*

15 “(i) *IN GENERAL.—Not later than 2*
16 *years after the date on which a project en-*
17 *ters into the project development phase, the*
18 *applicant shall complete the activities re-*
19 *quired to obtain a project rating under sub-*
20 *section (g)(2) and submit completed docu-*
21 *mentation to the Secretary.*

22 “(ii) *EXTENSION OF TIME.—Upon the*
23 *request of an applicant, the Secretary may*
24 *extend the time period under clause (i), if*
25 *the applicant submits to the Secretary—*

1 “(I) a reasonable plan for com-
2 pleting the activities required under
3 this paragraph; and

4 “(II) an estimated time period
5 within which the applicant will com-
6 plete such activities.

7 “(2) ENGINEERING PHASE.—

8 “(A) IN GENERAL.—A new fixed guideway
9 capital project may advance to the engineering
10 phase upon completion of activities required
11 under the National Environmental Policy Act of
12 1969 (42 U.S.C. 4321 et seq.), as demonstrated
13 by a record of decision with respect to the
14 project, a finding that the project has no signifi-
15 cant impact, or a determination that the project
16 is categorically excluded, only if the Secretary
17 determines that the project—

18 “(i) is selected as the locally preferred
19 alternative at the completion of the process
20 required under the National Environmental
21 Policy Act of 1969 (42 U.S.C. 4321 et seq.);

22 “(ii) is adopted into the metropolitan
23 transportation plan required under section
24 5303;

1 “(iii) is justified based on a com-
2 prehensive review of the project’s mobility
3 improvements, environmental benefits, and
4 cost-effectiveness, as measured by cost per
5 rider;

6 “(iv) is supported by policies and land
7 use patterns that promote public transpor-
8 tation, including plans for future land use
9 and rezoning, and economic development
10 around public transportation stations; and

11 “(v) is supported by an acceptable de-
12 gree of local financial commitment (includ-
13 ing evidence of stable and dependable fi-
14 nancing sources), as required under sub-
15 section (f).

16 “(B) DETERMINATION THAT PROJECT IS
17 JUSTIFIED.—In making a determination under
18 subparagraph (A)(iii), the Secretary shall evalu-
19 ate, analyze, and consider—

20 “(i) the reliability of the forecasting
21 methods used to estimate costs and utiliza-
22 tion made by the recipient and the contrac-
23 tors to the recipient; and

1 “(ii) population density and current
2 public transportation ridership in the
3 transportation corridor.

4 “(e) CORE CAPACITY IMPROVEMENT PROJECTS.—

5 “(1) PROJECT DEVELOPMENT PHASE.—

6 “(A) ENTRANCE INTO PROJECT DEVELOP-
7 MENT PHASE.—A core capacity improvement
8 project shall be deemed to have entered into the
9 project development phase if—

10 “(i) the applicant—

11 “(I) submits a letter to the Sec-
12 retary describing the project and re-
13 questing entry into the project develop-
14 ment phase; and

15 “(II) initiates activities required
16 to be carried out under the National
17 Environmental Policy Act of 1969 (42
18 U.S.C. 4321 et seq.) with respect to the
19 project; and

20 “(ii) the Secretary responds in writing
21 to the applicant within 45 days whether the
22 information provided is sufficient to enter
23 into the project development phase, includ-
24 ing when necessary a detailed description of
25 any information deemed insufficient.

1 “(B) *ACTIVITIES DURING PROJECT DEVELOP-*
2 *MENT PHASE.*—*Concurrent with the analysis*
3 *required to be made under the National Environ-*
4 *mental Policy Act of 1969 (42 U.S.C. 4321 et*
5 *seq.), each applicant shall develop sufficient in-*
6 *formation to enable the Secretary to make find-*
7 *ings of project justification and local financial*
8 *commitment under this subsection.*

9 “(C) *COMPLETION OF PROJECT DEVELOP-*
10 *MENT ACTIVITIES REQUIRED.*—

11 “(i) *IN GENERAL.*—*Not later than 2*
12 *years after the date on which a project en-*
13 *ters into the project development phase, the*
14 *applicant shall complete the activities re-*
15 *quired to obtain a project rating under sub-*
16 *section (g)(2) and submit completed docu-*
17 *mentation to the Secretary.*

18 “(ii) *EXTENSION OF TIME.*—*Upon the*
19 *request of an applicant, the Secretary may*
20 *extend the time period under clause (i), if*
21 *the applicant submits to the Secretary—*

22 “(I) *a reasonable plan for com-*
23 *pleting the activities required under*
24 *this paragraph; and*

1 “(II) an estimated time period
2 within which the applicant will com-
3 plete such activities.

4 “(2) ENGINEERING PHASE.—

5 “(A) IN GENERAL.—A core capacity im-
6 provement project may advance into the engi-
7 neering phase upon completion of activities re-
8 quired under the National Environmental Policy
9 Act of 1969 (42 U.S.C. 4321 et seq.), as dem-
10 onstrated by a record of decision with respect to
11 the project, a finding that the project has no sig-
12 nificant impact, or a determination that the
13 project is categorically excluded, only if the Sec-
14 retary determines that the project—

15 “(i) is selected as the locally preferred
16 alternative at the completion of the process
17 required under the National Environmental
18 Policy Act of 1969;

19 “(ii) is adopted into the metropolitan
20 transportation plan required under section
21 5303;

22 “(iii) is in a corridor that is—

23 “(I) at or over capacity; or

24 “(II) projected to be at or over ca-
25 pacity within the next 5 years;

1 “(iv) is justified based on a com-
2 prehensive review of the project’s mobility
3 improvements, environmental benefits, and
4 cost-effectiveness, as measured by cost per
5 rider; and

6 “(v) is supported by an acceptable de-
7 gree of local financial commitment (includ-
8 ing evidence of stable and dependable fi-
9 nancing sources), as required under sub-
10 section (f).

11 “(B) DETERMINATION THAT PROJECT IS
12 JUSTIFIED.—In making a determination under
13 subparagraph (A)(iv), the Secretary shall evalu-
14 ate, analyze, and consider—

15 “(i) the reliability of the forecasting
16 methods used to estimate costs and utiliza-
17 tion made by the recipient and the contrac-
18 tors to the recipient;

19 “(ii) whether the project will ade-
20 quately address the capacity concerns in a
21 corridor;

22 “(iii) whether the project will improve
23 interconnectivity among existing systems;
24 and

1 “(iv) whether the project will improve
2 environmental outcomes.

3 “(f) *FINANCING SOURCES.*—

4 “(1) *REQUIREMENTS.*—*In determining whether*
5 *a project is supported by an acceptable degree of local*
6 *financial commitment and shows evidence of stable*
7 *and dependable financing sources for purposes of sub-*
8 *section (d)(2)(A)(v) or (e)(2)(A)(v), the Secretary*
9 *shall require that—*

10 “(A) *the proposed project plan provides for*
11 *the availability of contingency amounts that the*
12 *Secretary determines to be reasonable to cover*
13 *unanticipated cost increases or funding short-*
14 *falls;*

15 “(B) *each proposed local source of capital*
16 *and operating financing is stable, reliable, and*
17 *available within the proposed project timetable;*
18 *and*

19 “(C) *local resources are available to recapiti-*
20 *talize, maintain, and operate the overall existing*
21 *and proposed public transportation system, in-*
22 *cluding essential feeder bus and other services*
23 *necessary to achieve the projected ridership levels*
24 *without requiring a reduction in existing public*

1 *transportation services or level of service to oper-*
2 *ate the project.*

3 “(2) *CONSIDERATIONS.—In assessing the sta-*
4 *bility, reliability, and availability of proposed sources*
5 *of local financing for purposes of subsection*
6 *(d)(2)(A)(v) or (e)(2)(A)(v), the Secretary shall con-*
7 *sider—*

8 “(A) *the reliability of the forecasting meth-*
9 *ods used to estimate costs and revenues made by*
10 *the recipient and the contractors to the recipient;*

11 “(B) *existing grant commitments;*

12 “(C) *the degree to which financing sources*
13 *are dedicated to the proposed purposes;*

14 “(D) *any debt obligation that exists, or is*
15 *proposed by the recipient, for the proposed*
16 *project or other public transportation purpose;*
17 *and*

18 “(E) *the extent to which the project has a*
19 *local financial commitment that exceeds the re-*
20 *quired non-Government share of the cost of the*
21 *project.*

22 “(g) *PROJECT ADVANCEMENT AND RATINGS.—*

23 “(1) *PROJECT ADVANCEMENT.—A new fixed*
24 *guideway capital project or core capacity improve-*
25 *ment project proposed to be carried out using a grant*

1 *under this section may not advance from the project*
2 *development phase to the engineering phase, or from*
3 *the engineering phase to the construction phase, un-*
4 *less the Secretary determines that—*

5 *“(A) the project meets the applicable re-*
6 *quirements under this section; and*

7 *“(B) there is a reasonable likelihood that the*
8 *project will continue to meet the requirements*
9 *under this section.*

10 *“(2) RATINGS.—*

11 *“(A) OVERALL RATING.—In making a de-*
12 *termination under paragraph (1), the Secretary*
13 *shall evaluate and rate a project as a whole on*
14 *a 5-point scale (high, medium-high, medium,*
15 *medium-low, or low) based on—*

16 *“(i) in the case of a new fixed guide-*
17 *way capital project, the project justification*
18 *criteria under subsection (d)(2)(A)(iii), the*
19 *policies and land use patterns that support*
20 *public transportation, and the degree of*
21 *local financial commitment; and*

22 *“(ii) in the case of a core capacity im-*
23 *provement project, the capacity needs of the*
24 *corridor, the project justification criteria*

1 under subsection (e)(2)(A)(iv), and the de-
2 gree of local financial commitment.

3 “(B) *INDIVIDUAL RATINGS FOR EACH CRI-*
4 *TERION.—In rating a project under this para-*
5 *graph, the Secretary shall—*

6 “*(i) provide, in addition to the overall*
7 *project rating under subparagraph (A), in-*
8 *dividual ratings for each of the criteria es-*
9 *tablished under subsection (d)(2)(A)(iii) or*
10 *(e)(2)(A)(iv), as applicable; and*

11 “*(ii) give comparable, but not nec-*
12 *essarily equal, numerical weight to each of*
13 *the criteria established under subsections*
14 *(d)(2)(A)(iii) or (e)(2)(A)(iv), as applicable,*
15 *in calculating the overall project rating*
16 *under clause (i).*

17 “(C) *MEDIUM RATING NOT REQUIRED.—The*
18 *Secretary shall not require that any single*
19 *project justification criterion meet or exceed a*
20 *‘medium’ rating in order to advance the project*
21 *from one phase to another.*

22 “(3) *WARRANTS.—The Secretary shall, to the*
23 *maximum extent practicable, develop and use special*
24 *warrants for making a project justification deter-*
25 *mination under subsection (d)(2) or (e)(2), as appli-*

1 *cable, for a project proposed to be funded using a*
2 *grant under this section, if—*

3 *“(A) the share of the cost of the project to*
4 *be provided under this section does not exceed—*

5 *“(i) \$100,000,000; or*

6 *“(ii) 50 percent of the total cost of the*
7 *project;*

8 *“(B) the applicant requests the use of the*
9 *warrants;*

10 *“(C) the applicant certifies that its existing*
11 *public transportation system is in a state of good*
12 *repair; and*

13 *“(D) the applicant meets any other require-*
14 *ments that the Secretary considers appropriate*
15 *to carry out this subsection.*

16 *“(4) LETTERS OF INTENT AND EARLY SYSTEMS*
17 *WORK AGREEMENTS.—In order to expedite a project*
18 *under this subsection, the Secretary shall, to the max-*
19 *imum extent practicable, issue letters of intent and*
20 *enter into early systems work agreements upon*
21 *issuance of a record of decision for projects that re-*
22 *ceive an overall project rating of medium or better.*

23 *“(5) POLICY GUIDANCE.—The Secretary shall*
24 *issue policy guidance regarding the review and eval-*
25 *uation process and criteria—*

1 “(A) *not later than 180 days after the date*
2 *of enactment of the Federal Public Transpor-*
3 *tation Act of 2012; and*

4 “(B) *each time the Secretary makes signifi-*
5 *cant changes to the process and criteria, but not*
6 *less frequently than once every 2 years.*

7 “(6) *RULES.—Not later than 1 year after the*
8 *date of enactment of the Federal Public Transpor-*
9 *tation Act of 2012, the Secretary shall issue rules es-*
10 *tablishing an evaluation and rating process for—*

11 “(A) *new fixed guideway capital projects*
12 *that is based on the results of project justifica-*
13 *tion, policies and land use patterns that promote*
14 *public transportation, and local financial com-*
15 *mitment, as required under this subsection; and*

16 “(B) *core capacity improvement projects*
17 *that is based on the results of the capacity needs*
18 *of the corridor, project justification, and local fi-*
19 *nancial commitment.*

20 “(7) *APPLICABILITY.—This subsection shall not*
21 *apply to a project for which the Secretary issued a*
22 *letter of intent, entered into a full funding grant*
23 *agreement, or entered into a project construction*
24 *agreement before the date of enactment of the Federal*
25 *Public Transportation Act of 2012.*

1 “(h) *PROGRAMS OF INTERRELATED PROJECTS.*—

2 “(1) *PROJECT DEVELOPMENT PHASE.*—A feder-
3 ally funded project in a program of interrelated
4 projects shall advance through project development as
5 provided in subsection (d) or (e), as applicable.

6 “(2) *ENGINEERING PHASE.*—A federally funded
7 project in a program of interrelated projects may ad-
8 vance into the engineering phase upon completion of
9 activities required under the National Environmental
10 Policy Act of 1969 (42 U.S.C. 4321 et seq.), as dem-
11 onstrated by a record of decision with respect to the
12 project, a finding that the project has no significant
13 impact, or a determination that the project is cat-
14 egorically excluded, only if the Secretary determines
15 that—

16 “(A) the project is selected as the locally
17 preferred alternative at the completion of the
18 process required under the National Environ-
19 mental Policy Act of 1969;

20 “(B) the project is adopted into the metro-
21 politan transportation plan required under sec-
22 tion 5303;

23 “(C) the program of interrelated projects in-
24 volves projects that have a logical connectivity to
25 one another;

1 “(D) the program of interrelated projects,
2 when evaluated as a whole, meets the require-
3 ments of subsection (d)(2) or (e)(2), as applica-
4 ble;

5 “(E) the program of interrelated projects is
6 supported by a program implementation plan
7 demonstrating that construction will begin on
8 each of the projects in the program of inter-
9 related projects within a reasonable time frame;
10 and

11 “(F) the program of interrelated projects is
12 supported by an acceptable degree of local finan-
13 cial commitment, as described in subsection (f).

14 “(3) PROJECT ADVANCEMENT AND RATINGS.—

15 “(A) PROJECT ADVANCEMENT.—A project
16 receiving a grant under this section that is part
17 of a program of interrelated projects may not
18 advance from the project development phase to
19 the engineering phase, or from the engineering
20 phase to the construction phase, unless the Sec-
21 retary determines that the program of inter-
22 related projects meets the applicable requirements
23 of this section and there is a reasonable likeli-
24 hood that the program will continue to meet such
25 requirements.

1 “(B) RATINGS.—

2 “(i) OVERALL RATING.—In making a
3 determination under subparagraph (A), the
4 Secretary shall evaluate and rate a program
5 of interrelated projects on a 5-point scale
6 (high, medium-high, medium, medium-low,
7 or low) based on the criteria described in
8 paragraph (2).

9 “(ii) INDIVIDUAL RATING FOR EACH
10 CRITERION.—In rating a program of inter-
11 related projects, the Secretary shall provide,
12 in addition to the overall program rating,
13 individual ratings for each of the criteria
14 described in paragraph (2) and shall give
15 comparable, but not necessarily equal, nu-
16 merical weight to each such criterion in cal-
17 culating the overall program rating.

18 “(iii) MEDIUM RATING NOT RE-
19 QUIRED.—The Secretary shall not require
20 that any single criterion described in para-
21 graph (2) meet or exceed a ‘medium’ rating
22 in order to advance the program of inter-
23 related projects from one phase to another.

24 “(4) ANNUAL REVIEW.—

1 “(A) *REVIEW REQUIRED.*—*The Secretary*
2 *shall annually review the program implementa-*
3 *tion plan required under paragraph (2)(E) to*
4 *determine whether the program of interrelated*
5 *projects is adhering to its schedule.*

6 “(B) *EXTENSION OF TIME.*—*If a program*
7 *of interrelated projects is not adhering to its*
8 *schedule, the Secretary may, upon the request of*
9 *the applicant, grant an extension of time if the*
10 *applicant submits a reasonable plan that in-*
11 *cludes—*

12 “(i) *evidence of continued adequate*
13 *funding; and*

14 “(ii) *an estimated time frame for com-*
15 *pleting the program of interrelated projects.*

16 “(C) *SATISFACTORY PROGRESS RE-*
17 *QUIRED.*—*If the Secretary determines that a*
18 *program of interrelated projects is not making*
19 *satisfactory progress, no Federal funds shall be*
20 *provided for a project within the program of*
21 *interrelated projects.*

22 “(5) *FAILURE TO CARRY OUT PROGRAM OF*
23 *INTERRELATED PROJECTS.*—

24 “(A) *REPAYMENT REQUIRED.*—*If an appli-*
25 *cant does not carry out the program of inter-*

1 *related projects within a reasonable time, for*
2 *reasons within the control of the applicant, the*
3 *applicant shall repay all Federal funds provided*
4 *for the program, and any reasonable interest and*
5 *penalty charges that the Secretary may establish.*

6 “(B) *CREDITING OF FUNDS RECEIVED.—*
7 *Any funds received by the Government under*
8 *this paragraph, other than interest and penalty*
9 *charges, shall be credited to the appropriation*
10 *account from which the funds were originally de-*
11 *rived.*

12 “(6) *NON-FEDERAL FUNDS.—Any non-Federal*
13 *funds committed to a project in a program of inter-*
14 *related projects may be used to meet a non-Govern-*
15 *ment share requirement for any other project in the*
16 *program of interrelated projects, if the Government*
17 *share of the cost of each project within the program*
18 *of interrelated projects does not exceed 80 percent.*

19 “(7) *PRIORITY.—In making grants under this*
20 *section, the Secretary may give priority to programs*
21 *of interrelated projects for which the non-Government*
22 *share of the cost of the projects included in the pro-*
23 *grams of interrelated projects exceeds the non-Govern-*
24 *ment share required under subsection (k).*

1 “(8) *NON-GOVERNMENT PROJECTS.*—Including a
2 *project not financed by the Government in a program*
3 *of interrelated projects does not impose Government*
4 *requirements that would not otherwise apply to the*
5 *project.*

6 “(i) *PREVIOUSLY ISSUED LETTER OF INTENT OR*
7 *FULL FUNDING GRANT AGREEMENT.*—Subsections (d) and
8 (i) shall not apply to projects for which the Secretary has
9 issued a letter of intent, entered into a full funding grant
10 agreement, or entered into a project construction grant
11 agreement before the date of enactment of the Federal Public
12 Transportation Act of 2012.

13 “(j) *LETTERS OF INTENT, FULL FUNDING GRANT*
14 *AGREEMENTS, AND EARLY SYSTEMS WORK AGREE-*
15 *MENTS.*—

16 “(1) *LETTERS OF INTENT.*—

17 “(A) *AMOUNTS INTENDED TO BE OBLI-*
18 *GATED.*—The Secretary may issue a letter of in-
19 tent to an applicant announcing an intention to
20 obligate, for a new fixed guideway capital
21 project or core capacity improvement project, an
22 amount from future available budget authority
23 specified in law that is not more than the
24 amount stipulated as the financial participation
25 of the Secretary in the project. When a letter is

1 *issued for a capital project under this section,*
2 *the amount shall be sufficient to complete at*
3 *least an operable segment.*

4 *“(B) TREATMENT.—The issuance of a letter*
5 *under subparagraph (A) is deemed not to be an*
6 *obligation under sections 1108(c), 1501, and*
7 *1502(a) of title 31, United States Code, or an*
8 *administrative commitment.*

9 *“(2) FULL FUNDING GRANT AGREEMENTS.—*

10 *“(A) IN GENERAL.—A new fixed guideway*
11 *capital project or core capacity improvement*
12 *project shall be carried out through a full fund-*
13 *ing grant agreement.*

14 *“(B) CRITERIA.—The Secretary shall enter*
15 *into a full funding grant agreement, based on the*
16 *evaluations and ratings required under sub-*
17 *section (d), (e), or (h), as applicable, with each*
18 *grantee receiving assistance for a new fixed*
19 *guideway capital project or core capacity im-*
20 *provement project that has been rated as high,*
21 *medium-high, or medium, in accordance with*
22 *subsection (g)(2)(A) or (h)(3)(B), as applicable.*

23 *“(C) TERMS.—A full funding grant agree-*
24 *ment shall—*

1 “(i) *establish the terms of participa-*
2 *tion by the Government in a new fixed*
3 *guideway capital project or core capacity*
4 *improvement project;*

5 “(ii) *establish the maximum amount of*
6 *Federal financial assistance for the project;*

7 “(iii) *include the period of time for*
8 *completing the project, even if that period*
9 *extends beyond the period of an authoriza-*
10 *tion; and*

11 “(iv) *make timely and efficient man-*
12 *agement of the project easier according to*
13 *the law of the United States.*

14 “(D) *SPECIAL FINANCIAL RULES.—*

15 “(i) *IN GENERAL.—A full funding*
16 *grant agreement under this paragraph obli-*
17 *gates an amount of available budget author-*
18 *ity specified in law and may include a*
19 *commitment, contingent on amounts to be*
20 *specified in law in advance for commit-*
21 *ments under this paragraph, to obligate an*
22 *additional amount from future available*
23 *budget authority specified in law.*

24 “(ii) *STATEMENT OF CONTINGENT COM-*
25 *MITMENT.—The agreement shall state that*

1 *the contingent commitment is not an obli-*
2 *gation of the Government.*

3 “(iii) *INTEREST AND OTHER FINANC-*
4 *ING COSTS.—Interest and other financing*
5 *costs of efficiently carrying out a part of the*
6 *project within a reasonable time are a cost*
7 *of carrying out the project under a full*
8 *funding grant agreement, except that eligi-*
9 *ble costs may not be more than the cost of*
10 *the most favorable financing terms reason-*
11 *ably available for the project at the time of*
12 *borrowing. The applicant shall certify, in a*
13 *way satisfactory to the Secretary, that the*
14 *applicant has shown reasonable diligence in*
15 *seeking the most favorable financing terms.*

16 “(iv) *COMPLETION OF OPERABLE SEG-*
17 *MENT.—The amount stipulated in an agree-*
18 *ment under this paragraph for a new fixed*
19 *guideway capital project shall be sufficient*
20 *to complete at least an operable segment.*

21 “(E) *BEFORE AND AFTER STUDY.—*

22 “(i) *IN GENERAL.—A full funding*
23 *grant agreement under this paragraph shall*
24 *require the applicant to conduct a study*
25 *that—*

1 “(I) describes and analyzes the
2 impacts of the new fixed guideway
3 capital project or core capacity im-
4 provement project on public transpor-
5 tation services and public transpor-
6 tation ridership;

7 “(II) evaluates the consistency of
8 predicted and actual project character-
9 istics and performance; and

10 “(III) identifies reasons for dif-
11 ferences between predicted and actual
12 outcomes.

13 “(ii) *INFORMATION COLLECTION AND*
14 *ANALYSIS PLAN.*—

15 “(I) *SUBMISSION OF PLAN.*—Ap-
16 plicants seeking a full funding grant
17 agreement under this paragraph shall
18 submit a complete plan for the collec-
19 tion and analysis of information to
20 identify the impacts of the new fixed
21 guideway capital project or core capac-
22 ity improvement project and the accu-
23 racy of the forecasts prepared during
24 the development of the project. Prepa-
25 ration of this plan shall be included in

1 *the full funding grant agreement as an*
2 *eligible activity.*

3 “(II) *CONTENTS OF PLAN.*—*The*
4 *plan submitted under subclause (I)*
5 *shall provide for—*

6 “(aa) *collection of data on*
7 *the current public transportation*
8 *system regarding public transpor-*
9 *tation service levels and ridership*
10 *patterns, including origins and*
11 *destinations, access modes, trip*
12 *purposes, and rider characteris-*
13 *tics;*

14 “(bb) *documentation of the*
15 *predicted scope, service levels, cap-*
16 *ital costs, operating costs, and*
17 *ridership of the project;*

18 “(cc) *collection of data on the*
19 *public transportation system 2*
20 *years after the opening of a new*
21 *fixed guideway capital project or*
22 *core capacity improvement*
23 *project, including analogous infor-*
24 *mation on public transportation*
25 *service levels and ridership pat-*

1 *terns and information on the as-*
2 *built scope, capital, and financing*
3 *costs of the project; and*

4 *“(dd) analysis of the consist-*
5 *ency of predicted project charac-*
6 *teristics with actual outcomes.*

7 *“(F) COLLECTION OF DATA ON CURRENT*
8 *SYSTEM.—To be eligible for a full funding grant*
9 *agreement under this paragraph, recipients shall*
10 *have collected data on the current system, ac-*
11 *cording to the plan required under subparagraph*
12 *(E)(ii), before the beginning of construction of*
13 *the proposed new fixed guideway capital project*
14 *or core capacity improvement project. Collection*
15 *of this data shall be included in the full funding*
16 *grant agreement as an eligible activity.*

17 *“(3) EARLY SYSTEMS WORK AGREEMENTS.—*

18 *“(A) CONDITIONS.—The Secretary may*
19 *enter into an early systems work agreement with*
20 *an applicant if a record of decision under the*
21 *National Environmental Policy Act of 1969 (42*
22 *U.S.C. 4321 et seq.) has been issued on the*
23 *project and the Secretary finds there is reason to*
24 *believe—*

1 “(i) a full funding grant agreement for
2 the project will be made; and

3 “(ii) the terms of the work agreement
4 will promote ultimate completion of the
5 project more rapidly and at less cost.

6 “(B) CONTENTS.—

7 “(i) IN GENERAL.—An early systems
8 work agreement under this paragraph obli-
9 gates budget authority available under this
10 chapter and title 23 and shall provide for
11 reimbursement of preliminary costs of car-
12 rying out the project, including land acqui-
13 sition, timely procurement of system ele-
14 ments for which specifications are decided,
15 and other activities the Secretary decides
16 are appropriate to make efficient, long-term
17 project management easier.

18 “(ii) CONTINGENT COMMITMENT.—An
19 early systems work agreement may include
20 a commitment, contingent on amounts to be
21 specified in law in advance for commit-
22 ments under this paragraph, to obligate an
23 additional amount from future available
24 budget authority specified in law.

1 “(iii) *PERIOD COVERED.*—An early
2 *systems work agreement under this para-*
3 *graph shall cover the period of time the Sec-*
4 *retary considers appropriate. The period*
5 *may extend beyond the period of current*
6 *authorization.*

7 “(iv) *INTEREST AND OTHER FINANCING*
8 *COSTS.*—Interest and other financing costs
9 of efficiently carrying out the early systems
10 work agreement within a reasonable time
11 are a cost of carrying out the agreement, ex-
12 cept that eligible costs may not be more
13 than the cost of the most favorable financing
14 terms reasonably available for the project at
15 the time of borrowing. The applicant shall
16 certify, in a way satisfactory to the Sec-
17 retary, that the applicant has shown rea-
18 sonable diligence in seeking the most favor-
19 able financing terms.

20 “(v) *FAILURE TO CARRY OUT*
21 *PROJECT.*—If an applicant does not carry
22 out the project for reasons within the con-
23 trol of the applicant, the applicant shall
24 repay all Federal grant funds awarded for
25 the project from all Federal funding sources,

1 *for all project activities, facilities, and*
2 *equipment, plus reasonable interest and*
3 *penalty charges allowable by law or estab-*
4 *lished by the Secretary in the early systems*
5 *work agreement.*

6 “(vi) *CREDITING OF FUNDS RE-*
7 *CEIVED.—Any funds received by the Gov-*
8 *ernment under this paragraph, other than*
9 *interest and penalty charges, shall be cred-*
10 *ited to the appropriation account from*
11 *which the funds were originally derived.*

12 “(4) *LIMITATION ON AMOUNTS.—*

13 “(A) *IN GENERAL.—The Secretary may*
14 *enter into full funding grant agreements under*
15 *this subsection for new fixed guideway capital*
16 *projects and core capacity improvement projects*
17 *that contain contingent commitments to incur*
18 *obligations in such amounts as the Secretary de-*
19 *termines are appropriate.*

20 “(B) *APPROPRIATION REQUIRED.—An obli-*
21 *gation may be made under this subsection only*
22 *when amounts are appropriated for the obliga-*
23 *tion.*

24 “(5) *NOTIFICATION TO CONGRESS.—At least 30*
25 *days before issuing a letter of intent, entering into a*

1 *full funding grant agreement, or entering into an*
2 *early systems work agreement under this section, the*
3 *Secretary shall notify, in writing, the Committee on*
4 *Banking, Housing, and Urban Affairs and the Com-*
5 *mittee on Appropriations of the Senate and the Com-*
6 *mittee on Transportation and Infrastructure and the*
7 *Committee on Appropriations of the House of Rep-*
8 *resentatives of the proposed letter or agreement. The*
9 *Secretary shall include with the notification a copy*
10 *of the proposed letter or agreement as well as the eval-*
11 *uations and ratings for the project.*

12 *“(k) GOVERNMENT SHARE OF NET CAPITAL PROJECT*
13 *COST.—*

14 *“(1) IN GENERAL.—Based on engineering stud-*
15 *ies, studies of economic feasibility, and information*
16 *on the expected use of equipment or facilities, the Sec-*
17 *retary shall estimate the net capital project cost. A*
18 *grant for the project shall not exceed 80 percent of the*
19 *net capital project cost.*

20 *“(2) ADJUSTMENT FOR COMPLETION UNDER*
21 *BUDGET.—The Secretary may adjust the final net*
22 *capital project cost of a new fixed guideway capital*
23 *project or core capacity improvement project evalu-*
24 *ated under subsection (d), (e), or (h) to include the*
25 *cost of eligible activities not included in the originally*

1 *defined project if the Secretary determines that the*
2 *originally defined project has been completed at a cost*
3 *that is significantly below the original estimate.*

4 “(3) *MAXIMUM GOVERNMENT SHARE.—The Sec-*
5 *retary may provide a higher grant percentage than*
6 *requested by the grant recipient if—*

7 “(A) *the Secretary determines that the net*
8 *capital project cost of the project is not more*
9 *than 10 percent higher than the net capital*
10 *project cost estimated at the time the project was*
11 *approved for advancement into the engineering*
12 *phase; and*

13 “(B) *the ridership estimated for the project*
14 *is not less than 90 percent of the ridership esti-*
15 *mated for the project at the time the project was*
16 *approved for advancement into the engineering*
17 *phase.*

18 “(4) *REMAINDER OF NET CAPITAL PROJECT*
19 *COST.—The remainder of the net capital project cost*
20 *shall be provided from an undistributed cash surplus,*
21 *a replacement or depreciation cash fund or reserve, or*
22 *new capital.*

23 “(5) *LIMITATION ON STATUTORY CONSTRUC-*
24 *TION.—Nothing in this section shall be construed as*
25 *authorizing the Secretary to require a non-Federal fi-*

1 *nancial commitment for a project that is more than*
2 *20 percent of the net capital project cost.*

3 “(6) *SPECIAL RULE FOR ROLLING STOCK*
4 *COSTS.—In addition to amounts allowed pursuant to*
5 *paragraph (1), a planned extension to a fixed guide-*
6 *way system may include the cost of rolling stock pre-*
7 *viously purchased if the applicant satisfies the Sec-*
8 *retary that only amounts other than amounts pro-*
9 *vided by the Government were used and that the pur-*
10 *chase was made for use on the extension. A refund or*
11 *reduction of the remainder may be made only if a re-*
12 *fund of a proportional amount of the grant of the*
13 *Government is made at the same time.*

14 “(7) *LIMITATION ON APPLICABILITY.—This sub-*
15 *section shall not apply to projects for which the Sec-*
16 *retary entered into a full funding grant agreement be-*
17 *fore the date of enactment of the Federal Public*
18 *Transportation Act of 2012.*

19 “(l) *UNDERTAKING PROJECTS IN ADVANCE.—*

20 “(1) *IN GENERAL.—The Secretary may pay the*
21 *Government share of the net capital project cost to a*
22 *State or local governmental authority that carries out*
23 *any part of a project described in this section without*
24 *the aid of amounts of the Government and according*
25 *to all applicable procedures and requirements if—*

1 “(A) *the State or local governmental au-*
2 *thority applies for the payment;*

3 “(B) *the Secretary approves the payment;*
4 *and*

5 “(C) *before the State or local governmental*
6 *authority carries out the part of the project, the*
7 *Secretary approves the plans and specifications*
8 *for the part in the same way as other projects*
9 *under this section.*

10 “(2) *FINANCING COSTS.—*

11 “(A) *IN GENERAL.—The cost of carrying*
12 *out part of a project includes the amount of in-*
13 *terest earned and payable on bonds issued by the*
14 *State or local governmental authority to the ex-*
15 *tent proceeds of the bonds are expended in car-*
16 *rying out the part.*

17 “(B) *LIMITATION ON AMOUNT OF INTER-*
18 *EST.—The amount of interest under this para-*
19 *graph may not be more than the most favorable*
20 *interest terms reasonably available for the project*
21 *at the time of borrowing.*

22 “(C) *CERTIFICATION.—The applicant shall*
23 *certify, in a manner satisfactory to the Sec-*
24 *retary, that the applicant has shown reasonable*

1 *diligence in seeking the most favorable financing*
2 *terms.*

3 “(m) *AVAILABILITY OF AMOUNTS.—*

4 “(1) *IN GENERAL.—An amount made available*
5 *or appropriated for a new fixed guideway capital*
6 *project or core capacity improvement project shall re-*
7 *main available to that project for 5 fiscal years, in-*
8 *cluding the fiscal year in which the amount is made*
9 *available or appropriated. Any amounts that are un-*
10 *obligated to the project at the end of the 5-fiscal-year*
11 *period may be used by the Secretary for any purpose*
12 *under this section.*

13 “(2) *USE OF DEOBLIGATED AMOUNTS.—An*
14 *amount available under this section that is*
15 *deobligated may be used for any purpose under this*
16 *section.*

17 “(n) *REPORTS ON NEW FIXED GUIDEWAY AND CORE*
18 *CAPACITY IMPROVEMENT PROJECTS.—*

19 “(1) *ANNUAL REPORT ON FUNDING REC-*
20 *COMMENDATIONS.—Not later than the first Monday in*
21 *February of each year, the Secretary shall submit to*
22 *the Committee on Banking, Housing, and Urban Af-*
23 *airs and the Committee on Appropriations of the*
24 *Senate and the Committee on Transportation and In-*

1 *frastructure and the Committee on Appropriations of*
2 *the House of Representatives a report that includes—*

3 *“(A) a proposal of allocations of amounts to*
4 *be available to finance grants for projects under*
5 *this section among applicants for these amounts;*

6 *“(B) evaluations and ratings, as required*
7 *under subsections (d), (e), and (h), for each such*
8 *project that is in project development, engineer-*
9 *ing, or has received a full funding grant agree-*
10 *ment; and*

11 *“(C) recommendations of such projects for*
12 *funding based on the evaluations and ratings*
13 *and on existing commitments and anticipated*
14 *funding levels for the next 3 fiscal years based on*
15 *information currently available to the Secretary.*

16 *“(2) REPORTS ON BEFORE AND AFTER STUD-*
17 *IES.—Not later than the first Monday in August of*
18 *each year, the Secretary shall submit to the commit-*
19 *tees described in paragraph (1) a report containing*
20 *a summary of the results of any studies conducted*
21 *under subsection (j)(2)(E).*

22 *“(3) ANNUAL GAO REVIEW.—The Comptroller*
23 *General of the United States shall—*

24 *“(A) conduct an annual review of—*

1 “(i) the processes and procedures for
2 evaluating, rating, and recommending new
3 fixed guideway capital projects and core ca-
4 pacity improvement projects; and

5 “(ii) the Secretary’s implementation of
6 such processes and procedures; and

7 “(B) report to Congress on the results of
8 such review by May 31 of each year.”.

9 (b) *PILOT PROGRAM FOR EXPEDITED PROJECT DELIV-*
10 *ERY.*—

11 (1) *DEFINITIONS.*—*In this subsection the fol-*
12 *lowing definitions shall apply:*

13 (A) *ELIGIBLE PROJECT.*—*The term “eligible*
14 *project” means a new fixed guideway capital*
15 *project or a core capacity improvement project,*
16 *as those terms are defined in section 5309 of title*
17 *49, United States Code, as amended by this sec-*
18 *tion, that has not entered into a full funding*
19 *grant agreement with the Federal Transit Ad-*
20 *ministration before the date of enactment of the*
21 *Federal Public Transportation Act of 2012.*

22 (B) *PROGRAM.*—*The term “program”*
23 *means the pilot program for expedited project de-*
24 *livery established under this subsection.*

1 (C) *RECIPIENT.*—The term “recipient”
2 means a recipient of funding under chapter 53
3 of title 49, United States Code.

4 (D) *SECRETARY.*—The term “Secretary”
5 means the Secretary of Transportation.

6 (2) *ESTABLISHMENT.*—The Secretary shall estab-
7 lish and implement a pilot program to demonstrate
8 whether innovative project development and delivery
9 methods or innovative financing arrangements can
10 expedite project delivery for certain meritorious new
11 fixed guideway capital projects and core capacity im-
12 provement projects.

13 (3) *LIMITATION ON NUMBER OF PROJECTS.*—The
14 Secretary shall select 3 eligible projects to participate
15 in the program, of which—

16 (A) at least 1 shall be an eligible project re-
17 questing more than \$100,000,000 in Federal fi-
18 nancial assistance under section 5309 of title 49,
19 United States Code; and

20 (B) at least 1 shall be an eligible project re-
21 questing less than \$100,000,000 in Federal fi-
22 nancial assistance under section 5309 of title 49,
23 United States Code.

1 (4) *GOVERNMENT SHARE.*—*The Government*
2 *share of the total cost of an eligible project that par-*
3 *ticipates in the program may not exceed 50 percent.*

4 (5) *ELIGIBILITY.*—*A recipient that desires to*
5 *participate in the program shall submit to the Sec-*
6 *retary an application that contains, at a minimum—*

7 (A) *identification of an eligible project;*

8 (B) *a schedule and finance plan for the con-*
9 *struction and operation of the eligible project;*

10 (C) *an analysis of the efficiencies of the pro-*
11 *posed project development and delivery methods*
12 *or innovative financing arrangement for the eli-*
13 *gible project; and*

14 (D) *a certification that the recipient's exist-*
15 *ing public transportation system is in a state of*
16 *good repair.*

17 (6) *SELECTION CRITERIA.*—*The Secretary may*
18 *award a full funding grant agreement under this sub-*
19 *section if the Secretary determines that—*

20 (A) *the recipient has completed planning*
21 *and the activities required under the National*
22 *Environmental Policy Act of 1969 (42 U.S.C.*
23 *4321 et seq.); and*

1 (B) *the recipient has the necessary legal, fi-*
2 *nancial, and technical capacity to carry out the*
3 *eligible project.*

4 (7) *BEFORE AND AFTER STUDY AND REPORT.—*

5 (A) *STUDY REQUIRED.—A full funding*
6 *grant agreement under this paragraph shall re-*
7 *quire a recipient to conduct a study that—*

8 (i) *describes and analyzes the impacts*
9 *of the eligible project on public transpor-*
10 *tation services and public transportation*
11 *ridership;*

12 (ii) *describes and analyzes the consist-*
13 *ency of predicted and actual benefits and*
14 *costs of the innovative project development*
15 *and delivery methods or innovative financ-*
16 *ing for the eligible project; and*

17 (iii) *identifies reasons for any dif-*
18 *ferences between predicted and actual out-*
19 *comes for the eligible project.*

20 (B) *SUBMISSION OF REPORT.—Not later*
21 *than 9 months after an eligible project selected to*
22 *participate in the program begins revenue oper-*
23 *ations, the recipient shall submit to the Sec-*
24 *retary a report on the results of the study under*
25 *subparagraph (A).*

1 **SEC. 20011. FORMULA GRANTS FOR THE ENHANCED MOBIL-**
2 **ITY OF SENIORS AND INDIVIDUALS WITH DIS-**
3 **ABILITIES.**

4 *Section 5310 of title 49, United States Code, is amend-*
5 *ed to read as follows:*

6 **“§ 5310. Formula grants for the enhanced mobility of**
7 **seniors and individuals with disabilities**

8 *“(a) DEFINITIONS.—In this section, the following defi-*
9 *initions shall apply:*

10 *“(1) RECIPIENT.—The term ‘recipient’ means a*
11 *designated recipient or a State that receives a grant*
12 *under this section directly.*

13 *“(2) SUBRECIPIENT.—The term ‘subrecipient’*
14 *means a State or local governmental authority, non-*
15 *profit organization, or operator of public transpor-*
16 *tation that receives a grant under this section indi-*
17 *rectly through a recipient.*

18 *“(b) GENERAL AUTHORITY.—*

19 *“(1) GRANTS.—The Secretary may make grants*
20 *under this section to recipients for—*

21 *“(A) public transportation capital projects*
22 *planned, designed, and carried out to meet the*
23 *special needs of seniors and individuals with dis-*
24 *abilities when public transportation is insuffi-*
25 *cient, inappropriate, or unavailable;*

1 “(B) public transportation projects that ex-
2 ceed the requirements of the Americans with Dis-
3 abilities Act of 1990 (42 U.S.C. 12101 et seq.);

4 “(C) public transportation projects that im-
5 prove access to fixed route service and decrease
6 reliance by individuals with disabilities on com-
7 plementary paratransit; and

8 “(D) alternatives to public transportation
9 that assist seniors and individuals with disabil-
10 ities with transportation.

11 “(2) LIMITATIONS FOR CAPITAL PROJECTS.—

12 “(A) AMOUNT AVAILABLE.—The amount
13 available for capital projects under paragraph
14 (1)(A) shall be not less than 55 percent of the
15 funds apportioned to the recipient under this sec-
16 tion.

17 “(B) ALLOCATION TO SUBRECIPIENTS.—A
18 recipient of a grant under paragraph (1)(A)
19 may allocate the amounts provided under the
20 grant to—

21 “(i) a nonprofit organization; or

22 “(ii) a State or local governmental au-
23 thority that—

1 “(I) is approved by a State to co-
2 ordinate services for seniors and indi-
3 viduals with disabilities; or

4 “(II) certifies that there are no
5 nonprofit organizations readily avail-
6 able in the area to provide the services
7 described in paragraph (1)(A).

8 “(3) ADMINISTRATIVE EXPENSES.—

9 “(A) IN GENERAL.—A recipient may use
10 not more than 10 percent of the amounts appor-
11 tioned to the recipient under this section to ad-
12 minister, plan, and provide technical assistance
13 for a project funded under this section.

14 “(B) GOVERNMENT SHARE OF COSTS.—The
15 Government share of the costs of administering a
16 program carried out using funds under this sec-
17 tion shall be 100 percent.

18 “(4) ELIGIBLE CAPITAL EXPENSES.—The acqui-
19 sition of public transportation services is an eligible
20 capital expense under this section.

21 “(5) COORDINATION.—

22 “(A) DEPARTMENT OF TRANSPORTATION.—
23 To the maximum extent feasible, the Secretary
24 shall coordinate activities under this section with

1 *related activities under other Federal depart-*
2 *ments and agencies.*

3 “(B) *OTHER FEDERAL AGENCIES AND NON-*
4 *PROFIT ORGANIZATIONS.—A State or local gov-*
5 *ernmental authority or nonprofit organization*
6 *that receives assistance from Government sources*
7 *(other than the Department of Transportation)*
8 *for nonemergency transportation services shall—*

9 “(i) *participate and coordinate with*
10 *recipients of assistance under this chapter*
11 *in the design and delivery of transportation*
12 *services; and*

13 “(ii) *participate in the planning for*
14 *the transportation services described in*
15 *clause (i).*

16 “(6) *PROGRAM OF PROJECTS.—*

17 “(A) *IN GENERAL.—Amounts made avail-*
18 *able to carry out this section may be used for*
19 *transportation projects to assist in providing*
20 *transportation services for seniors and individ-*
21 *uals with disabilities, if such transportation*
22 *projects are included in a program of projects.*

23 “(B) *SUBMISSION.—A recipient shall annu-*
24 *ally submit a program of projects to the Sec-*
25 *retary.*

1 “(C) *ASSURANCE.*—*The program of projects*
2 *submitted under subparagraph (B) shall contain*
3 *an assurance that the program provides for the*
4 *maximum feasible coordination of transportation*
5 *services assisted under this section with trans-*
6 *portation services assisted by other Government*
7 *sources.*

8 “(7) *MEAL DELIVERY FOR HOMEBOUND INDIVID-*
9 *UALS.*—*A public transportation service provider that*
10 *receives assistance under this section or section*
11 *5311(c) may coordinate and assist in regularly pro-*
12 *viding meal delivery service for homebound individ-*
13 *uals, if the delivery service does not conflict with pro-*
14 *viding public transportation service or reduce service*
15 *to public transportation passengers.*

16 “(c) *APPORTIONMENT AND TRANSFERS.*—

17 “(1) *FORMULA.*—*The Secretary shall apportion*
18 *amounts made available to carry out this section as*
19 *follows:*

20 “(A) *LARGE URBANIZED AREAS.*—*Sixty*
21 *percent of the funds shall be apportioned among*
22 *designated recipients for urbanized areas with a*
23 *population of 200,000 or more individuals, as*
24 *determined by the Bureau of the Census, in the*
25 *ratio that—*

1 “(i) the number of seniors and individ-
2 uals with disabilities in each such urban-
3 ized area; bears to

4 “(ii) the number of seniors and indi-
5 viduals with disabilities in all such urban-
6 ized areas.

7 “(B) *SMALL URBANIZED AREAS.*—Twenty
8 percent of the funds shall be apportioned among
9 the States in the ratio that—

10 “(i) the number of seniors and individ-
11 uals with disabilities in urbanized areas
12 with a population of fewer than 200,000 in-
13 dividuals, as determined by the Bureau of
14 the Census, in each State; bears to

15 “(ii) the number of seniors and indi-
16 viduals with disabilities in urbanized areas
17 with a population of fewer than 200,000 in-
18 dividuals, as determined by the Bureau of
19 the Census, in all States.

20 “(C) *OTHER THAN URBANIZED AREAS.*—
21 Twenty percent of the funds shall be apportioned
22 among the States in the ratio that—

23 “(i) the number of seniors and individ-
24 uals with disabilities in other than urban-
25 ized areas in each State; bears to

1 “(ii) the number of seniors and indi-
2 viduals with disabilities in other than ur-
3 banized areas in all States.

4 “(2) AREAS SERVED BY PROJECTS.—

5 “(A) IN GENERAL.—Except as provided in
6 subparagraph (B)—

7 “(i) funds apportioned under para-
8 graph (1)(A) shall be used for projects serv-
9 ing urbanized areas with a population of
10 200,000 or more individuals, as determined
11 by the Bureau of the Census;

12 “(ii) funds apportioned under para-
13 graph (1)(B) shall be used for projects serv-
14 ing urbanized areas with a population of
15 fewer than 200,000 individuals, as deter-
16 mined by the Bureau of the Census; and

17 “(iii) funds apportioned under para-
18 graph (1)(C) shall be used for projects serv-
19 ing other than urbanized areas.

20 “(B) EXCEPTIONS.—A State may use funds
21 apportioned to the State under subparagraph
22 (B) or (C) of paragraph (1)—

23 “(i) for a project serving an area other
24 than an area specified in subparagraph
25 (A)(ii) or (A)(iii), as the case may be, if the

1 *Governor of the State certifies that all of the*
2 *objectives of this section are being met in*
3 *the area specified in subparagraph (A)(ii)*
4 *or (A)(iii); or*

5 *“(ii) for a project anywhere in the*
6 *State, if the State has established a state-*
7 *wide program for meeting the objectives of*
8 *this section.*

9 *“(C) LIMITED TO ELIGIBLE PROJECTS.—*
10 *Any funds transferred pursuant to subparagraph*
11 *(B) shall be made available only for eligible*
12 *projects selected under this section.*

13 *“(D) CONSULTATION.—A recipient may*
14 *transfer an amount under subparagraph (B)*
15 *only after consulting with responsible local offi-*
16 *cial, publicly owned operators of public trans-*
17 *portation, and nonprofit providers in the area*
18 *for which the amount was originally appor-*
19 *tioned.*

20 *“(d) GOVERNMENT SHARE OF COSTS.—*

21 *“(1) CAPITAL PROJECTS.—A grant for a capital*
22 *project under this section shall be in an amount equal*
23 *to 80 percent of the net capital costs of the project,*
24 *as determined by the Secretary.*

1 “(2) *OPERATING ASSISTANCE.*—*A grant made*
2 *under this section for operating assistance may not*
3 *exceed an amount equal to 50 percent of the net oper-*
4 *ating costs of the project, as determined by the Sec-*
5 *retary.*

6 “(3) *REMAINDER OF NET COSTS.*—*The remain-*
7 *der of the net costs of a project carried out under this*
8 *section—*

9 “(A) *may be provided from an undistrib-*
10 *uted cash surplus, a replacement or depreciation*
11 *cash fund or reserve, a service agreement with a*
12 *State or local social service agency or a private*
13 *social service organization, or new capital; and*

14 “(B) *may be derived from amounts appro-*
15 *priated or otherwise made available—*

16 “(i) *to a department or agency of the*
17 *Government (other than the Department of*
18 *Transportation) that are eligible to be ex-*
19 *pended for transportation; or*

20 “(ii) *to carry out the Federal lands*
21 *highways program under section 204 of title*
22 *23, United States Code.*

23 “(4) *USE OF CERTAIN FUNDS.*—*For purposes of*
24 *paragraph (3)(B)(i), the prohibition under section*
25 *403(a)(5)(C)(vii) of the Social Security Act (42*

1 *U.S.C. 603(a)(5)(C)(vii) on the use of grant funds*
2 *for matching requirements shall not apply to Federal*
3 *or State funds to be used for transportation purposes.*

4 *“(e) GRANT REQUIREMENTS.—*

5 *“(1) IN GENERAL.—A grant under this section*
6 *shall be subject to the same requirements as a grant*
7 *under section 5307, to the extent the Secretary deter-*
8 *mines appropriate.*

9 *“(2) CERTIFICATION REQUIREMENTS.—*

10 *“(A) PROJECT SELECTION AND PLAN DE-*
11 *VELOPMENT.—Before receiving a grant under*
12 *this section, each recipient shall certify that—*

13 *“(i) the projects selected by the recipi-*
14 *ent are included in a locally developed, co-*
15 *ordinated public transit-human services*
16 *transportation plan;*

17 *“(ii) the plan described in clause (i)*
18 *was developed and approved through a*
19 *process that included participation by sen-*
20 *iors, individuals with disabilities, represent-*
21 *atives of public, private, and nonprofit*
22 *transportation and human services pro-*
23 *viders, and other members of the public; and*

24 *“(iii) to the maximum extent feasible,*
25 *the services funded under this section will be*

1 *coordinated with transportation services as-*
2 *isted by other Federal departments and*
3 *agencies, including any transportation ac-*
4 *tivities carried out by a recipient of a grant*
5 *from the Department of Health and Human*
6 *Services.*

7 “(B) *ALLOCATIONS TO SUBRECIPIENTS.—If*
8 *a recipient allocates funds received under this*
9 *section to subrecipients, the recipient shall cer-*
10 *tify that the funds are allocated on a fair and*
11 *equitable basis.*

12 “(f) *COMPETITIVE PROCESS FOR GRANTS TO SUB-*
13 *RECIPIENTS.—*

14 “(1) *AREAWIDE SOLICITATIONS.—A recipient of*
15 *funds apportioned under subsection (c)(1)(A) may*
16 *conduct, in cooperation with the appropriate metro-*
17 *politan planning organization, an areawide solicita-*
18 *tion for applications for grants under this section.*

19 “(2) *STATEWIDE SOLICITATIONS.—A recipient of*
20 *funds apportioned under subparagraph (B) or (C) of*
21 *subsection (c)(1) may conduct a statewide solicitation*
22 *for applications for grants under this section.*

23 “(3) *APPLICATION.—If the recipient elects to en-*
24 *gage in a competitive process, a recipient or sub-*
25 *recipient seeking to receive a grant from funds appor-*

1 tioned under subsection (c) shall submit to the recipi-
2 ent making the election an application in such form
3 and in accordance with such requirements as the re-
4 cipient making the election shall establish.

5 “(g) *TRANSFERS OF FACILITIES AND EQUIPMENT.*—
6 A recipient may transfer a facility or equipment acquired
7 using a grant under this section to any other recipient eligi-
8 ble to receive assistance under this chapter, if—

9 “(1) the recipient in possession of the facility or
10 equipment consents to the transfer; and

11 “(2) the facility or equipment will continue to be
12 used as required under this section.

13 “(h) *PERFORMANCE MEASURES.*—

14 “(1) *IN GENERAL.*—Not later than 1 year after
15 the date of enactment of the Federal Public Transpor-
16 tation Act of 2012, the Secretary shall issue a final
17 rule to establish performance measures for grants
18 under this section.

19 “(2) *MEASURES.*—The performance measures es-
20 tablished under paragraph (1) shall require the collec-
21 tion of quantitative and qualitative information, as
22 available, concerning—

23 “(A) modifications to the geographic cov-
24 erage of transportation service, the quality of
25 transportation service, or service times that in-

1 crease the availability of transportation services
2 for seniors and individuals with disabilities;

3 “(B) ridership;

4 “(C) accessibility improvements; and

5 “(D) other measures, as the Secretary deter-
6 mines is appropriate.

7 “(3) *TARGETS*.—Not later than 3 months after
8 the date on which the Secretary issues a final rule
9 under paragraph (1), and each fiscal year thereafter,
10 each recipient that receives Federal financial assist-
11 ance under this section shall establish performance
12 targets in relation to the performance measures estab-
13 lished by the Secretary.

14 “(4) *REPORTS*.—Each recipient of Federal fi-
15 nancial assistance under this section shall submit to
16 the Secretary an annual report that describes—

17 “(A) the progress of the recipient toward
18 meeting the performance targets established
19 under paragraph (3) for that fiscal year; and

20 “(B) the performance targets established by
21 the recipient for the subsequent fiscal year.”.

22 **SEC. 20012. FORMULA GRANTS FOR OTHER THAN URBAN-**
23 **IZED AREAS.**

24 (a) *IN GENERAL*.—Section 5311 of title 49, United
25 States Code, is amended to read as follows:

1 **“§5311. Formula grants for other than urbanized**
2 **areas**

3 “(a) *DEFINITIONS.*—As used in this section, the fol-
4 *lowing definitions shall apply:*

5 “(1) *RECIPIENT.*—The term ‘recipient’ means a
6 *State or Indian tribe that receives a Federal transit*
7 *program grant directly from the Government.*

8 “(2) *SUBRECIPIENT.*—The term ‘subrecipient’
9 *means a State or local governmental authority, a*
10 *nonprofit organization, or an operator of public*
11 *transportation or intercity bus service that receives*
12 *Federal transit program grant funds indirectly*
13 *through a recipient.*

14 “(b) *GENERAL AUTHORITY.*—

15 “(1) *GRANTS AUTHORIZED.*—Except as provided
16 *by paragraph (2), the Secretary may award grants*
17 *under this section to recipients located in areas other*
18 *than urbanized areas for—*

19 “(A) *planning, provided that a grant under*
20 *this section for planning activities shall be in*
21 *addition to funding awarded to a State under*
22 *section 5305 for planning activities that are di-*
23 *rected specifically at the needs of other than ur-*
24 *banized areas in the State;*

25 “(B) *public transportation capital projects;*

1 “(C) *operating costs of equipment and fa-*
2 *cilities for use in public transportation; and*

3 “(D) *the acquisition of public transpor-*
4 *tation services, including service agreements with*
5 *private providers of public transportation serv-*
6 *ice.*

7 “(2) *STATE PROGRAM.—*

8 “(A) *IN GENERAL.—A project eligible for a*
9 *grant under this section shall be included in a*
10 *State program for public transportation service*
11 *projects, including agreements with private pro-*
12 *viders of public transportation service.*

13 “(B) *SUBMISSION TO SECRETARY.—Each*
14 *State shall submit to the Secretary annually the*
15 *program described in subparagraph (A).*

16 “(C) *APPROVAL.—The Secretary may not*
17 *approve the program unless the Secretary deter-*
18 *mines that—*

19 “(i) *the program provides a fair dis-*
20 *tribution of amounts in the State, including*
21 *Indian reservations; and*

22 “(ii) *the program provides the max-*
23 *imum feasible coordination of public trans-*
24 *portation service assisted under this section*

1 *with transportation service assisted by other*
2 *Federal sources.*

3 “(3) *RURAL TRANSPORTATION ASSISTANCE PRO-*
4 *GRAM.—*

5 “(A) *IN GENERAL.—The Secretary shall*
6 *carry out a rural transportation assistance pro-*
7 *gram in other than urbanized areas.*

8 “(B) *GRANTS AND CONTRACTS.—In car-*
9 *rying out this paragraph, the Secretary may use*
10 *not more than 2 percent of the amount made*
11 *available under section 5338(a)(2)(F) to make*
12 *grants and contracts for transportation research,*
13 *technical assistance, training, and related sup-*
14 *port services in other than urbanized areas.*

15 “(C) *PROJECTS OF A NATIONAL SCOPE.—*
16 *Not more than 15 percent of the amounts avail-*
17 *able under subparagraph (B) may be used by the*
18 *Secretary to carry out projects of a national*
19 *scope, with the remaining balance provided to*
20 *the States.*

21 “(4) *DATA COLLECTION.—Each recipient under*
22 *this section shall submit an annual report to the Sec-*
23 *retary containing information on capital investment,*
24 *operations, and service provided with funds received*
25 *under this section, including—*

- 1 “(A) *total annual revenue;*
 2 “(B) *sources of revenue;*
 3 “(C) *total annual operating costs;*
 4 “(D) *total annual capital costs;*
 5 “(E) *fleet size and type, and related facili-*
 6 *ties;*
 7 “(F) *vehicle revenue miles; and*
 8 “(G) *ridership.*

9 “(c) *APPORTIONMENTS.—*

10 “(1) *PUBLIC TRANSPORTATION ON INDIAN RES-*
 11 *ERVATIONS.—Of the amounts made available or ap-*
 12 *propriated for each fiscal year pursuant to section*
 13 *5338(a)(2)(F) to carry out this paragraph, the fol-*
 14 *lowing amounts shall be apportioned each fiscal year*
 15 *for grants to Indian tribes for any purpose eligible*
 16 *under this section, under such terms and conditions*
 17 *as may be established by the Secretary:*

18 “(A) *\$10,000,000 shall be distributed on a*
 19 *competitive basis by the Secretary.*

20 “(B) *\$20,000,000 shall be apportioned as*
 21 *formula grants, as provided in subsection (k).*

22 “(2) *APPALACHIAN DEVELOPMENT PUBLIC*
 23 *TRANSPORTATION ASSISTANCE PROGRAM.—*

24 “(A) *DEFINITIONS.—In this paragraph—*

1 “(i) the term ‘Appalachian region’ has
2 the same meaning as in section 14102 of
3 title 40; and

4 “(ii) the term ‘eligible recipient’ means
5 a State that participates in a program es-
6 tablished under subtitle IV of title 40.

7 “(B) *IN GENERAL.*—The Secretary shall
8 carry out a public transportation assistance pro-
9 gram in the Appalachian region.

10 “(C) *APPORTIONMENT.*—Of amounts made
11 available or appropriated for each fiscal year
12 under section 5338(a)(2)(F) to carry out this
13 paragraph, the Secretary shall apportion funds
14 to eligible recipients for any purpose eligible
15 under this section, based on the guidelines estab-
16 lished under section 9.5(b) of the Appalachian
17 Regional Commission Code.

18 “(D) *SPECIAL RULE.*—An eligible recipient
19 may use amounts that cannot be used for oper-
20 ating expenses under this paragraph for a high-
21 way project if—

22 “(i) that use is approved, in writing,
23 by the eligible recipient after appropriate
24 notice and an opportunity for comment and

1 *appeal are provided to affected public trans-*
2 *portation providers; and*

3 “(ii) *the eligible recipient, in approv-*
4 *ing the use of amounts under this subpara-*
5 *graph, determines that the local transit*
6 *needs are being addressed.*

7 “(3) *REMAINING AMOUNTS.—*

8 “(A) *IN GENERAL.—The amounts made*
9 *available or appropriated for each fiscal year*
10 *pursuant to section 5338(a)(2)(F) that are not*
11 *apportioned under paragraph (1) or (2) shall be*
12 *apportioned in accordance with this paragraph.*

13 “(B) *APPORTIONMENT BASED ON LAND*
14 *AREA AND POPULATION IN NONURBANIZED*
15 *AREAS.—*

16 “(i) *IN GENERAL.—83.15 percent of the*
17 *amount described in subparagraph (A) shall*
18 *be apportioned to the States in accordance*
19 *with this subparagraph.*

20 “(ii) *LAND AREA.—*

21 “(I) *IN GENERAL.—Subject to*
22 *subclause (II), each State shall receive*
23 *an amount that is equal to 20 percent*
24 *of the amount apportioned under*
25 *clause (i), multiplied by the ratio of*

1 *the land area in areas other than ur-*
2 *banized areas in that State and di-*
3 *vided by the land area in all areas*
4 *other than urbanized areas in the*
5 *United States, as shown by the most*
6 *recent decennial census of population.*

7 “(II) MAXIMUM APPORTION-
8 MENT.—No State shall receive more
9 than 5 percent of the amount appor-
10 tioned under subclause (I).

11 “(iii) POPULATION.—Each State shall
12 receive an amount equal to 80 percent of the
13 amount apportioned under clause (i), mul-
14 tiplied by the ratio of the population of
15 areas other than urbanized areas in that
16 State and divided by the population of all
17 areas other than urbanized areas in the
18 United States, as shown by the most recent
19 decennial census of population.

20 “(C) APPORTIONMENT BASED ON LAND
21 AREA, VEHICLE REVENUE MILES, AND LOW-IN-
22 COME INDIVIDUALS IN NONURBANIZED AREAS.—

23 “(i) IN GENERAL.—16.85 percent of the
24 amount described in subparagraph (A) shall

1 *be apportioned to the States in accordance*
2 *with this subparagraph.*

3 “(ii) *LAND AREA.*—*Subject to clause*
4 *(v), each State shall receive an amount that*
5 *is equal to 29.68 percent of the amount ap-*
6 *portioned under clause (i), multiplied by*
7 *the ratio of the land area in areas other*
8 *than urbanized areas in that State and di-*
9 *vided by the land area in all areas other*
10 *than urbanized areas in the United States,*
11 *as shown by the most recent decennial cen-*
12 *sus of population.*

13 “(iii) *VEHICLE REVENUE MILES.*—
14 *Subject to clause (v), each State shall re-*
15 *ceive an amount that is equal to 29.68 per-*
16 *cent of the amount apportioned under*
17 *clause (i), multiplied by the ratio of vehicle*
18 *revenue miles in areas other than urbanized*
19 *areas in that State and divided by the vehi-*
20 *cle revenue miles in all areas other than ur-*
21 *banized areas in the United States, as de-*
22 *termined by national transit database re-*
23 *porting.*

24 “(iv) *LOW-INCOME INDIVIDUALS.*—
25 *Each State shall receive an amount that is*

1 *equal to 40.64 percent of the amount appor-*
2 *tioned under clause (i), multiplied by the*
3 *ratio of low-income individuals in areas*
4 *other than urbanized areas in that State*
5 *and divided by the number of low-income*
6 *individuals in all areas other than urban-*
7 *ized areas in the United States, as shown*
8 *by the Bureau of the Census.*

9 “(v) *MAXIMUM APPORTIONMENT.—No*
10 *State shall receive—*

11 “(I) *more than 5 percent of the*
12 *amount apportioned under clause (ii);*
13 *or*

14 “(II) *more than 5 percent of the*
15 *amount apportioned under clause (iii).*

16 “(d) *USE FOR LOCAL TRANSPORTATION SERVICE.—A*
17 *State may use an amount apportioned under this section*
18 *for a project included in a program under subsection (b)*
19 *of this section and eligible for assistance under this chapter*
20 *if the project will provide local transportation service, as*
21 *defined by the Secretary of Transportation, in an area other*
22 *than an urbanized area.*

23 “(e) *USE FOR ADMINISTRATION, PLANNING, AND*
24 *TECHNICAL ASSISTANCE.—The Secretary may allow a*
25 *State to use not more than 15 percent of the amount appor-*

1 *tioned under this section to administer this section and pro-*
2 *vide technical assistance to a subrecipient, including project*
3 *planning, program and management development, coordi-*
4 *nation of public transportation programs, and research the*
5 *State considers appropriate to promote effective delivery of*
6 *public transportation to an area other than an urbanized*
7 *area.*

8 “(f) *INTERCITY BUS TRANSPORTATION.*—

9 “(1) *IN GENERAL.*—*A State shall expend at least*
10 *15 percent of the amount made available in each fis-*
11 *cal year to carry out a program to develop and sup-*
12 *port intercity bus transportation. Eligible activities*
13 *under the program include—*

14 “(A) *planning and marketing for intercity*
15 *bus transportation;*

16 “(B) *capital grants for intercity bus shel-*
17 *ters;*

18 “(C) *joint-use stops and depots;*

19 “(D) *operating grants through purchase-of-*
20 *service agreements, user-side subsidies, and dem-*
21 *onstration projects; and*

22 “(E) *coordinating rural connections be-*
23 *tween small public transportation operations*
24 *and intercity bus carriers.*

1 “(2) *CERTIFICATION.*—*A State does not have to*
2 *comply with paragraph (1) of this subsection in a fis-*
3 *cal year in which the Governor of the State certifies*
4 *to the Secretary, after consultation with affected*
5 *intercity bus service providers, that the intercity bus*
6 *service needs of the State are being met adequately.*

7 “(g) *ACCESS TO JOBS PROJECTS.*—

8 “(1) *IN GENERAL.*—*Amounts made available*
9 *under section 5338(a)(2)(F) may be used to carry out*
10 *a program to develop and maintain job access*
11 *projects. Eligible projects may include—*

12 “(A) *projects relating to the development*
13 *and maintenance of public transportation serv-*
14 *ices designed to transport eligible low-income in-*
15 *dividuals to and from jobs and activities related*
16 *to their employment, including—*

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

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

1 “(iii) promoting the use of transit
2 vouchers for welfare recipients and eligible
3 low-income individuals; and

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

8 “(B) transportation projects designed to
9 support the use of public transportation includ-
10 ing—

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

14 “(ii) guaranteed ride home programs;

15 “(iii) bicycle storage facilities; and

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

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

22 “(A) the projects selected were included in a
23 locally developed, coordinated public transit-
24 human services transportation plan;

1 “(B) the plan was developed and approved
2 through a process that included participation by
3 low-income individuals, representatives of public,
4 private, and nonprofit transportation and
5 human services providers, and the public;

6 “(C) to the maximum extent feasible, serv-
7 ices funded under this subsection are coordinated
8 with transportation services funded by other
9 Federal departments and agencies; and

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

13 “(3) *COMPETITIVE PROCESS FOR GRANTS TO*
14 *SUBRECIPIENTS.—*

15 “(A) *STATEWIDE SOLICITATIONS.—*A State
16 may conduct a statewide solicitation for applica-
17 tions for grants to recipients and subrecipients
18 under this subsection.

19 “(B) *APPLICATION.—*If the State elects to
20 engage in a competitive process, recipients and
21 subrecipients seeking to receive a grant from ap-
22 portioned funds shall submit to the State an ap-
23 plication in the form and in accordance with
24 such requirements as the State shall establish.

25 “(h) *GOVERNMENT SHARE OF COSTS.—*

1 “(1) *CAPITAL PROJECTS.*—

2 “(A) *IN GENERAL.*—*Except as provided by*
3 *subparagraph (B), a grant awarded under this*
4 *section for a capital project or project adminis-*
5 *trative expenses shall be for 80 percent of the net*
6 *costs of the project, as determined by the Sec-*
7 *retary.*

8 “(B) *EXCEPTION.*—*A State described in sec-*
9 *tion 120(b) of title 23 shall receive a Government*
10 *share of the net costs in accordance with the for-*
11 *mula under that section.*

12 “(2) *OPERATING ASSISTANCE.*—

13 “(A) *IN GENERAL.*—*Except as provided by*
14 *subparagraph (B), a grant made under this sec-*
15 *tion for operating assistance may not exceed 50*
16 *percent of the net operating costs of the project,*
17 *as determined by the Secretary.*

18 “(B) *EXCEPTION.*—*A State described in sec-*
19 *tion 120(b) of title 23 shall receive a Government*
20 *share of the net operating costs equal to 62.5 per-*
21 *cent of the Government share provided for under*
22 *paragraph (1)(B).*

23 “(3) *REMAINDER.*—*The remainder of net project*
24 *costs—*

1 “(A) may be provided from an undistrib-
2 uted cash surplus, a replacement or depreciation
3 cash fund or reserve, a service agreement with a
4 State or local social service agency or a private
5 social service organization, or new capital;

6 “(B) may be derived from amounts appro-
7 priated or otherwise made available to a depart-
8 ment or agency of the Government (other than
9 the Department of Transportation) that are eli-
10 gible to be expended for transportation; and

11 “(C) notwithstanding subparagraph (B),
12 may be derived from amounts made available to
13 carry out the Federal lands highway program es-
14 tablished by section 204 of title 23.

15 “(4) *USE OF CERTAIN FUNDS.*—For purposes of
16 paragraph (3)(B), the prohibitions on the use of funds
17 for matching requirements under section
18 403(a)(5)(C)(vii) of the Social Security Act (42
19 U.S.C. 603(a)(5)(C)(vii)) shall not apply to Federal
20 or State funds to be used for transportation purposes.

21 “(5) *LIMITATION ON OPERATING ASSISTANCE.*—
22 A State carrying out a program of operating assist-
23 ance under this section may not limit the level or ex-
24 tent of use of the Government grant for the payment
25 of operating expenses.

1 “(i) *TRANSFER OF FACILITIES AND EQUIPMENT.*—
2 *With the consent of the recipient currently having a facility*
3 *or equipment acquired with assistance under this section,*
4 *a State may transfer the facility or equipment to any re-*
5 *ipient eligible to receive assistance under this chapter if*
6 *the facility or equipment will continue to be used as re-*
7 *quired under this section.*

8 “(j) *RELATIONSHIP TO OTHER LAWS.*—

9 “(1) *IN GENERAL.*—*Section 5333(b) applies to*
10 *this section if the Secretary of Labor utilizes a special*
11 *warranty that provides a fair and equitable arrange-*
12 *ment to protect the interests of employees.*

13 “(2) *RULE OF CONSTRUCTION.*—*This subsection*
14 *does not affect or discharge a responsibility of the*
15 *Secretary of Transportation under a law of the*
16 *United States.*

17 “(k) *FORMULA GRANTS FOR PUBLIC TRANSPORTATION*
18 *ON INDIAN RESERVATIONS.*—

19 “(1) *APPORTIONMENT.*—

20 “(A) *IN GENERAL.*—*Of the amounts de-*
21 *scribed in subsection (c)(1)(B)—*

22 “(i) *50 percent of the total amount*
23 *shall be apportioned so that each Indian*
24 *tribe providing public transportation serv-*
25 *ice shall receive an amount equal to the*

1 *total amount apportioned under this clause*
2 *multiplied by the ratio of the number of ve-*
3 *hicle revenue miles provided by an Indian*
4 *tribe divided by the total number of vehicle*
5 *revenue miles provided by all Indian tribes,*
6 *as reported to the Secretary;*

7 “(ii) 25 percent of the total amount
8 shall be apportioned equally among each In-
9 dian tribe providing at least 200,000 vehicle
10 revenue miles of public transportation serv-
11 ice annually, as reported to the Secretary;
12 and

13 “(iii) 25 percent of the total amount
14 shall be apportioned among each Indian
15 tribe providing public transportation on
16 tribal lands on which more than 1,000 low-
17 income individuals reside (as determined by
18 the Bureau of the Census) so that each In-
19 dian tribe shall receive an amount equal to
20 the total amount apportioned under this
21 clause multiplied by the ratio of the number
22 of low-income individuals residing on an
23 Indian tribe’s lands divided by the total
24 number of low-income individuals on tribal

1 lands on which more than 1,000 low-income
2 individuals reside.

3 “(B) *LIMITATION.*—No recipient shall re-
4 ceive more than \$300,000 of the amounts appor-
5 tioned under subparagraph (A)(iii) in a fiscal
6 year.

7 “(C) *REMAINING AMOUNTS.*—Of the
8 amounts made available under subparagraph
9 (A)(iii), any amounts not apportioned under
10 that subparagraph shall be allocated among In-
11 dian tribes receiving less than \$300,000 in a fis-
12 cal year according to the formula specified in
13 that clause.

14 “(D) *LOW-INCOME INDIVIDUALS.*—For pur-
15 poses of subparagraph (A)(iii), the term ‘low-in-
16 come individual’ means an individual whose
17 family income is at or below 100 percent of the
18 poverty line, as that term is defined in section
19 673(2) of the Community Services Block Grant
20 Act (42 U.S.C. 9902(2)), including any revision
21 required by that section, for a family of the size
22 involved.

23 “(2) *NON-TRIBAL SERVICE PROVIDERS.*—A re-
24 cipient that is an Indian tribe may use funds appor-
25 tioned under this subsection to finance public trans-

1 *portation services provided by a non-tribal provider*
2 *of public transportation that connects residents of*
3 *tribal lands with surrounding communities, improves*
4 *access to employment or healthcare, or otherwise ad-*
5 *dresses the mobility needs of tribal members.”.*

6 *(b) PILOT PROGRAM FOR INTERCITY BUS SERVICE.—*

7 *(1) DEFINITIONS.—In this subsection, the fol-*
8 *lowing definitions shall apply:*

9 *(A) ELIGIBLE PROJECT.—The term “eligible*
10 *project” means an intercity bus project eligible*
11 *under section 5311(f) of title 49, United States*
12 *Code, as amended by this section, that includes*
13 *both feeder service and an unsubsidized segment*
14 *of the intercity bus network to which it connects.*

15 *(B) FEEDER SERVICE.—The term “feeder*
16 *service” means the provision of intercity connec-*
17 *tions to allow for the coordination of rural con-*
18 *nections between small public transportation sys-*
19 *tems and providers of intercity bus service.*

20 *(C) INTERCITY BUS SERVICE.—The term*
21 *“intercity bus service” means regularly scheduled*
22 *bus service provided by private operators for the*
23 *general public that operates with limited stops*
24 *over fixed routes connecting two or more urban*
25 *areas not in close proximity, that has the capac-*

1 *ity for transporting baggage carried by pas-*
2 *sengers, and that makes meaningful connections*
3 *with scheduled intercity bus service to more dis-*
4 *tant points, if such service is available.*

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

7 (2) *IN-KIND MATCH.*—*The Secretary shall estab-*
8 *lish a pilot program under which the Secretary may*
9 *allow not more than 20 States using funding pro-*
10 *vided to carry out section 5311(f) of title 49, United*
11 *States Code, as amended by this section, to support*
12 *intercity bus service using the capital costs of unsub-*
13 *sidized service provided by a private operator as in-*
14 *kind match for an eligible project.*

15 (3) *STUDY.*—*The Comptroller General of the*
16 *United States shall conduct a study not later than 1*
17 *year after the date of enactment of this Act to deter-*
18 *mine the efficacy of the pilot program in improving*
19 *and expanding intercity bus service and the effect of*
20 *the pilot program on public transportation providers*
21 *and the commuting public.*

22 **SEC. 20013. RESEARCH, DEVELOPMENT, DEMONSTRATION,**
23 **AND DEPLOYMENT PROJECTS.**

24 *Section 5312 of title 49, United States Code, is amend-*
25 *ed to read as follows:*

1 **“§ 5312. Research, development, demonstration, and**
2 **deployment projects**

3 “(a) RESEARCH, DEVELOPMENT, DEMONSTRATION,
4 AND DEPLOYMENT PROJECTS.—

5 “(1) IN GENERAL.—The Secretary may make
6 grants and enter into contracts, cooperative agree-
7 ments, and other agreements for research, develop-
8 ment, demonstration, and deployment projects, and
9 evaluation of research and technology of national sig-
10 nificance to public transportation, that the Secretary
11 determines will improve public transportation.

12 “(2) AGREEMENTS.—In order to carry out para-
13 graph (1), the Secretary may make grants to and
14 enter into contracts, cooperative agreements, and
15 other agreements with—

16 “(A) departments, agencies, and instrumen-
17 talities of the Government;

18 “(B) State and local governmental entities;

19 “(C) providers of public transportation;

20 “(D) private or non-profit organizations;

21 “(E) institutions of higher education; and

22 “(F) technical and community colleges.

23 “(3) APPLICATION.—

24 “(A) IN GENERAL.—To receive a grant, con-
25 tract, cooperative agreement, or other agreement
26 under this section, an entity described in para-

1 *graph (2) shall submit an application to the Sec-*
2 *retary.*

3 “(B) *FORM AND CONTENTS.*—*An applica-*
4 *tion under subparagraph (A) shall be in such*
5 *form and contain such information as the Sec-*
6 *retary may require, including—*

7 “(i) *a statement of purpose detailing*
8 *the need being addressed;*

9 “(ii) *the short- and long-term goals of*
10 *the project, including opportunities for fu-*
11 *ture innovation and development, the poten-*
12 *tial for deployment, and benefits to riders*
13 *and public transportation; and*

14 “(iii) *the short- and long-term funding*
15 *requirements to complete the project and*
16 *any future objectives of the project.*

17 “(b) *RESEARCH.*—

18 “(1) *IN GENERAL.*—*The Secretary may make a*
19 *grant to or enter into a contract, cooperative agree-*
20 *ment, or other agreement under this section with an*
21 *entity described in subsection (a)(2) to carry out a*
22 *public transportation research project that has as its*
23 *ultimate goal the development and deployment of new*
24 *and innovative ideas, practices, and approaches.*

1 “(2) *PROJECT ELIGIBILITY.*—A public transpor-
2 *tation research project that receives assistance under*
3 *paragraph (1) shall focus on—*

4 “(A) *providing more effective and efficient*
5 *public transportation service, including services*
6 *to—*

7 “(i) *seniors;*

8 “(ii) *individuals with disabilities; and*

9 “(iii) *low-income individuals;*

10 “(B) *mobility management and improve-*
11 *ments and travel management systems;*

12 “(C) *data and communication system ad-*
13 *vancements;*

14 “(D) *system capacity, including—*

15 “(i) *train control;*

16 “(ii) *capacity improvements; and*

17 “(iii) *performance management;*

18 “(E) *capital and operating efficiencies;*

19 “(F) *planning and forecasting modeling*
20 *and simulation;*

21 “(G) *advanced vehicle design;*

22 “(H) *advancements in vehicle technology;*

23 “(I) *asset maintenance and repair systems*
24 *advancement;*

25 “(J) *construction and project management;*

1 “(K) *alternative fuels;*
2 “(L) *the environment and energy efficiency;*
3 “(M) *safety improvements; or*
4 “(N) *any other area that the Secretary de-*
5 *termines is important to advance the interests of*
6 *public transportation.*

7 “(c) *INNOVATION AND DEVELOPMENT.—*

8 “(1) *IN GENERAL.—The Secretary may make a*
9 *grant to or enter into a contract, cooperative agree-*
10 *ment, or other agreement under this section with an*
11 *entity described in subsection (a)(2) to carry out a*
12 *public transportation innovation and development*
13 *project that seeks to improve public transportation*
14 *systems nationwide in order to provide more efficient*
15 *and effective delivery of public transportation serv-*
16 *ices, including through technology and technological*
17 *capacity improvements.*

18 “(2) *PROJECT ELIGIBILITY.—A public transpor-*
19 *tation innovation and development project that re-*
20 *ceives assistance under paragraph (1) shall focus*
21 *on—*

22 “(A) *the development of public transpor-*
23 *tation research projects that received assistance*
24 *under subsection (b) that the Secretary deter-*
25 *mines were successful;*

1 “(B) *planning and forecasting modeling*
2 *and simulation;*

3 “(C) *capital and operating efficiencies;*

4 “(D) *advanced vehicle design;*

5 “(E) *advancements in vehicle technology;*

6 “(F) *the environment and energy efficiency;*

7 “(G) *system capacity, including train con-*
8 *trol and capacity improvements; or*

9 “(H) *any other area that the Secretary de-*
10 *termines is important to advance the interests of*
11 *public transportation.*

12 “(d) *DEMONSTRATION, DEPLOYMENT, AND EVALUA-*
13 *TION.—*

14 “(1) *IN GENERAL.—The Secretary may, under*
15 *terms and conditions that the Secretary prescribes,*
16 *make a grant to or enter into a contract, cooperative*
17 *agreement, or other agreement with an entity de-*
18 *scribed in paragraph (2) to promote the early deploy-*
19 *ment and demonstration of innovation in public*
20 *transportation that has broad applicability.*

21 “(2) *PARTICIPANTS.—An entity described in this*
22 *paragraph is—*

23 “(A) *an entity described in subsection*
24 *(a)(2); or*

1 “(B) a consortium of entities described in
2 subsection (a)(2), including a provider of public
3 transportation, that will share the costs, risks,
4 and rewards of early deployment and demonstra-
5 tion of innovation.

6 “(3) *PROJECT ELIGIBILITY*.—A project that re-
7 ceives assistance under paragraph (1) shall seek to
8 build on successful research, innovation, and develop-
9 ment efforts to facilitate—

10 “(A) the deployment of research and tech-
11 nology development resulting from private efforts
12 or federally funded efforts; and

13 “(B) the implementation of research and
14 technology development to advance the interests
15 of public transportation.

16 “(4) *EVALUATION*.—Not later than 2 years after
17 the date on which a project receives assistance under
18 paragraph (1), the Secretary shall conduct a com-
19 prehensive evaluation of the success or failure of the
20 projects funded under this subsection and any plan
21 for broad-based implementation of the innovation
22 promoted by successful projects.

23 “(e) *ANNUAL REPORT ON RESEARCH*.—Not later than
24 the first Monday in February of each year, the Secretary
25 shall submit to the Committee on Banking, Housing, and

1 *Urban Affairs and the Committee on Appropriations of the*
2 *Senate and the Committee on Transportation and Infra-*
3 *structure and the Committee on Appropriations of the*
4 *House of Representatives a report that includes—*

5 “(1) *a description of each project that received*
6 *assistance under this section during the preceding fis-*
7 *cal year;*

8 “(2) *an evaluation of each project described in*
9 *paragraph (1), including any evaluation conducted*
10 *under subsection (d)(4) for the preceding fiscal year;*
11 *and*

12 “(3) *a proposal for allocations of amounts for as-*
13 *sistance under this section for the subsequent fiscal*
14 *year.*

15 “(f) *GOVERNMENT SHARE OF COSTS.—*

16 “(1) *IN GENERAL.—The Government share of the*
17 *cost of a project carried out under this section shall*
18 *not exceed 80 percent.*

19 “(2) *NON-GOVERNMENT SHARE.—The non-Gov-*
20 *ernment share of the cost of a project carried out*
21 *under this section may be derived from in-kind con-*
22 *tributions.*

23 “(3) *FINANCIAL BENEFIT.—If the Secretary de-*
24 *termines that there would be a clear and direct finan-*
25 *cial benefit to an entity under a grant, contract, co-*

1 *operative agreement, or other agreement under this*
 2 *section, the Secretary shall establish a Government*
 3 *share of the costs of the project to be carried out under*
 4 *the grant, contract, cooperative agreement, or other*
 5 *agreement that is consistent with the benefit.”.*

6 **SEC. 20014. TECHNICAL ASSISTANCE AND STANDARDS DE-**
 7 **VELOPMENT.**

8 *Section 5314 of title 49, United States Code, is amend-*
 9 *ed to read as follows:*

10 **“§ 5314. Technical assistance and standards develop-**
 11 **ment**

12 *“(a) TECHNICAL ASSISTANCE AND STANDARDS DE-*
 13 *VELOPMENT.—*

14 *“(1) IN GENERAL.—The Secretary may make*
 15 *grants and enter into contracts, cooperative agree-*
 16 *ments, and other agreements (including agreements*
 17 *with departments, agencies, and instrumentalities of*
 18 *the Government) to carry out activities that the Sec-*
 19 *retary determines will assist recipients of assistance*
 20 *under this chapter to—*

21 *“(A) more effectively and efficiently provide*
 22 *public transportation service;*

23 *“(B) administer funds received under this*
 24 *chapter in compliance with Federal law; and*

25 *“(C) improve public transportation.*

1 “(2) *ELIGIBLE ACTIVITIES.*—*The activities car-*
2 *ried out under paragraph (1) may include—*

3 “(A) *technical assistance; and*

4 “(B) *the development of standards and best*
5 *practices by the public transportation industry.*

6 “(b) *TECHNICAL ASSISTANCE CENTERS.*—

7 “(1) *DEFINITION.*—*In this subsection, the term*
8 *‘eligible entity’ means a nonprofit organization, an*
9 *institution of higher education, or a technical or com-*
10 *munity college.*

11 “(2) *IN GENERAL.*—*The Secretary may make*
12 *grants to and enter into contracts, cooperative agree-*
13 *ments, and other agreements with eligible entities to*
14 *administer centers to provide technical assistance, in-*
15 *cluding—*

16 “(A) *the development of tools and guidance;*

17 *and*

18 “(B) *the dissemination of best practices.*

19 “(3) *COMPETITIVE PROCESS.*—*The Secretary*
20 *may make grants and enter into contracts, coopera-*
21 *tive agreements, and other agreements under para-*
22 *graph (2) through a competitive process on a biennial*
23 *basis for technical assistance in each of the following*
24 *categories:*

1 “(A) *Human services transportation coordi-*
2 *nation, including—*

3 “(i) *transportation for seniors;*

4 “(ii) *transportation for individuals*
5 *with disabilities; and*

6 “(iii) *coordination of local resources*
7 *and programs to assist low-income individ-*
8 *uals and veterans in gaining access to*
9 *training and employment opportunities.*

10 “(B) *Transit-oriented development.*

11 “(C) *Transportation equity with regard to*
12 *the impact that transportation planning, invest-*
13 *ment, and operations have on low-income and*
14 *minority individuals.*

15 “(D) *Financing mechanisms, including—*

16 “(i) *public-private partnerships;*

17 “(ii) *bonding; and*

18 “(iii) *State and local capacity build-*
19 *ing.*

20 “(E) *Any other activity that the Secretary*
21 *determines is important to advance the interests*
22 *of public transportation.*

23 “(4) *EXPERTISE OF TECHNICAL ASSISTANCE*
24 *CENTERS.—In selecting an eligible entity to admin-*

1 *ister a center under this subsection, the Secretary*
2 *shall consider—*

3 *“(A) the demonstrated subject matter exper-*
4 *tise of the eligible entity; and*

5 *“(B) the capacity of the eligible entity to*
6 *deliver technical assistance on a regional or na-*
7 *tionwide basis.*

8 *“(5) PARTNERSHIPS.—An eligible entity may*
9 *partner with another eligible entity to provide tech-*
10 *nical assistance under this subsection.*

11 *“(c) GOVERNMENT SHARE OF COSTS.—*

12 *“(1) IN GENERAL.—The Government share of the*
13 *cost of an activity under this section may not exceed*
14 *80 percent.*

15 *“(2) NON-GOVERNMENT SHARE.—The non-Gov-*
16 *ernment share of the cost of an activity under this*
17 *section may be derived from in-kind contributions.”.*

18 **SEC. 20015. BUS TESTING FACILITIES.**

19 *Section 5318 of title 49, United States Code, is amend-*
20 *ed to read as follows:*

21 **“§ 5318. Bus testing facilities**

22 *“(a) FACILITIES.—The Secretary shall certify not*
23 *more than 4 comprehensive facilities for testing new bus*
24 *models for maintainability, reliability, safety, performance*

1 *(including braking performance), structural integrity, fuel*
2 *economy, emissions, and noise.*

3 “(b) *COOPERATIVE AGREEMENT.*—*The Secretary shall*
4 *enter into a cooperative agreement with not more than 4*
5 *qualified entities to test public transportation vehicles*
6 *under subsection (a).*

7 “(c) *FEEES.*—*An entity that operates and maintains*
8 *a facility certified under subsection (a) shall establish and*
9 *collect reasonable fees for the testing of vehicles at the facil-*
10 *ity. The Secretary must approve the fees.*

11 “(d) *AVAILABILITY OF AMOUNTS TO PAY FOR TEST-*
12 *ING.*—

13 “(1) *IN GENERAL.*—*The Secretary shall enter*
14 *into a cooperative agreement with an entity that op-*
15 *erates and maintains a facility certified under sub-*
16 *section (a), under which 80 percent of the fee for test-*
17 *ing a vehicle at the facility may be available from*
18 *amounts apportioned to a recipient under section*
19 *5336 or from amounts appropriated to carry out this*
20 *section.*

21 “(2) *PROHIBITION.*—*An entity that operates and*
22 *maintains a facility described in subsection (a) shall*
23 *not have a financial interest in the outcome of the*
24 *testing carried out at the facility.*

1 “(e) *ACQUIRING NEW BUS MODELS.*—Amounts appro-
2 priated or made available under this chapter may be obli-
3 gated or expended to acquire a new bus model only if—

4 “(1) a bus of that model has been tested at a fa-
5 cility described in subsection (a); and

6 “(2) the bus tested under paragraph (1) met—

7 “(A) performance standards for maintain-
8 ability, reliability, performance (including brak-
9 ing performance), structural integrity, fuel econ-
10 omy, emissions, and noise, as established by the
11 Secretary by rule; and

12 “(B) the minimum safety performance
13 standards established by the Secretary pursuant
14 to section 5329(b).”.

15 **SEC. 20016. PUBLIC TRANSPORTATION WORKFORCE DEVEL-**
16 **OPMENT AND HUMAN RESOURCE PROGRAMS.**

17 Section 5322 of title 49, United States Code, is amend-
18 ed to read as follows:

19 **“§ 5322. Public transportation workforce development**
20 **and human resource programs**

21 “(a) *IN GENERAL.*—The Secretary may undertake, or
22 make grants or enter into contracts for, activities that ad-
23 dress human resource needs as the needs apply to public
24 transportation activities, including activities that—

25 “(1) educate and train employees;

1 “(2) *develop the public transportation workforce*
2 *through career outreach and preparation;*

3 “(3) *develop a curriculum for workforce develop-*
4 *ment;*

5 “(4) *conduct outreach programs to increase mi-*
6 *nority and female employment in public transpor-*
7 *tation;*

8 “(5) *conduct research on public transportation*
9 *personnel and training needs;*

10 “(6) *provide training and assistance for minor-*
11 *ity business opportunities;*

12 “(7) *advance training relating to maintenance of*
13 *alternative energy, energy efficiency, or zero emission*
14 *vehicles and facilities used in public transportation;*
15 *and*

16 “(8) *address a current or projected workforce*
17 *shortage in an area that requires technical expertise.*

18 “(b) *FUNDING.—*

19 “(1) *URBANIZED AREA FORMULA GRANTS.—A*
20 *recipient or subrecipient of funding under section*
21 *5307 shall expend not less than 0.5 percent of such*
22 *funding for activities consistent with subsection (a).*

23 “(2) *WAIVER.—The Secretary may waive the re-*
24 *quirement under paragraph (1) with respect to a re-*

1 *recipient or subrecipient if the Secretary determines*
2 *that the recipient or subrecipient—*

3 *“(A) has an adequate workforce development*
4 *program; or*

5 *“(B) has partnered with a local educational*
6 *institution in a manner that sufficiently pro-*
7 *motates or addresses workforce development and*
8 *human resource needs.*

9 *“(c) INNOVATIVE PUBLIC TRANSPORTATION WORK-*
10 *FORCE DEVELOPMENT PROGRAM.—*

11 *“(1) PROGRAM ESTABLISHED.—The Secretary*
12 *shall establish a competitive grant program to assist*
13 *the development of innovative activities eligible for as-*
14 *sistance under subsection (a).*

15 *“(2) SELECTION OF RECIPIENTS.—To the max-*
16 *imum extent feasible, the Secretary shall select recipi-*
17 *ents that—*

18 *“(A) are geographically diverse;*

19 *“(B) address the workforce and human re-*
20 *sources needs of large public transportation pro-*
21 *viders;*

22 *“(C) address the workforce and human re-*
23 *sources needs of small public transportation pro-*
24 *viders;*

1 “(D) address the workforce and human re-
2 sources needs of urban public transportation pro-
3 viders;

4 “(E) address the workforce and human re-
5 sources needs of rural public transportation pro-
6 viders;

7 “(F) advance training related to mainte-
8 nance of alternative energy, energy efficiency, or
9 zero emission vehicles and facilities used in pub-
10 lic transportation;

11 “(G) target areas with high rates of unem-
12 ployment; and

13 “(H) address current or projected workforce
14 shortages in areas that require technical exper-
15 tise.

16 “(d) GOVERNMENT’S SHARE OF COSTS.—The Govern-
17 ment share of the cost of a project carried out using a grant
18 under this section shall be 50 percent.

19 “(e) REPORT.—Not later than 2 years after the date
20 of enactment of the Federal Public Transportation Act of
21 2012, the Secretary shall submit to the Committee on Bank-
22 ing, Housing, and Urban Affairs of the Senate and the
23 Committee on Transportation and Infrastructure of the
24 House of Representatives a report concerning the measur-

1 *able outcomes and impacts of the programs funded under*
2 *this section.”.*

3 **SEC. 20017. GENERAL PROVISIONS.**

4 *Section 5323 of title 49, United States Code, is amend-*
5 *ed to read as follows:*

6 **“§ 5323. General provisions**

7 *“(a) INTERESTS IN PROPERTY.—*

8 *“(1) IN GENERAL.—Financial assistance pro-*
9 *vided under this chapter to a State or a local govern-*
10 *mental authority may be used to acquire an interest*
11 *in, or to buy property of, a private company engaged*
12 *in public transportation, for a capital project for*
13 *property acquired from a private company engaged*
14 *in public transportation after July 9, 1964, or to op-*
15 *erate a public transportation facility or equipment in*
16 *competition with, or in addition to, transportation*
17 *service provided by an existing public transportation*
18 *company, only if—*

19 *“(A) the Secretary determines that such fi-*
20 *nancial assistance is essential to a program of*
21 *projects required under sections 5303 and 5304;*

22 *“(B) the Secretary determines that the pro-*
23 *gram provides for the participation of private*
24 *companies engaged in public transportation to*
25 *the maximum extent feasible; and*

1 “(C) *just compensation under State or local*
2 *law will be paid to the company for its franchise*
3 *or property.*

4 “(2) *LIMITATION.*—*A governmental authority*
5 *may not use financial assistance of the United States*
6 *Government to acquire land, equipment, or a facility*
7 *used in public transportation from another govern-*
8 *mental authority in the same geographic area.*

9 “(b) *RELOCATION AND REAL PROPERTY REQUIRE-*
10 *MENTS.*—*The Uniform Relocation Assistance and Real*
11 *Property Acquisition Policies Act of 1970 (42 U.S.C. 4601*
12 *et seq.) shall apply to financial assistance for capital*
13 *projects under this chapter.*

14 “(c) *CONSIDERATION OF ECONOMIC, SOCIAL, AND EN-*
15 *VIRONMENTAL INTERESTS.*—

16 “(1) *COOPERATION AND CONSULTATION.*—*In car-*
17 *rying out the goal described in section 5301(c)(2), the*
18 *Secretary shall cooperate and consult with the Sec-*
19 *retary of the Interior and the Administrator of the*
20 *Environmental Protection Agency on each project*
21 *that may have a substantial impact on the environ-*
22 *ment.*

23 “(2) *COMPLIANCE WITH NEPA.*—*The National*
24 *Environmental Policy Act of 1969 (42 U.S.C. 4321 et*

1 *seq.) shall apply to financial assistance for capital*
2 *projects under this chapter.*

3 “(d) *CORRIDOR PRESERVATION.*—

4 “(1) *IN GENERAL.*—*The Secretary may assist a*
5 *recipient in acquiring right-of-way before the comple-*
6 *tion of the environmental reviews for any project that*
7 *may use the right-of-way if the acquisition is other-*
8 *wise permitted under Federal law. The Secretary may*
9 *establish restrictions on such an acquisition as the*
10 *Secretary determines to be necessary and appropriate.*

11 “(2) *ENVIRONMENTAL REVIEWS.*—*Right-of-way*
12 *acquired under this subsection may not be developed*
13 *in anticipation of the project until all required envi-*
14 *ronmental reviews for the project have been completed.*

15 “(e) *CONDITION ON CHARTER BUS TRANSPORTATION*
16 *SERVICE.*—

17 “(1) *AGREEMENTS.*—*Financial assistance under*
18 *this chapter may be used to buy or operate a bus only*
19 *if the applicant, governmental authority, or publicly*
20 *owned operator that receives the assistance agrees*
21 *that, except as provided in the agreement, the govern-*
22 *mental authority or an operator of public transpor-*
23 *tation for the governmental authority will not provide*
24 *charter bus transportation service outside the urban*
25 *area in which it provides regularly scheduled public*

1 *transportation service. An agreement shall provide for*
2 *a fair arrangement the Secretary of Transportation*
3 *considers appropriate to ensure that the assistance*
4 *will not enable a governmental authority or an oper-*
5 *ator for a governmental authority to foreclose a pri-*
6 *vate operator from providing intercity charter bus*
7 *service if the private operator can provide the service.*

8 “(2) VIOLATIONS.—

9 “(A) INVESTIGATIONS.—*On receiving a*
10 *complaint about a violation of the agreement re-*
11 *quired under paragraph (1), the Secretary shall*
12 *investigate and decide whether a violation has*
13 *occurred.*

14 “(B) ENFORCEMENT OF AGREEMENTS.—*If*
15 *the Secretary decides that a violation has oc-*
16 *curred, the Secretary shall correct the violation*
17 *under terms of the agreement.*

18 “(C) ADDITIONAL REMEDIES.—*In addition*
19 *to any remedy specified in the agreement, the*
20 *Secretary shall bar a recipient or an operator*
21 *from receiving Federal transit assistance in an*
22 *amount the Secretary considers appropriate if*
23 *the Secretary finds a pattern of violations of the*
24 *agreement.*

25 “(f) BOND PROCEEDS ELIGIBLE FOR LOCAL SHARE.—

1 “(1) *USE AS LOCAL MATCHING FUNDS.*—*Not-*
2 *withstanding any other provision of law, a recipient*
3 *of assistance under section 5307, 5309, or 5337 may*
4 *use the proceeds from the issuance of revenue bonds as*
5 *part of the local matching funds for a capital project.*

6 “(2) *MAINTENANCE OF EFFORT.*—*The Secretary*
7 *shall approve of the use of the proceeds from the*
8 *issuance of revenue bonds for the remainder of the net*
9 *project cost only if the Secretary finds that the aggre-*
10 *gate amount of financial support for public transpor-*
11 *tation in the urbanized area provided by the State*
12 *and affected local governmental authorities during the*
13 *next 3 fiscal years, as programmed in the State*
14 *transportation improvement program under section*
15 *5304, is not less than the aggregate amount provided*
16 *by the State and affected local governmental authori-*
17 *ties in the urbanized area during the preceding 3 fis-*
18 *cal years.*

19 “(3) *DEBT SERVICE RESERVE.*—*The Secretary*
20 *may reimburse an eligible recipient for deposits of*
21 *bond proceeds in a debt service reserve that the recipi-*
22 *ent establishes pursuant to section 5302(3)(J) from*
23 *amounts made available to the recipient under section*
24 *5309.*

25 “(g) *SCHOOLBUS TRANSPORTATION.*—

1 “(1) *AGREEMENTS.*—*Financial assistance under*
2 *this chapter may be used for a capital project, or to*
3 *operate public transportation equipment or a public*
4 *transportation facility, only if the applicant agrees*
5 *not to provide schoolbus transportation that exclu-*
6 *sively transports students and school personnel in*
7 *competition with a private schoolbus operator. This*
8 *subsection does not apply—*

9 “(A) *to an applicant that operates a school*
10 *system in the area to be served and a separate*
11 *and exclusive schoolbus program for the school*
12 *system; and*

13 “(B) *unless a private schoolbus operator can*
14 *provide adequate transportation that complies*
15 *with applicable safety standards at reasonable*
16 *rates.*

17 “(2) *VIOLATIONS.*—*If the Secretary finds that an*
18 *applicant, governmental authority, or publicly owned*
19 *operator has violated the agreement required under*
20 *paragraph (1), the Secretary shall bar a recipient or*
21 *an operator from receiving Federal transit assistance*
22 *in an amount the Secretary considers appropriate.*

23 “(h) *BUYING BUSES UNDER OTHER LAWS.*—*Sub-*
24 *sections (e) and (g) of this section apply to financial assist-*
25 *ance to buy a bus under sections 133 and 142 of title 23.*

1 “(i) *GRANT AND LOAN PROHIBITIONS.*—A grant or
2 loan may not be used to—

3 “(1) *pay ordinary governmental or nonproject*
4 *operating expenses; or*

5 “(2) *support a procurement that uses an exclu-*
6 *sionary or discriminatory specification.*

7 “(j) *GOVERNMENT SHARE OF COSTS FOR CERTAIN*
8 *PROJECTS.*—A grant for a project to be assisted under this
9 chapter that involves acquiring vehicle-related equipment or
10 facilities required by the Americans with Disabilities Act
11 of 1990 (42 U.S.C. 12101 et seq.) or vehicle-related equip-
12 ment or facilities (including clean fuel or alternative fuel
13 vehicle-related equipment or facilities) for purposes of com-
14 plying with or maintaining compliance with the Clean Air
15 Act, is for 90 percent of the net project cost of such equip-
16 ment or facilities attributable to compliance with those
17 Acts. The Secretary shall have discretion to determine,
18 through practicable administrative procedures, the costs of
19 such equipment or facilities attributable to compliance with
20 those Acts.

21 “(k) *BUY AMERICA.*—

22 “(1) *IN GENERAL.*—The Secretary may obligate
23 an amount that may be appropriated to carry out
24 this chapter for a project only if the steel, iron, and

1 *manufactured goods used in the project are produced*
2 *in the United States.*

3 “(2) *WAIVER.—The Secretary may waive para-*
4 *graph (1) of this subsection if the Secretary finds*
5 *that—*

6 “(A) *applying paragraph (1) would be in-*
7 *consistent with the public interest;*

8 “(B) *the steel, iron, and goods produced in*
9 *the United States are not produced in a suffi-*
10 *cient and reasonably available amount or are*
11 *not of a satisfactory quality;*

12 “(C) *when procuring rolling stock (includ-*
13 *ing train control, communication, and traction*
14 *power equipment) under this chapter—*

15 “(i) *the cost of components and sub-*
16 *components produced in the United States*
17 *is more than 60 percent of the cost of all*
18 *components of the rolling stock; and*

19 “(ii) *final assembly of the rolling stock*
20 *has occurred in the United States; or*

21 “(D) *including domestic material will in-*
22 *crease the cost of the overall project by more than*
23 *25 percent.*

24 “(3) *WRITTEN WAIVER DETERMINATION AND AN-*
25 *NUAL REPORT.—*

1 “(A) *WRITTEN DETERMINATION.*—Before
2 *issuing a waiver under paragraph (2), the Sec-*
3 *retary shall—*

4 “(i) *publish in the Federal Register*
5 *and make publicly available in an easily*
6 *identifiable location on the website of the*
7 *Department of Transportation a detailed*
8 *written explanation of the waiver deter-*
9 *mination; and*

10 “(ii) *provide the public with a reason-*
11 *able period of time for notice and comment.*

12 “(B) *ANNUAL REPORT.*—Not later than 1
13 *year after the date of enactment of the Federal*
14 *Public Transportation Act of 2012, and annu-*
15 *ally thereafter, the Secretary shall submit to the*
16 *Committee on Banking, Housing, and Urban Af-*
17 *airs of the Senate and the Committee on Trans-*
18 *portation and Infrastructure of the House of*
19 *Representatives a report listing any waiver*
20 *issued under paragraph (2) during the preceding*
21 *year.*

22 “(4) *LABOR COSTS FOR FINAL ASSEMBLY.*—In
23 *this subsection, labor costs involved in final assembly*
24 *are not included in calculating the cost of compo-*
25 *nents.*

1 “(5) *WAIVER PROHIBITED.*—*The Secretary may*
2 *not make a waiver under paragraph (2) of this sub-*
3 *section for goods produced in a foreign country if the*
4 *Secretary, in consultation with the United States*
5 *Trade Representative, decides that the government of*
6 *that foreign country—*

7 “(A) *has an agreement with the United*
8 *States Government under which the Secretary*
9 *has waived the requirement of this subsection;*
10 *and*

11 “(B) *has violated the agreement by dis-*
12 *criminating against goods to which this sub-*
13 *section applies that are produced in the United*
14 *States and to which the agreement applies.*

15 “(6) *PENALTY FOR MISLABELING AND MISREPRE-*
16 *SENTATION.*—*A person is ineligible under subpart 9.4*
17 *of the Federal Acquisition Regulation, or any suc-*
18 *cessor thereto, to receive a contract or subcontract*
19 *made with amounts authorized under the Federal*
20 *Public Transportation Act of 2012 if a court or de-*
21 *partment, agency, or instrumentality of the Govern-*
22 *ment decides the person intentionally—*

23 “(A) *affixed a ‘Made in America’ label, or*
24 *a label with an inscription having the same*
25 *meaning, to goods sold in or shipped to the*

1 *United States that are used in a project to which*
2 *this subsection applies but not produced in the*
3 *United States; or*

4 “(B) *represented that goods described in*
5 *subparagraph (A) of this paragraph were pro-*
6 *duced in the United States.*

7 “(7) *STATE REQUIREMENTS.—The Secretary*
8 *may not impose any limitation on assistance pro-*
9 *vided under this chapter that restricts a State from*
10 *imposing more stringent requirements than this sub-*
11 *section on the use of articles, materials, and supplies*
12 *mined, produced, or manufactured in foreign coun-*
13 *tries in projects carried out with that assistance or*
14 *restricts a recipient of that assistance from complying*
15 *with those State-imposed requirements.*

16 “(8) *OPPORTUNITY TO CORRECT INADVERTENT*
17 *ERROR.—The Secretary may allow a manufacturer or*
18 *supplier of steel, iron, or manufactured goods to cor-*
19 *rect after bid opening any certification of noncompli-*
20 *ance or failure to properly complete the certification*
21 *(but not including failure to sign the certification)*
22 *under this subsection if such manufacturer or sup-*
23 *plier attests under penalty of perjury that such man-*
24 *ufacturer or supplier submitted an incorrect certifi-*
25 *cation as a result of an inadvertent or clerical error.*

1 *The burden of establishing inadvertent or clerical*
2 *error is on the manufacturer or supplier.*

3 “(9) *ADMINISTRATIVE REVIEW.*—*A party ad-*
4 *versely affected by an agency action under this sub-*
5 *section shall have the right to seek review under sec-*
6 *tion 702 of title 5.*

7 “(10) *APPLICATION TO TRANSIT PROGRAMS.*—
8 *The requirements under this subsection shall apply to*
9 *all contracts eligible for assistance under this chapter*
10 *for a project carried out within the scope of the appli-*
11 *cable finding, determination, or decision under the*
12 *National Environmental Policy Act of 1969 (42*
13 *U.S.C. 4321 et seq.), regardless of the funding source*
14 *of such contracts, if at least 1 contract for the project*
15 *is funded with amounts made available to carry out*
16 *this chapter.*

17 “(l) *PARTICIPATION OF GOVERNMENTAL AGENCIES IN*
18 *DESIGN AND DELIVERY OF TRANSPORTATION SERVICES.*—
19 *Governmental agencies and nonprofit organizations that re-*
20 *ceive assistance from Government sources (other than the*
21 *Department of Transportation) for nonemergency transpor-*
22 *tation services shall—*

23 “(1) *participate and coordinate with recipients*
24 *of assistance under this chapter in the design and de-*
25 *livery of transportation services; and*

1 “(2) *be included in the planning for those serv-*
2 *ices.*

3 “(m) *RELATIONSHIP TO OTHER LAWS.—*

4 “(1) *FRAUD AND FALSE STATEMENTS.—Section*
5 *1001 of title 18 applies to a certificate, submission,*
6 *or statement provided under this chapter. The Sec-*
7 *retary may terminate financial assistance under this*
8 *chapter and seek reimbursement directly, or by offset-*
9 *ting amounts, available under this chapter if the Sec-*
10 *retary determines that a recipient of such financial*
11 *assistance has made a false or fraudulent statement*
12 *or related act in connection with a Federal public*
13 *transportation program.*

14 “(2) *POLITICAL ACTIVITIES OF NONSUPERVISORY*
15 *EMPLOYEES.—The provision of assistance under this*
16 *chapter shall not be construed to require the applica-*
17 *tion of chapter 15 of title 5 to any nonsupervisory*
18 *employee of a public transportation system (or any*
19 *other agency or entity performing related functions)*
20 *to whom such chapter does not otherwise apply.*

21 “(n) *PREAWARD AND POSTDELIVERY REVIEW OF*
22 *ROLLING STOCK PURCHASES.—The Secretary shall pre-*
23 *scribe regulations requiring a preaward and postdelivery*
24 *review of a grant under this chapter to buy rolling stock*
25 *to ensure compliance with Government motor vehicle safety*

1 requirements, subsection (k) of this section, and bid speci-
2 fications requirements of grant recipients under this chap-
3 ter. Under this subsection, independent inspections and re-
4 view are required, and a manufacturer certification is not
5 sufficient. Rolling stock procurements of 20 vehicles or fewer
6 made for the purpose of serving other than urbanized areas
7 and urbanized areas with populations of 200,000 or fewer
8 shall be subject to the same requirements as established for
9 procurements of 10 or fewer buses under the post-delivery
10 purchaser's requirements certification process under section
11 663.37(c) of title 49, Code of Federal Regulations.

12 “(o) *SUBMISSION OF CERTIFICATIONS.*—A certifi-
13 cation required under this chapter and any additional cer-
14 tification or assurance required by law or regulation to be
15 submitted to the Secretary may be consolidated into a single
16 document to be submitted annually as part of a grant ap-
17 plication under this chapter. The Secretary shall publish
18 annually a list of all certifications required under this
19 chapter with the publication required under section
20 5336(d)(2).

21 “(p) *GRANT REQUIREMENTS.*—The grant require-
22 ments under sections 5307, 5309, and 5337 apply to any
23 project under this chapter that receives any assistance or
24 other financing under chapter 6 (other than section 609)
25 of title 23.

1 “(q) *ALTERNATIVE FUELING FACILITIES.*—A recipient
2 of assistance under this chapter may allow the incidental
3 use of federally funded alternative fueling facilities and
4 equipment by nontransit public entities and private entities
5 if—

6 “(1) the incidental use does not interfere with the
7 recipient’s public transportation operations;

8 “(2) all costs related to the incidental use are
9 fully recaptured by the recipient from the nontransit
10 public entity or private entity;

11 “(3) the recipient uses revenues received from the
12 incidental use in excess of costs for planning, capital,
13 and operating expenses that are incurred in pro-
14 viding public transportation; and

15 “(4) private entities pay all applicable excise
16 taxes on fuel.

17 “(r) *FIXED GUIDEWAY CATEGORICAL EXCLUSION.*—

18 “(1) *STUDY.*—Not later than 6 months after the
19 date of enactment of the Federal Public Transpor-
20 tation Act of 2012, the Secretary shall conduct a
21 study to determine the feasibility of providing a cat-
22 egorical exclusion for streetcar, bus rapid transit, and
23 light rail projects located within an existing transpor-
24 tation right-of-way from the requirements of the Na-
25 tional Environmental Policy Act of 1969 (42 U.S.C.

1 4321 *et seq.*) in accordance with the Council on Envi-
2 ronmental Quality implementing regulations under
3 parts 1500 through 1508 of title 40, Code of Federal
4 Regulations, or any successor thereto.

5 “(2) *FINDINGS AND RULES.*—Not later than 1
6 year after the date of enactment of the Federal Public
7 Transportation Act of 2012, the Secretary shall issue
8 findings and, if appropriate, issue rules to provide
9 categorical exclusions for suitable categories of
10 projects.”.

11 **SEC. 20018. CONTRACT REQUIREMENTS.**

12 Section 5325 of title 49, United States Code, is amend-
13 ed—

14 (1) in subsection (e), by striking paragraph (1)
15 and inserting the following:

16 “(1) *CONTRACTS.*—A recipient procuring rolling
17 stock with Government financial assistance under this
18 chapter may make a multiyear contract to buy the
19 rolling stock and replacement parts under which the
20 recipient has an option to buy additional rolling
21 stock or replacement parts for—

22 “(A) not more than 5 years after the date
23 of the original contract for bus procurements;
24 and

1 “(B) not more than 7 years after the date
2 of the original contract for rail procurements,
3 provided that such option does not allow for sig-
4 nificant changes or alterations to the rolling
5 stock.”.

6 (2) in subsection (h), by striking “Federal Public
7 Transportation Act of 2005” and inserting “Federal
8 Public Transportation Act of 2012”;

9 (3) in subsection (j)(2)(C), by striking “, includ-
10 ing the performance reported in the Contractor Per-
11 formance Assessment Reports required under section
12 5309(l)(2)”;

13 (4) by adding at the end the following:

14 “(k) **VETERANS EMPLOYMENT.**—Recipients and sub-
15 recipients of Federal financial assistance under this chapter
16 shall ensure that contractors working on a capital project
17 funded using such assistance give a hiring preference to vet-
18 erans, as defined in section 2108 of title 5, who have the
19 requisite skills and abilities to perform the construction
20 work required under the contract.”.

21 **SEC. 20019. TRANSIT ASSET MANAGEMENT.**

22 Section 5326 of title 49, United States Code, is amend-
23 ed to read as follows:

1 **“§ 5326. Transit asset management**

2 “(a) *DEFINITIONS.—In this section the following defi-*
3 *initions shall apply:*

4 “(1) *CAPITAL ASSET.—The term ‘capital asset’*
5 *includes equipment, rolling stock, infrastructure, and*
6 *facilities for use in public transportation and owned*
7 *or leased by a recipient or subrecipient of Federal fi-*
8 *nancial assistance under this chapter.*

9 “(2) *TRANSIT ASSET MANAGEMENT PLAN.—The*
10 *term ‘transit asset management plan’ means a plan*
11 *developed by a recipient of funding under this chapter*
12 *that—*

13 “(A) *includes, at a minimum, capital asset*
14 *inventories and condition assessments, decision*
15 *support tools, and investment prioritization; and*

16 “(B) *the recipient certifies complies with*
17 *the rule issued under this section.*

18 “(3) *TRANSIT ASSET MANAGEMENT SYSTEM.—*
19 *The term ‘transit asset management system’ means a*
20 *strategic and systematic process of operating, main-*
21 *taining, and improving public transportation capital*
22 *assets effectively throughout the life cycle of such as-*
23 *sets.*

24 “(b) *TRANSIT ASSET MANAGEMENT SYSTEM.—The*
25 *Secretary shall establish and implement a national transit*
26 *asset management system, which shall include—*

1 “(1) a definition of the term ‘state of good re-
2 pair’ that includes objective standards for measuring
3 the condition of capital assets of recipients, including
4 equipment, rolling stock, infrastructure, and facilities;

5 “(2) a requirement that recipients and subrecipi-
6 ents of Federal financial assistance under this chapter
7 develop a transit asset management plan;

8 “(3) a requirement that each recipient of Federal
9 financial assistance under this chapter report on the
10 condition of the system of the recipient and provide
11 a description of any change in condition since the
12 last report;

13 “(4) an analytical process or decision support
14 tool for use by public transportation systems that—

15 “(A) allows for the estimation of capital in-
16 vestment needs of such systems over time; and

17 “(B) assists with asset investment
18 prioritization by such systems; and

19 “(5) technical assistance to recipients of Federal
20 financial assistance under this chapter.

21 “(c) *PERFORMANCE MEASURES AND TARGETS.*—

22 “(1) *IN GENERAL.*—Not later than 1 year after
23 the date of enactment of the Federal Public Transpor-
24 tation Act of 2012, the Secretary shall issue a final
25 rule to establish performance measures based on the

1 *state of good repair standards established under sub-*
2 *section (b)(1).*

3 “(2) *TARGETS.*—*Not later than 3 months after*
4 *the date on which the Secretary issues a final rule*
5 *under paragraph (1), and each fiscal year thereafter,*
6 *each recipient of Federal financial assistance under*
7 *this chapter shall establish performance targets in re-*
8 *lation to the performance measures established by the*
9 *Secretary.*

10 “(3) *REPORTS.*—*Each recipient of Federal fi-*
11 *nancial assistance under this chapter shall submit to*
12 *the Secretary an annual report that describes—*

13 “(A) *the progress of the recipient during the*
14 *fiscal year to which the report relates toward*
15 *meeting the performance targets established*
16 *under paragraph (2) for that fiscal year; and*

17 “(B) *the performance targets established by*
18 *the recipient for the subsequent fiscal year.*

19 “(d) *RULEMAKING.*—*Not later than 1 year after the*
20 *date of enactment of the Federal Public Transportation Act*
21 *of 2012, the Secretary shall issue a final rule to implement*
22 *the transit asset management system described in subsection*
23 *(b).”.*

1 **SEC. 20020. PROJECT MANAGEMENT OVERSIGHT.**

2 *Section 5327 of title 49, United States Code, is amend-*
3 *ed—*

4 *(1) in subsection (a)—*

5 *(A) in the matter preceding paragraph (1),*
6 *by striking “United States” and all that follows*
7 *through “Secretary of Transportation” and in-*
8 *serting the following: “Federal financial assist-*
9 *ance for a major capital project for public trans-*
10 *portation under this chapter or any other provi-*
11 *sion of Federal law, a recipient must prepare a*
12 *project management plan approved by the Sec-*
13 *retary and carry out the project in accordance*
14 *with the project management plan”; and*

15 *(B) in paragraph (12), by striking “each*
16 *month” and inserting “quarterly”;*

17 *(2) by striking subsections (c), (d), and (f);*

18 *(3) by inserting after subsection (b) the fol-*
19 *lowing:*

20 *“(c) ACCESS TO SITES AND RECORDS.—Each recipi-*
21 *ent of Federal financial assistance for public transportation*
22 *under this chapter or any other provision of Federal law*
23 *shall provide the Secretary and a contractor the Secretary*
24 *chooses under section 5338(g) with access to the construction*
25 *sites and records of the recipient when reasonably nec-*
26 *essary.”;*

1 (4) by redesignating subsection (e) as subsection
2 (d); and

3 (5) in subsection (d), as so redesignated—

4 (A) in paragraph (1), by striking “sub-
5 section (e) of this section” and inserting “section
6 5338(g)”; and

7 (B) in paragraph (2)—

8 (i) by striking “preliminary engineer-
9 ing stage” and inserting “project develop-
10 ment phase”; and

11 (ii) by striking “another stage” and
12 inserting “another phase”.

13 **SEC. 20021. PUBLIC TRANSPORTATION SAFETY.**

14 (a) **PUBLIC TRANSPORTATION SAFETY PROGRAM.**—
15 *Section 5329 of title 49, United States Code, is amended*
16 *to read as follows:*

17 **“§ 5329. Public transportation safety program**

18 “(a) **DEFINITION.**—*In this section, the term ‘recipient’*
19 *means a State or local governmental authority, or any other*
20 *operator of a public transportation system, that receives fi-*
21 *nancial assistance under this chapter.*

22 “(b) **NATIONAL PUBLIC TRANSPORTATION SAFETY**
23 **PLAN.**—

24 “(1) **IN GENERAL.**—*The Secretary shall create*
25 *and implement a national public transportation safe-*

1 *ty plan to improve the safety of all public transpor-*
2 *tation systems that receive funding under this chap-*
3 *ter.*

4 “(2) *CONTENTS OF PLAN.*—*The national public*
5 *transportation safety plan under paragraph (1) shall*
6 *include—*

7 “(A) *safety performance criteria for all*
8 *modes of public transportation;*

9 “(B) *the definition of the term ‘state of good*
10 *repair’ established under section 5326(b);*

11 “(C) *minimum safety performance stand-*
12 *ards for public transportation vehicles used in*
13 *revenue operations that—*

14 “(i) *do not apply to rolling stock other-*
15 *wise regulated by the Secretary or any other*
16 *Federal agency; and*

17 “(ii) *to the extent practicable, take into*
18 *consideration—*

19 “(I) *relevant recommendations of*
20 *the National Transportation Safety*
21 *Board; and*

22 “(II) *recommendations of, and*
23 *best practices standards developed by,*
24 *the public transportation industry;*
25 *and*

1 “(D) a public transportation safety certifi-
2 cation training program, as described in sub-
3 section (c).

4 “(c) PUBLIC TRANSPORTATION SAFETY CERTIFI-
5 CATION TRAINING PROGRAM.—

6 “(1) IN GENERAL.—The Secretary shall establish
7 a public transportation safety certification training
8 program for Federal and State employees, or other
9 designated personnel, who conduct safety audits and
10 examinations of public transportation systems and
11 employees of public transportation agencies directly
12 responsible for safety oversight.

13 “(2) INTERIM PROVISIONS.—Not later than 90
14 days after the date of enactment of the Federal Public
15 Transportation Act of 2012, the Secretary shall estab-
16 lish interim provisions for the certification and train-
17 ing of the personnel described in paragraph (1),
18 which shall be in effect until the effective date of the
19 final rule issued by the Secretary to implement this
20 subsection.

21 “(d) PUBLIC TRANSPORTATION AGENCY SAFETY
22 PLAN.—

23 “(1) IN GENERAL.—Effective 1 year after the ef-
24 fective date of a final rule issued by the Secretary to
25 carry out this subsection, each recipient shall certify

1 *that the recipient has established a comprehensive*
2 *agency safety plan that includes, at a minimum—*

3 *“(A) a requirement that the board of direc-*
4 *tors (or equivalent entity) of the recipient ap-*
5 *prove the agency safety plan and any updates to*
6 *the agency safety plan;*

7 *“(B) methods for identifying and evaluating*
8 *safety risks throughout all elements of the public*
9 *transportation system of the recipient;*

10 *“(C) strategies to minimize the exposure of*
11 *the public, personnel, and property to hazards*
12 *and unsafe conditions;*

13 *“(D) a process and timeline for conducting*
14 *an annual review and update of the safety plan*
15 *of the recipient;*

16 *“(E) performance targets based on the safe-*
17 *ty performance criteria and state of good repair*
18 *standards established under subparagraphs (A)*
19 *and (B), respectively, of subsection (b)(2);*

20 *“(F) assignment of an adequately trained*
21 *safety officer who reports directly to the general*
22 *manager, president, or equivalent officer of the*
23 *recipient; and*

24 *“(G) a comprehensive staff training pro-*
25 *gram for the operations personnel and personnel*

1 *directly responsible for safety of the recipient*
2 *that includes—*

3 “(i) *the completion of a safety training*
4 *program; and*

5 “(ii) *continuing safety education and*
6 *training.*

7 “(2) *INTERIM AGENCY SAFETY PLAN.—A system*
8 *safety plan developed pursuant to part 659 of title 49,*
9 *Code of Federal Regulations, as in effect on the date*
10 *of enactment of the Federal Public Transportation*
11 *Act of 2012, shall remain in effect until such time as*
12 *this subsection takes effect.*

13 “(e) *STATE SAFETY OVERSIGHT PROGRAM.—*

14 “(1) *APPLICABILITY.—This subsection applies*
15 *only to eligible States.*

16 “(2) *DEFINITION.—In this subsection, the term*
17 *‘eligible State’ means a State that has—*

18 “(A) *a rail fixed guideway public transpor-*
19 *tation system within the jurisdiction of the State*
20 *that is not subject to regulation by the Federal*
21 *Railroad Administration; or*

22 “(B) *a rail fixed guideway public transpor-*
23 *tation system in the engineering or construction*
24 *phase of development within the jurisdiction of*

1 *the State that will not be subject to regulation by*
2 *the Federal Railroad Administration.*

3 “(3) *IN GENERAL.—In order to obligate funds*
4 *apportioned under section 5338 to carry out this*
5 *chapter, effective 3 years after the date on which a*
6 *final rule under this subsection becomes effective, an*
7 *eligible State shall have in effect a State safety over-*
8 *sight program approved by the Secretary under which*
9 *the State—*

10 “(A) *assumes responsibility for overseeing*
11 *rail fixed guideway public transportation safety;*

12 “(B) *adopts and enforces Federal law on*
13 *rail fixed guideway public transportation safety;*

14 “(C) *establishes a State safety oversight*
15 *agency;*

16 “(D) *determines, in consultation with the*
17 *Secretary, an appropriate staffing level for the*
18 *State safety oversight agency that is commensu-*
19 *rate with the number, size, and complexity of the*
20 *rail fixed guideway public transportation sys-*
21 *tems in the eligible State;*

22 “(E) *requires that employees and other des-*
23 *ignated personnel of the eligible State safety*
24 *oversight agency who are responsible for rail*
25 *fixed guideway public transportation safety over-*

1 *sight are qualified to perform such functions*
2 *through appropriate training, including success-*
3 *ful completion of the public transportation safety*
4 *certification training program established under*
5 *subsection (c); and*

6 *“(F) prohibits any public transportation*
7 *agency from providing funds to the State safety*
8 *oversight agency or an entity designated by the*
9 *eligible State as the State safety oversight agency*
10 *under paragraph (4).*

11 *“(4) STATE SAFETY OVERSIGHT AGENCY.—*

12 *“(A) IN GENERAL.—Each State safety over-*
13 *sight program shall establish a State safety over-*
14 *sight agency that—*

15 *“(i) is an independent legal entity re-*
16 *sponsible for the safety of rail fixed guide-*
17 *way public transportation systems;*

18 *“(ii) is financially and legally inde-*
19 *pendent from any public transportation en-*
20 *tity that the State safety oversight agency*
21 *oversees;*

22 *“(iii) does not fund, promote, or pro-*
23 *vide public transportation services;*

1 “(iv) does not employ any individual
2 who is also responsible for the administra-
3 tion of public transportation programs;

4 “(v) has the authority to review, ap-
5 prove, oversee, and enforce the implementa-
6 tion by the rail fixed guideway public
7 transportation agency of the public trans-
8 portation agency safety plan required under
9 subsection (d);

10 “(vi) has investigative and enforcement
11 authority with respect to the safety of rail
12 fixed guideway public transportation sys-
13 tems of the eligible State;

14 “(vii) audits, at least once triennially,
15 the compliance of the rail fixed guideway
16 public transportation systems in the eligible
17 State subject to this subsection with the
18 public transportation agency safety plan re-
19 quired under subsection (d); and

20 “(viii) provides, at least once annu-
21 ally, a status report on the safety of the rail
22 fixed guideway public transportation sys-
23 tems the State safety oversight agency over-
24 sees to—

1 “(I) *the Federal Transit Adminis-*
2 *tration;*

3 “(II) *the Governor of the eligible*
4 *State; and*

5 “(III) *the board of directors, or*
6 *equivalent entity, of any rail fixed*
7 *guideway public transportation system*
8 *that the State safety oversight agency*
9 *oversees.*

10 “(B) *WAIVER.—At the request of an eligible*
11 *State, the Secretary may waive clauses (i) and*
12 *(iii) of subparagraph (A) for eligible States with*
13 *1 or more rail fixed guideway systems in revenue*
14 *operations, design, or construction, that—*

15 “(i) *have fewer than 1,000,000 com-*
16 *bined actual and projected rail fixed guide-*
17 *way revenue miles per year; or*

18 “(ii) *provide fewer than 10,000,000*
19 *combined actual and projected unlinked*
20 *passenger trips per year.*

21 “(5) *ENFORCEMENT.—Each State safety over-*
22 *sight agency shall have the authority to request that*
23 *the Secretary take enforcement actions available*
24 *under subsection (g) against a rail fixed guideway*

1 *public transportation system that is not in compli-*
2 *ance with Federal safety laws.*

3 “(6) *PROGRAMS FOR MULTI-STATE RAIL FIXED*
4 *GUIDEWAY PUBLIC TRANSPORTATION SYSTEMS.—An*
5 *eligible State that has within the jurisdiction of the*
6 *eligible State a rail fixed guideway public transpor-*
7 *tation system that operates in more than 1 eligible*
8 *State shall—*

9 “(A) *jointly with all other eligible States in*
10 *which the rail fixed guideway public transpor-*
11 *tation system operates, ensure uniform safety*
12 *standards and enforcement procedures that shall*
13 *be in compliance with this section, and establish*
14 *and implement a State safety oversight program*
15 *approved by the Secretary; or*

16 “(B) *jointly with all other eligible States in*
17 *which the rail fixed guideway public transpor-*
18 *tation system operates, designate an entity hav-*
19 *ing characteristics consistent with the character-*
20 *istics described in paragraph (3) to carry out the*
21 *State safety oversight program approved by the*
22 *Secretary.*

23 “(7) *GRANTS.—*

24 “(A) *IN GENERAL.—The Secretary may*
25 *make a grant to an eligible State to develop or*

1 *carry out a State safety oversight program, if the*
2 *eligible State submits—*

3 “(i) *a proposal for the establishment of*
4 *a State safety oversight program to the Sec-*
5 *retary for review and written approval be-*
6 *fore implementing a State safety oversight*
7 *program; and*

8 “(ii) *any amendment to the State safe-*
9 *ty oversight program of the eligible State to*
10 *the Secretary for review not later than 60*
11 *days before the effective date of the amend-*
12 *ment.*

13 “(B) *DETERMINATION BY SECRETARY.—*

14 “(i) *IN GENERAL.—The Secretary shall*
15 *transmit written approval to an eligible*
16 *State that submits a State safety oversight*
17 *program, if the Secretary determines the*
18 *State safety oversight program meets the re-*
19 *quirements of this subsection and the State*
20 *safety oversight program is adequate to pro-*
21 *mote the purposes of this section.*

22 “(ii) *AMENDMENT.—The Secretary*
23 *shall transmit to an eligible State that sub-*
24 *mits an amendment under subparagraph*

1 (A)(ii) a written determination with respect
2 to the amendment.

3 “(iii) *NO WRITTEN DECISION.*—If an
4 eligible State does not receive a written de-
5 cision from the Secretary with respect to an
6 amendment submitted under subparagraph
7 (A)(ii) before the end of the 60-day period
8 beginning on the date on which the eligible
9 State submits the amendment, the amend-
10 ment shall be deemed to be approved.

11 “(iv) *DISAPPROVAL.*—If the Secretary
12 determines that a State safety oversight pro-
13 gram does not meet the requirements of this
14 subsection, the Secretary shall transmit to
15 the eligible State a written explanation and
16 allow the eligible State to modify and resub-
17 mit the State safety oversight program for
18 approval.

19 “(C) *GOVERNMENT SHARE.*—

20 “(i) *IN GENERAL.*—The Government
21 share of the reasonable cost of a State safety
22 oversight program developed or carried out
23 using a grant under this paragraph shall be
24 80 percent.

1 “(ii) *IN-KIND CONTRIBUTIONS.*—*Any*
2 *calculation of the non-Government share of*
3 *a State safety oversight program shall in-*
4 *clude in-kind contributions by an eligible*
5 *State.*

6 “(iii) *NON-GOVERNMENT SHARE.*—*The*
7 *non-Government share of the cost of a State*
8 *safety oversight program developed or car-*
9 *ried out using a grant under this para-*
10 *graph may not be met by—*

11 “(I) *any Federal funds;*

12 “(II) *any funds received from a*
13 *public transportation agency; or*

14 “(III) *any revenues earned by a*
15 *public transportation agency.*

16 “(iv) *SAFETY TRAINING PROGRAM.*—
17 *The Secretary may reimburse an eligible*
18 *State or a recipient for the full costs of par-*
19 *ticipation in the public transportation safe-*
20 *ty certification training program estab-*
21 *lished under subsection (c) by an employee*
22 *of a State safety oversight agency or a re-*
23 *recipient who is directly responsible for safety*
24 *oversight.*

1 “(8) *CONTINUAL EVALUATION OF PROGRAM.*—
2 *The Secretary shall continually evaluate the imple-*
3 *mentation of a State safety oversight program by a*
4 *State safety oversight agency, on the basis of—*

5 “(A) *reports submitted by the State safety*
6 *oversight agency under paragraph (4)(A)(viii);*
7 *and*

8 “(B) *audits carried out by the Secretary.*

9 “(9) *INADEQUATE PROGRAM.*—

10 “(A) *IN GENERAL.*—*If the Secretary finds*
11 *that a State safety oversight program approved*
12 *by the Secretary is not being carried out in ac-*
13 *cordance with this section or has become inad-*
14 *equately to ensure the enforcement of Federal safe-*
15 *ty regulations, the Secretary shall—*

16 “(i) *transmit to the eligible State a*
17 *written explanation of the reason the pro-*
18 *gram has become inadequate and inform the*
19 *State of the intention to withhold funds, in-*
20 *cluding the amount of funds proposed to be*
21 *withheld under this section, or withdraw*
22 *approval of the State safety oversight pro-*
23 *gram; and*

24 “(ii) *allow the eligible State a reason-*
25 *able period of time to modify the State safe-*

1 *ty oversight program or implementation of*
2 *the program and submit an updated pro-*
3 *posal for the State safety oversight program*
4 *to the Secretary for approval.*

5 “(B) *FAILURE TO CORRECT.*—*If the Sec-*
6 *retary determines that a modification by an eli-*
7 *gible State of the State safety oversight program*
8 *is not sufficient to ensure the enforcement of Fed-*
9 *eral safety regulations, the Secretary may—*

10 “(i) *withhold funds available under*
11 *this section in an amount determined by the*
12 *Secretary; or*

13 “(ii) *provide written notice of with-*
14 *drawal of State safety oversight program*
15 *approval.*

16 “(C) *TEMPORARY OVERSIGHT.*—*In the event*
17 *the Secretary takes action under subparagraph*
18 *(B)(ii), the Secretary shall provide oversight of*
19 *the rail fixed guideway systems in an eligible*
20 *State until the State submits a State safety over-*
21 *sight program approved by the Secretary.*

22 “(D) *RESTORATION.*—

23 “(i) *CORRECTION.*—*The eligible State*
24 *shall address any inadequacy to the satis-*
25 *faction of the Secretary prior to the Sec-*

1 *retary restoring funds withheld under this*
2 *paragraph.*

3 “(ii) *AVAILABILITY AND REALLOCA-*
4 *TION.—Any funds withheld under this*
5 *paragraph shall remain available for res-*
6 *toration to the eligible State until the end*
7 *of the first fiscal year after the fiscal year*
8 *in which the funds were withheld, after*
9 *which time the funds shall be available to*
10 *the Secretary for allocation to other eligible*
11 *States under this section.*

12 “(10) *FEDERAL OVERSIGHT.—The Secretary*
13 *shall—*

14 “(A) *oversee the implementation of each*
15 *State safety oversight program under this sub-*
16 *section;*

17 “(B) *audit the operations of each State safe-*
18 *ty oversight agency at least once triennially; and*

19 “(C) *issue rules to carry out this subsection.*

20 “(f) *AUTHORITY OF SECRETARY.—In carrying out this*
21 *section, the Secretary may—*

22 “(1) *conduct inspections, investigations, audits,*
23 *examinations, and testing of the equipment, facilities,*
24 *rolling stock, and operations of the public transpor-*
25 *tation system of a recipient;*

1 “(2) make reports and issue directives with re-
2 spect to the safety of the public transportation system
3 of a recipient;

4 “(3) in conjunction with an accident investiga-
5 tion or an investigation into a pattern or practice of
6 conduct that negatively affects public safety, issue a
7 subpoena to, and take the deposition of, any employee
8 of a recipient or a State safety oversight agency, if—

9 “(A) before the issuance of the subpoena, the
10 Secretary requests a determination by the Attor-
11 ney General of the United States as to whether
12 the subpoena will interfere with an ongoing
13 criminal investigation; and

14 “(B) the Attorney General—

15 “(i) determines that the subpoena will
16 not interfere with an ongoing criminal in-
17 vestigation; or

18 “(ii) fails to make a determination
19 under clause (i) before the date that is 30
20 days after the date on which the Secretary
21 makes a request under subparagraph (A);

22 “(4) require the production of documents by, and
23 prescribe recordkeeping and reporting requirements
24 for, a recipient or a State safety oversight agency;

1 “(5) investigate public transportation accidents
2 and incidents and provide guidance to recipients re-
3 garding prevention of accidents and incidents;

4 “(6) at reasonable times and in a reasonable
5 manner, enter and inspect equipment, facilities, roll-
6 ing stock, operations, and relevant records of the pub-
7 lic transportation system of a recipient; and

8 “(7) issue rules to carry out this section.

9 “(g) ENFORCEMENT ACTIONS.—

10 “(1) TYPES OF ENFORCEMENT ACTIONS.—The
11 Secretary may take enforcement action against a re-
12 cipient that does not comply with Federal law with
13 respect to the safety of the public transportation sys-
14 tem, including—

15 “(A) issuing directives;

16 “(B) requiring more frequent oversight of
17 the recipient by a State safety oversight agency
18 or the Secretary;

19 “(C) imposing more frequent reporting re-
20 quirements;

21 “(D) requiring that any Federal financial
22 assistance provided under this chapter be spent
23 on correcting safety deficiencies identified by the
24 Secretary or the State safety oversight agency be-
25 fore such funds are spent on other projects;

1 “(E) subject to paragraph (2), withholding
2 Federal financial assistance, in an amount to be
3 determined by the Secretary, from the recipient,
4 until such time as the recipient comes into com-
5 pliance with this section; and

6 “(F) subject to paragraph (3), imposing a
7 civil penalty, in an amount to be determined by
8 the Secretary.

9 “(2) USE OR WITHHOLDING OF FUNDS.—

10 “(A) IN GENERAL.—The Secretary may re-
11 quire the use of funds in accordance with para-
12 graph (1)(D), or withhold funds under para-
13 graph (1)(E), only if the Secretary finds that a
14 recipient is engaged in a pattern or practice of
15 serious safety violations or has otherwise refused
16 to comply with Federal law relating to the safety
17 of the public transportation system.

18 “(B) NOTICE.—Before withholding funds
19 from a recipient under paragraph (1)(E), the
20 Secretary shall provide to the recipient—

21 “(i) written notice of a violation and
22 the amount proposed to be withheld; and

23 “(ii) a reasonable period of time with-
24 in which the recipient may address the vio-
25 lation or propose and initiate an alter-

1 *native means of compliance that the Sec-*
2 *retary determines is acceptable.*

3 “(C) *FAILURE TO ADDRESS.*—*If the recipi-*
4 *ent does not address the violation or propose an*
5 *alternative means of compliance that the Sec-*
6 *retary determines is acceptable within the period*
7 *of time specified in the written notice, the Sec-*
8 *retary may withhold funds under paragraph*
9 *(1)(E).*

10 “(D) *RESTORATION.*—

11 “(i) *CORRECTION.*—*The recipient shall*
12 *address any violation to the satisfaction of*
13 *the Secretary prior to the Secretary restor-*
14 *ing funds withheld under paragraph (1)(E).*

15 “(ii) *AVAILABILITY AND REALLOCA-*
16 *TION.*—*Any funds withheld under para-*
17 *graph (1)(E) shall remain available for res-*
18 *toration to the recipient until the end of the*
19 *first fiscal year after the fiscal year in*
20 *which the funds were withheld, after which*
21 *time the funds shall be available to the Sec-*
22 *retary for allocation to other eligible recipi-*
23 *ents.*

24 “(E) *NOTIFICATION.*—*Not later than 3 days*
25 *before taking any action under subparagraph*

1 (C), the Secretary shall notify the Committee on
2 Banking, Housing, and Urban Affairs of the
3 Senate and the Committee on Transportation
4 and Infrastructure of the House of Representa-
5 tives of such action.

6 “(3) CIVIL PENALTIES.—

7 “(A) IMPOSITION OF CIVIL PENALTIES.—

8 “(i) IN GENERAL.—The Secretary may
9 impose a civil penalty under paragraph
10 (1)(F) only if—

11 “(I) the Secretary has exhausted
12 the enforcement actions available under
13 subparagraphs (A) through (E) of
14 paragraph (1); and

15 “(II) the recipient continues to be
16 in violation of Federal safety law.

17 “(ii) EXCEPTION.—The Secretary may
18 waive the requirement under clause (i)(I) if
19 the Secretary determines that such a waiver
20 is in the public interest.

21 “(B) NOTICE.—Before imposing a civil pen-
22 alty on a recipient under paragraph (1)(F), the
23 Secretary shall provide to the recipient—

1 “(i) written notice of any violation
2 and the penalty proposed to be imposed;
3 and

4 “(ii) a reasonable period of time with-
5 in which the recipient may address the vio-
6 lation or propose and initiate an alter-
7 native means of compliance that the Sec-
8 retary determines is acceptable.

9 “(C) *FAILURE TO ADDRESS.*—If the recipi-
10 ent does not address the violation or propose an
11 alternative means of compliance that the Sec-
12 retary determines is acceptable within the period
13 of time specified in the written notice, the Sec-
14 retary may impose a civil penalty under para-
15 graph (1)(F).

16 “(D) *NOTIFICATION.*—Not later than 3 days
17 before taking any action under subparagraph
18 (C), the Secretary shall notify the Committee on
19 Banking, Housing, and Urban Affairs of the
20 Senate and the Committee on Transportation
21 and Infrastructure of the House of Representa-
22 tives of such action.

23 “(E) *DEPOSIT OF CIVIL PENALTIES.*—Any
24 amounts collected by the Secretary under this

1 *paragraph shall be deposited into the Mass*
2 *Transit Account of the Highway Trust Fund.*

3 “(4) *ENFORCEMENT BY THE ATTORNEY GEN-*
4 *ERAL.—At the request of the Secretary, the Attorney*
5 *General may bring a civil action—*

6 “(A) *for appropriate injunctive relief to en-*
7 *sure compliance with this section;*

8 “(B) *to collect a civil penalty imposed*
9 *under paragraph (1)(F); and*

10 “(C) *to enforce a subpoena, request for ad-*
11 *missions, request for production of documents or*
12 *other tangible things, or request for testimony by*
13 *deposition issued by the Secretary under this sec-*
14 *tion.*

15 “(h) *COST-BENEFIT ANALYSIS.—*

16 “(1) *ANALYSIS REQUIRED.—In carrying out this*
17 *section, the Secretary shall take into consideration the*
18 *costs and benefits of each action the Secretary pro-*
19 *poses to take under this section.*

20 “(2) *WAIVER.—The Secretary may waive the re-*
21 *quirement under this subsection if the Secretary de-*
22 *termines that such a waiver is in the public interest.*

23 “(i) *CONSULTATION BY THE SECRETARY OF HOME-*
24 *LAND SECURITY.—The Secretary of Homeland Security*
25 *shall consult with the Secretary of Transportation before*

1 *the Secretary of Homeland Security issues a rule or order*
2 *that the Secretary of Transportation determines affects the*
3 *safety of public transportation design, construction, or op-*
4 *erations.*

5 “(j) *PREEMPTION OF STATE LAW.*—

6 “(1) *NATIONAL UNIFORMITY OF REGULATION.*—
7 *Laws, regulations, and orders related to public trans-*
8 *portation safety shall be nationally uniform to the ex-*
9 *tent practicable.*

10 “(2) *IN GENERAL.*—*A State may adopt or con-*
11 *tinue in force a law, regulation, or order related to*
12 *the safety of public transportation until the Secretary*
13 *issues a rule or order covering the subject matter of*
14 *the State requirement.*

15 “(3) *MORE STRINGENT LAW.*—*A State may*
16 *adopt or continue in force a law, regulation, or order*
17 *related to the safety of public transportation that is*
18 *consistent with, in addition to, or more stringent*
19 *than a regulation or order of the Secretary if the Sec-*
20 *retary determines that the law, regulation, or order—*

21 “(A) *has a safety benefit;*

22 “(B) *is not incompatible with a law, regu-*
23 *lation, or order, or the terms and conditions of*
24 *a financial assistance agreement of the United*
25 *States Government; and*

1 “(C) *does not unreasonably burden inter-*
2 *state commerce.*

3 “(4) *ACTIONS UNDER STATE LAW.—*

4 “(A) *RULE OF CONSTRUCTION.—Nothing in*
5 *this section shall be construed to preempt an ac-*
6 *tion under State law seeking damages for per-*
7 *sonal injury, death, or property damage alleging*
8 *that a party has failed to comply with—*

9 “(i) *a Federal standard of care estab-*
10 *lished by a regulation or order issued by the*
11 *Secretary under this section;*

12 “(ii) *its own program, rule, or stand-*
13 *ard that it created pursuant to a rule or*
14 *order issued by the Secretary; or*

15 “(iii) *a State law, regulation, or order*
16 *that is not incompatible with paragraph*
17 *(2).*

18 “(B) *EFFECTIVE DATE.—This paragraph*
19 *shall apply to any cause of action under State*
20 *law arising from an event or activity occurring*
21 *on or after the date of enactment of the Federal*
22 *Public Transportation Act of 2012.*

23 “(5) *JURISDICTION.—Nothing in this section*
24 *shall be construed to create a cause of action under*
25 *Federal law on behalf of an injured party or confer*

1 *Federal question jurisdiction for a State law cause of*
2 *action.*

3 “(k) *ANNUAL REPORT.*—*The Secretary shall submit to*
4 *the Committee on Banking, Housing, and Urban Affairs*
5 *of the Senate and the Committee on Transportation and*
6 *Infrastructure of the House of Representatives an annual*
7 *report that—*

8 “(1) *analyzes public transportation safety trends*
9 *among the States and documents the most effective*
10 *safety programs implemented using grants under this*
11 *section; and*

12 “(2) *describes the effect on public transportation*
13 *safety of activities carried out using grants under this*
14 *section.*”.

15 “(b) *BUS SAFETY STUDY.*—

16 “(1) *DEFINITION.*—*In this subsection, the term*
17 *“highway route” means a route where 50 percent or*
18 *more of the route is on roads having a speed limit of*
19 *more than 45 miles per hour.*

20 “(2) *STUDY.*—*Not later than 180 days after the*
21 *date of enactment of this Act, the Secretary of Trans-*
22 *portation shall submit to the Committee on Banking,*
23 *Housing, and Urban Affairs of the Senate and the*
24 *Committee on Transportation and Infrastructure of*
25 *the House of Representatives a report that—*

1 (A) examines the safety of public transpor-
2 tation buses that travel on highway routes;

3 (B) examines laws and regulations that
4 apply to commercial over-the-road buses; and

5 (C) makes recommendations as to whether
6 additional safety measures should be required for
7 public transportation buses that travel on high-
8 way routes.

9 **SEC. 20022. ALCOHOL AND CONTROLLED SUBSTANCES**
10 **TESTING.**

11 Section 5331(b)(2) of title 49, United States Code, is
12 amended—

13 (1) by redesignating subparagraphs (A) and (B)
14 as subparagraphs (B) and (C), respectively; and

15 (2) by inserting before subparagraph (B), as so
16 redesignated, the following:

17 “(A) shall establish and implement an enforce-
18 ment program that includes the imposition of pen-
19 alties for failure to comply with this section;”.

20 **SEC. 20023. NONDISCRIMINATION.**

21 (a) **AMENDMENTS.**—Section 5332 of title 49, United
22 States Code, is amended—

23 (1) in subsection (b)—

24 (A) by striking “creed” and inserting “reli-
25 gion”; and

1 (B) by inserting “disability,” after “sex,”;

2 and

3 (2) in subsection (d)(3), by striking “and” and
4 inserting “or”.

5 (b) *EVALUATION AND REPORT.*—

6 (1) *EVALUATION.*—*The Comptroller General of*
7 *the United States shall evaluate the progress and ef-*
8 *fectiveness of the Federal Transit Administration in*
9 *assisting recipients of assistance under chapter 53 of*
10 *title 49, United States Code, to comply with section*
11 *5332(b) of title 49, including—*

12 (A) by reviewing discrimination com-
13 plaints, reports, and other relevant information
14 collected or prepared by the Federal Transit Ad-
15 ministration or recipients of assistance from the
16 Federal Transit Administration pursuant to any
17 applicable civil rights statute, regulation, or
18 other requirement; and

19 (B) by reviewing the process that the Fed-
20 eral Transit Administration uses to resolve dis-
21 crimination complaints filed by members of the
22 public.

23 (2) *REPORT.*—*Not later than 1 year after the*
24 *date of enactment of this Act, the Comptroller General*
25 *shall submit to the Committee on Banking, Housing,*

1 *and Urban Affairs of the Senate and the Committee*
2 *on Transportation and Infrastructure of the House of*
3 *Representatives a report concerning the evaluation*
4 *under paragraph (1) that includes—*

5 *(A) a description of the ability of the Fed-*
6 *eral Transit Administration to address discrimi-*
7 *nation and foster equal opportunities in feder-*
8 *ally funded public transportation projects, pro-*
9 *grams, and activities;*

10 *(B) recommendations for improvements if*
11 *the Comptroller General determines that im-*
12 *provements are necessary; and*

13 *(C) information upon which the evaluation*
14 *under paragraph (1) is based.*

15 **SEC. 20024. LABOR STANDARDS.**

16 *Section 5333(b) of title 49, United States Code, is*
17 *amended—*

18 *(1) in paragraph (1), by striking “sections*
19 *5307–5312, 5316, 5318, 5323(a)(1), 5323(b), 5323(d),*
20 *5328, 5337, and 5338(b)” each place that term ap-*
21 *pears and inserting “sections 5307, 5308, 5309, 5311,*
22 *and 5337”; and*

23 *(2) in paragraph (5), by inserting “of Labor”*
24 *after “Secretary”.*

1 **SEC. 20025. ADMINISTRATIVE PROVISIONS.**

2 *Section 5334 of title 49, United States Code, is amend-*
3 *ed—*

4 *(1) in subsection (a)(1), by striking “under sec-*
5 *tions 5307 and 5309–5311 of this title” and inserting*
6 *“that receives Federal financial assistance under this*
7 *chapter”;*

8 *(2) in subsection (b)(1)—*

9 *(A) by inserting after “emergency,” the fol-*
10 *lowing: “or for purposes of establishing and en-*
11 *forcing a program to improve the safety of public*
12 *transportation systems in the United States,”;*
13 *and*

14 *(B) by striking “chapter, nor may the Sec-*
15 *retary” and inserting “chapter. The Secretary*
16 *may not”;*

17 *(3) in subsection (c)(4), by striking “section (ex-*
18 *cept subsection (i)) and sections 5318(e), 5323(a)(2),*
19 *5325(a), 5325(b), and 5325(f)” and inserting “sub-*
20 *section”;*

21 *(4) in subsection (h)(3), by striking “another”*
22 *and inserting “any other”;*

23 *(5) in subsection (i)(1), by striking “title 23*
24 *shall” and inserting “title 23 may”;*

25 *(6) by striking subsection (j); and*

1 (7) by redesignating subsections (k) and (l) as
2 subsections (j) and (k), respectively.

3 **SEC. 20026. NATIONAL TRANSIT DATABASE.**

4 Section 5335 of title 49, United States Code, is amend-
5 ed by adding at the end the following:

6 “(c) *DATA REQUIRED TO BE REPORTED.*—The recipi-
7 ent of a grant under this chapter shall report to the Sec-
8 retary, for inclusion in the National Transit Database, any
9 information relating to—

10 “(1) the causes of a reportable incident, as de-
11 fined by the Secretary; and

12 “(2) a transit asset inventory or condition as-
13 sessment conducted by the recipient.”.

14 **SEC. 20027. APPORTIONMENT OF APPROPRIATIONS FOR**
15 **FORMULA GRANTS.**

16 Section 5336 of title 49, United States Code, is amend-
17 ed to read as follows:

18 **“§ 5336. Apportionment of appropriations for formula**
19 **grants**

20 “(a) *BASED ON URBANIZED AREA POPULATION.*—Of
21 the amount apportioned under subsection (h)(4) to carry
22 out section 5307—

23 “(1) 9.32 percent shall be apportioned each fiscal
24 year only in urbanized areas with a population of

1 *less than 200,000 so that each of those areas is enti-*
2 *tled to receive an amount equal to—*

3 “(A) 50 percent of the total amount appor-

4 *tioned multiplied by a ratio equal to the popu-*

5 *lation of the area divided by the total population*

6 *of all urbanized areas with populations of less*

7 *than 200,000 as shown in the most recent decen-*

8 *nial census; and*

9 “(B) 50 percent of the total amount appor-

10 *tioned multiplied by a ratio for the area based*

11 *on population weighted by a factor, established*

12 *by the Secretary, of the number of inhabitants in*

13 *each square mile; and*

14 “(2) 90.68 percent shall be apportioned each fis-

15 *cal year only in urbanized areas with populations of*

16 *at least 200,000 as provided in subsections (b) and (c)*

17 *of this section.*

18 “(b) *BASED ON FIXED GUIDEWAY VEHICLE REVENUE*

19 *MILES, DIRECTIONAL ROUTE MILES, AND PASSENGER*

20 *MILES.—(1) In this subsection, ‘fixed guideway vehicle rev-*

21 *enue miles’ and ‘fixed guideway directional route miles’ in-*

22 *clude passenger ferry operations directly or under contract*

23 *by the designated recipient.*

1 “(2) *Of the amount apportioned under subsection*
2 *(a)(2) of this section, 33.29 percent shall be apportioned as*
3 *follows:*

4 “(A) *95.61 percent of the total amount appor-*
5 *tioned under this subsection shall be apportioned so*
6 *that each urbanized area with a population of at least*
7 *200,000 is entitled to receive an amount equal to—*

8 “(i) *60 percent of the 95.61 percent appor-*
9 *tioned under this subparagraph multiplied by a*
10 *ratio equal to the number of fixed guideway ve-*
11 *hicle revenue miles attributable to the area, as*
12 *established by the Secretary, divided by the total*
13 *number of all fixed guideway vehicle revenue*
14 *miles attributable to all areas; and*

15 “(ii) *40 percent of the 95.61 percent appor-*
16 *tioned under this subparagraph multiplied by a*
17 *ratio equal to the number of fixed guideway di-*
18 *rectional route miles attributable to the area, es-*
19 *tablished by the Secretary, divided by the total*
20 *number of all fixed guideway directional route*
21 *miles attributable to all areas.*

22 *An urbanized area with a population of at least*
23 *750,000 in which commuter rail transportation is*
24 *provided shall receive at least .75 percent of the total*
25 *amount apportioned under this subparagraph.*

1 “(B) 4.39 percent of the total amount appor-
2 tioned under this subsection shall be apportioned so
3 that each urbanized area with a population of at least
4 200,000 is entitled to receive an amount equal to—

5 “(i) the number of fixed guideway vehicle
6 passenger miles traveled multiplied by the num-
7 ber of fixed guideway vehicle passenger miles
8 traveled for each dollar of operating cost in an
9 area; divided by

10 “(ii) the total number of fixed guideway ve-
11 hicle passenger miles traveled multiplied by the
12 total number of fixed guideway vehicle passenger
13 miles traveled for each dollar of operating cost in
14 all areas.

15 An urbanized area with a population of at least
16 750,000 in which commuter rail transportation is
17 provided shall receive at least .75 percent of the total
18 amount apportioned under this subparagraph.

19 “(C) Under subparagraph (A) of this paragraph,
20 fixed guideway vehicle revenue or directional route
21 miles, and passengers served on those miles, in an ur-
22 banized area with a population of less than 200,000,
23 where the miles and passengers served otherwise
24 would be attributable to an urbanized area with a
25 population of at least 1,000,000 in an adjacent State,

1 *are attributable to the governmental authority in the*
2 *State in which the urbanized area with a population*
3 *of less than 200,000 is located. The authority is*
4 *deemed an urbanized area with a population of at*
5 *least 200,000 if the authority makes a contract for the*
6 *service.*

7 *“(D) A recipient’s apportionment under sub-*
8 *paragraph (A)(i) of this paragraph may not be re-*
9 *duced if the recipient, after satisfying the Secretary*
10 *that energy or operating efficiencies would be*
11 *achieved, reduces vehicle revenue miles but provides*
12 *the same frequency of revenue service to the same*
13 *number of riders.*

14 *“(c) BASED ON BUS VEHICLE REVENUE MILES AND*
15 *PASSENGER MILES.—Of the amount apportioned under*
16 *subsection (a)(2) of this section, 66.71 percent shall be ap-*
17 *portioned as follows:*

18 *“(1) 90.8 percent of the total amount appor-*
19 *tioned under this subsection shall be apportioned as*
20 *follows:*

21 *“(A) 73.39 percent of the 90.8 percent ap-*
22 *portioned under this paragraph shall be appor-*
23 *tioned so that each urbanized area with a popu-*
24 *lation of at least 1,000,000 is entitled to receive*
25 *an amount equal to—*

1 “(i) 50 percent of the 73.39 percent ap-
2 portioned under this subparagraph multi-
3 plied by a ratio equal to the total bus vehi-
4 cle revenue miles operated in or directly
5 serving the urbanized area divided by the
6 total bus vehicle revenue miles attributable
7 to all areas;

8 “(ii) 25 percent of the 73.39 percent
9 apportioned under this subparagraph mul-
10 tiplied by a ratio equal to the population of
11 the area divided by the total population of
12 all areas, as shown in the most recent de-
13 cennial census; and

14 “(iii) 25 percent of the 73.39 percent
15 apportioned under this subparagraph mul-
16 tiplied by a ratio for the area based on pop-
17 ulation weighted by a factor, established by
18 the Secretary, of the number of inhabitants
19 in each square mile.

20 “(B) 26.61 percent of the 90.8 percent ap-
21 portioned under this paragraph shall be appor-
22 tioned so that each urbanized area with a popu-
23 lation of at least 200,000 but not more than
24 999,999 is entitled to receive an amount equal
25 to—

1 “(i) 50 percent of the 26.61 percent ap-
2 portioned under this subparagraph multi-
3 plied by a ratio equal to the total bus vehi-
4 cle revenue miles operated in or directly
5 serving the urbanized area divided by the
6 total bus vehicle revenue miles attributable
7 to all areas;

8 “(ii) 25 percent of the 26.61 percent
9 apportioned under this subparagraph mul-
10 tiplied by a ratio equal to the population of
11 the area divided by the total population of
12 all areas, as shown by the most recent de-
13 cennial census; and

14 “(iii) 25 percent of the 26.61 percent
15 apportioned under this subparagraph mul-
16 tiplied by a ratio for the area based on pop-
17 ulation weighted by a factor, established by
18 the Secretary, of the number of inhabitants
19 in each square mile.

20 “(2) 9.2 percent of the total amount apportioned
21 under this subsection shall be apportioned so that
22 each urbanized area with a population of at least
23 200,000 is entitled to receive an amount equal to—

24 “(A) the number of bus passenger miles
25 traveled multiplied by the number of bus pas-

1 *passenger miles traveled for each dollar of operating*
2 *cost in an area; divided by*

3 “(B) *the total number of bus passenger*
4 *miles traveled multiplied by the total number of*
5 *bus passenger miles traveled for each dollar of*
6 *operating cost in all areas.*

7 “(d) *DATE OF APPORTIONMENT.—The Secretary*
8 *shall—*

9 “(1) *apportion amounts appropriated under sec-*
10 *tion 5338(a)(2)(C) of this title to carry out section*
11 *5307 of this title not later than the 10th day after the*
12 *date the amounts are appropriated or October 1 of the*
13 *fiscal year for which the amounts are appropriated,*
14 *whichever is later; and*

15 “(2) *publish apportionments of the amounts, in-*
16 *cluding amounts attributable to each urbanized area*
17 *with a population of more than 50,000 and amounts*
18 *attributable to each State of a multistate urbanized*
19 *area, on the apportionment date.*

20 “(e) *AMOUNTS NOT APPORTIONED TO DESIGNATED*
21 *RECIPIENTS.—The Governor of a State may expend in an*
22 *urbanized area with a population of less than 200,000 an*
23 *amount apportioned under this section that is not appor-*
24 *tioned to a designated recipient, as defined in section*
25 *5302(4).*

1 “(f) *TRANSFERS OF APPORTIONMENTS.*—(1) *The Gov-*
2 *ernor of a State may transfer any part of the State’s appor-*
3 *tionment under subsection (a)(1) of this section to suppl-*
4 *ement amounts apportioned to the State under section*
5 *5311(c)(3). The Governor may make a transfer only after*
6 *consulting with responsible local officials and publicly*
7 *owned operators of public transportation in each area for*
8 *which the amount originally was apportioned under this*
9 *section.*

10 “(2) *The Governor of a State may transfer any part*
11 *of the State’s apportionment under section 5311(c)(3) to*
12 *supplement amounts apportioned to the State under sub-*
13 *section (a)(1) of this section.*

14 “(3) *The Governor of a State may use throughout the*
15 *State amounts of a State’s apportionment remaining avail-*
16 *able for obligation at the beginning of the 90-day period*
17 *before the period of the availability of the amounts expires.*

18 “(4) *A designated recipient for an urbanized area with*
19 *a population of at least 200,000 may transfer a part of*
20 *its apportionment under this section to the Governor of a*
21 *State. The Governor shall distribute the transferred*
22 *amounts to urbanized areas under this section.*

23 “(5) *Capital and operating assistance limitations ap-*
24 *plicable to the original apportionment apply to amounts*
25 *transferred under this subsection.*

1 “(g) *PERIOD OF AVAILABILITY TO RECIPIENTS.*—An
2 amount apportioned under this section may be obligated
3 by the recipient for 5 years after the fiscal year in which
4 the amount is apportioned. Not later than 30 days after
5 the end of the 5-year period, an amount that is not obli-
6 gated at the end of that period shall be added to the amount
7 that may be apportioned under this section in the next fis-
8 cal year.

9 “(h) *APPORTIONMENTS.*—Of the amounts made avail-
10 able for each fiscal year under section 5338(a)(2)(C)—

11 “(1) \$35,000,000 shall be set aside to carry out
12 section 5307(i);

13 “(2) 3.07 percent shall be apportioned to urban-
14 ized areas in accordance with subsection (j);

15 “(3) of amounts not apportioned under para-
16 graphs (1) and (2), 1 percent shall be apportioned to
17 urbanized areas with populations of less than 200,000
18 in accordance with subsection (i); and

19 “(4) any amount not apportioned under para-
20 graphs (1), (2), and (3) shall be apportioned to ur-
21 banized areas in accordance with subsections (a)
22 through (c).

23 “(i) *SMALL TRANSIT INTENSIVE CITIES FORMULA.*—

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

1 “(A) *ELIGIBLE AREA*.—The term ‘eligible
2 area’ means an urbanized area with a popu-
3 lation of less than 200,000 that meets or exceeds
4 in one or more performance categories the indus-
5 try average for all urbanized areas with a popu-
6 lation of at least 200,000 but not more than
7 999,999, as determined by the Secretary in ac-
8 cordance with subsection (c)(2).

9 “(B) *PERFORMANCE CATEGORY*.—The term
10 ‘performance category’ means each of the fol-
11 lowing:

12 “(i) *Passenger miles traveled per vehi-*
13 *cle revenue mile.*

14 “(ii) *Passenger miles traveled per vehi-*
15 *cle revenue hour.*

16 “(iii) *Vehicle revenue miles per capita.*

17 “(iv) *Vehicle revenue hours per capita.*

18 “(v) *Passenger miles traveled per cap-*
19 *ita.*

20 “(vi) *Passengers per capita.*

21 “(2) *APPORTIONMENT*.—

22 “(A) *APPORTIONMENT FORMULA*.—The
23 amount to be apportioned under subsection
24 (h)(3) shall be apportioned among eligible areas
25 in the ratio that—

1 “(i) the number of performance cat-
2 egories for which each eligible area meets or
3 exceeds the industry average in urbanized
4 areas with a population of at least 200,000
5 but not more than 999,999; bears to

6 “(ii) the aggregate number of perform-
7 ance categories for which all eligible areas
8 meet or exceed the industry average in ur-
9 banized areas with a population of at least
10 200,000 but not more than 999,999.

11 “(B) *DATA USED IN FORMULA.*—The Sec-
12 retary shall calculate apportionments under this
13 subsection for a fiscal year using data from the
14 national transit database used to calculate ap-
15 portionments for that fiscal year under this sec-
16 tion.

17 “(j) *APPORTIONMENT FORMULA.*—The amounts ap-
18 portioned under subsection (h)(2) shall be apportioned
19 among urbanized areas as follows:

20 “(1) 75 percent of the funds shall be apportioned
21 among designated recipients for urbanized areas with
22 a population of 200,000 or more in the ratio that—

23 “(A) the number of eligible low-income indi-
24 viduals in each such urbanized area; bears to

1 “(B) the number of eligible low-income indi-
2 viduals in all such urbanized areas.

3 “(2) 25 percent of the funds shall be apportioned
4 among designated recipients for urbanized areas with
5 a population of less than 200,000 in the ratio that—

6 “(A) the number of eligible low-income indi-
7 viduals in each such urbanized area; bears to

8 “(B) the number of eligible low-income indi-
9 viduals in all such urbanized areas.”.

10 **SEC. 20028. STATE OF GOOD REPAIR GRANTS.**

11 Section 5337 of title 49, United States Code, is amend-
12 ed to read as follows:

13 **“§ 5337. State of good repair grants**

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

16 “(1) *FIXED GUIDEWAY.*—The term ‘fixed guide-
17 way’ means a public transportation facility—

18 “(A) using and occupying a separate right-
19 of-way for the exclusive use of public transpor-
20 tation;

21 “(B) using rail;

22 “(C) using a fixed catenary system;

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

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

1 “(2) *STATE*.—The term ‘State’ means the 50
2 States, the District of Columbia, and Puerto Rico.

3 “(3) *STATE OF GOOD REPAIR*.—The term ‘state
4 of good repair’ has the meaning given that term by
5 the Secretary, by rule, under section 5326(b).

6 “(4) *TRANSIT ASSET MANAGEMENT PLAN*.—The
7 term ‘transit asset management plan’ means a plan
8 developed by a recipient of funding under this chapter
9 that—

10 “(A) includes, at a minimum, capital asset
11 inventories and condition assessments, decision
12 support tools, and investment prioritization; and

13 “(B) the recipient certifies that the recipient
14 complies with the rule issued under section
15 5326(d).

16 “(b) *GENERAL AUTHORITY*.—

17 “(1) *ELIGIBLE PROJECTS*.—The Secretary may
18 make grants under this section to assist State and
19 local governmental authorities in financing capital
20 projects to maintain public transportation systems in
21 a state of good repair, including projects to replace
22 and rehabilitate—

23 “(A) rolling stock;

24 “(B) track;

25 “(C) line equipment and structures;

- 1 “(D) signals and communications;
- 2 “(E) power equipment and substations;
- 3 “(F) passenger stations and terminals;
- 4 “(G) security equipment and systems;
- 5 “(H) maintenance facilities and equipment;
- 6 “(I) operational support equipment, includ-
- 7 ing computer hardware and software;
- 8 “(J) development and implementation of a
- 9 transit asset management plan; and
- 10 “(K) other replacement and rehabilitation
- 11 projects the Secretary determines appropriate.

12 “(2) *INCLUSION IN PLAN.*—A recipient shall in-

13 clude a project carried out under paragraph (1) in

14 the transit asset management plan of the recipient

15 upon completion of the plan.

16 “(c) *HIGH INTENSITY FIXED GUIDEWAY STATE OF*

17 *GOOD REPAIR FORMULA.*—

18 “(1) *IN GENERAL.*—Of the amount authorized or

19 made available under section 5338(a)(2)(M),

20 \$1,874,763,500 shall be apportioned to recipients in

21 accordance with this subsection.

22 “(2) *AREA SHARE.*—

23 “(A) *IN GENERAL.*—50 percent of the

24 amount described in paragraph (1) shall be ap-

1 *portioned for fixed guideway systems in accord-*
2 *ance with this paragraph.*

3 “(B) *SHARE.*—*A recipient shall receive an*
4 *amount equal to the amount described in sub-*
5 *paragraph (A), multiplied by the amount the re-*
6 *recipient would have received under this section, as*
7 *in effect for fiscal year 2011, if the amount had*
8 *been calculated in accordance with section*
9 *5336(b)(1) and using the definition of the term*
10 *‘fixed guideway’ under subsection (a) of this sec-*
11 *tion, as such sections are in effect on the day*
12 *after the date of enactment of the Federal Public*
13 *Transportation Act of 2012, and divided by the*
14 *total amount apportioned for all areas under*
15 *this section for fiscal year 2011.*

16 “(C) *RECIPIENT.*—*For purposes of this*
17 *paragraph, the term ‘recipient’ means an entity*
18 *that received funding under this section, as in ef-*
19 *fect for fiscal year 2011.*

20 “(3) *VEHICLE REVENUE MILES AND DIREC-*
21 *TIONAL ROUTE MILES.*—

22 “(A) *IN GENERAL.*—*50 percent of the*
23 *amount described in paragraph (1) shall be ap-*
24 *portioned to recipients in accordance with this*
25 *paragraph.*

1 “(B) *VEHICLE REVENUE MILES.*—A recipi-
2 *ent in an urbanized area shall receive an*
3 *amount equal to 60 percent of the amount de-*
4 *scribed in subparagraph (A), multiplied by the*
5 *number of fixed guideway vehicle revenue miles*
6 *attributable to the urbanized area, as established*
7 *by the Secretary, divided by the total number of*
8 *all fixed guideway vehicle revenue miles attrib-*
9 *utable to all urbanized areas.*

10 “(C) *DIRECTIONAL ROUTE MILES.*—A re-
11 *recipient in an urbanized area shall receive an*
12 *amount equal to 40 percent of the amount de-*
13 *scribed in subparagraph (A), multiplied by the*
14 *number of fixed guideway directional route miles*
15 *attributable to the urbanized area, as established*
16 *by the Secretary, divided by the total number of*
17 *all fixed guideway directional route miles attrib-*
18 *utable to all urbanized areas.*

19 “(4) *LIMITATION.*—

20 “(A) *IN GENERAL.*—*Except as provided in*
21 *subparagraph (B), the share of the total amount*
22 *apportioned under this section that is appor-*
23 *tioned to an area under this subsection shall not*
24 *decrease by more than 0.25 percentage points*

1 *compared to the share apportioned to the area*
2 *under this subsection in the previous fiscal year.*

3 “(B) *SPECIAL RULE FOR FISCAL YEAR*
4 *2012.—In fiscal year 2012, the share of the total*
5 *amount apportioned under this section that is*
6 *apportioned to an area under this subsection*
7 *shall not decrease by more than 0.25 percentage*
8 *points compared to the share that would have*
9 *been apportioned to the area under this section,*
10 *as in effect for fiscal year 2011, if the share had*
11 *been calculated using the definition of the term*
12 *‘fixed guideway’ under subsection (a) of this sec-*
13 *tion, as in effect on the day after the date of en-*
14 *actment of the Federal Public Transportation*
15 *Act of 2012.*

16 “(5) *USE OF FUNDS.—Amounts made available*
17 *under this subsection shall be available for the exclu-*
18 *sive use of fixed guideway projects.*

19 “(6) *RECEIVING APPORTIONMENT.—*

20 “(A) *IN GENERAL.—Except as provided in*
21 *subparagraph (B), for an area with a fixed*
22 *guideway system, the amounts provided under*
23 *this section shall be apportioned to the des-*
24 *ignated recipient for the urbanized area in which*
25 *the system operates.*

1 “(B) *EXCEPTION.*—*An area described in the*
2 *amendment made by section 3028(a) of the*
3 *Transportation Equity Act for the 21st Century*
4 *(Public Law 105–178; 112 Stat. 366) shall re-*
5 *ceive an individual apportionment under this*
6 *subsection.*

7 “(7) *APPORTIONMENT REQUIREMENTS.*—*For*
8 *purposes of determining the number of fixed guideway*
9 *vehicle revenue miles or fixed guideway directional*
10 *route miles attributable to an urbanized area for a*
11 *fiscal year under this subsection, only segments of*
12 *fixed guideway systems placed in revenue service not*
13 *later than 7 years before the first day of the fiscal*
14 *year shall be deemed to be attributable to an urban-*
15 *ized area.*

16 “(d) *FIXED GUIDEWAY STATE OF GOOD REPAIR*
17 *GRANT PROGRAM.*—

18 “(1) *IN GENERAL.*—*The Secretary may make*
19 *grants under this section to assist State and local*
20 *governmental authorities in financing fixed guideway*
21 *capital projects to maintain public transportation*
22 *systems in a state of good repair.*

23 “(2) *COMPETITIVE PROCESS.*—*The Secretary*
24 *shall solicit grant applications and make grants for*
25 *eligible projects on a competitive basis.*

1 “(3) *PRIORITY CONSIDERATION.*—*In making*
2 *grants under this subsection, the Secretary shall give*
3 *priority to grant applications received from recipients*
4 *receiving an amount under this section that is not*
5 *less than 2 percent less than the amount the recipient*
6 *would have received under this section, as in effect for*
7 *fiscal year 2011, if the amount had been calculated*
8 *using the definition of the term ‘fixed guideway’*
9 *under subsection (a) of this section, as in effect on the*
10 *day after the date of enactment of the Federal Public*
11 *Transportation Act of 2012.*

12 “(e) *HIGH INTENSITY MOTORBUS STATE OF GOOD RE-*
13 *PAIR.*—

14 “(1) *DEFINITION.*—*For purposes of this sub-*
15 *section, the term ‘high intensity motorbus’ means*
16 *public transportation that is provided on a facility*
17 *with access for other high-occupancy vehicles.*

18 “(2) *APPORTIONMENT.*—*Of the amount author-*
19 *ized or made available under section 5338(a)(2)(M),*
20 *\$112,500,000 shall be apportioned to urbanized areas*
21 *for high intensity motorbus state of good repair in ac-*
22 *cordance with this subsection.*

23 “(3) *VEHICLE REVENUE MILES AND DIREC-*
24 *TIONAL ROUTE MILES.*—

1 “(A) *IN GENERAL.*—\$60,000,000 of the
2 amount described in paragraph (2) shall be ap-
3 portioned to each area in accordance with this
4 paragraph.

5 “(B) *VEHICLE REVENUE MILES.*—Each
6 area shall receive an amount equal to 60 percent
7 of the amount described in subparagraph (A),
8 multiplied by the number of high intensity
9 motorbus vehicle revenue miles attributable to the
10 area, as established by the Secretary, divided by
11 the total number of all high intensity motorbus
12 vehicle revenue miles attributable to all areas.

13 “(C) *DIRECTIONAL ROUTE MILES.*—Each
14 area shall receive an amount equal to 40 percent
15 of the amount described in subparagraph (A),
16 multiplied by the number of high intensity
17 motorbus directional route miles attributable to
18 the area, as established by the Secretary, divided
19 by the total number of all high intensity
20 motorbus directional route miles attributable to
21 all areas.

22 “(4) *SPECIAL RULE FOR HIGH INTENSITY*
23 *MOTORBUS.*—

1 “(A) *IN GENERAL.*—\$52,500,000 of the
2 *amount described in paragraph (2) shall be ap-*
3 *portioned—*

4 “(i) *in accordance with this para-*
5 *graph; and*

6 “(ii) *among urbanized areas within a*
7 *State in the same proportion as funds are*
8 *apportioned within a State under section*
9 *5336, except subsection (b), and shall be*
10 *added to such amounts.*

11 “(B) *TERRITORIES.*—*Of the amount de-*
12 *scribed in subparagraph (A), \$500,000 shall be*
13 *distributed among the territories, as determined*
14 *by the Secretary.*

15 “(C) *STATES.*—*Of the amount described in*
16 *subparagraph (A), each State shall receive*
17 *\$1,000,000.*

18 “(5) *USE OF FUNDS.*—*A recipient may transfer*
19 *any part of the apportionment under this subsection*
20 *for use under subsection (c).*

21 “(6) *APPORTIONMENT REQUIREMENTS.*—*For*
22 *purposes of determining the number of high intensity*
23 *motorbus vehicle revenue miles or high intensity*
24 *motorbus directional route miles attributable to an*
25 *urbanized area for a fiscal year under this subsection,*

1 *only segments of high intensity motorbus systems*
2 *placed in revenue service not later than 7 years before*
3 *the first day of the fiscal year shall be deemed to be*
4 *attributable to an urbanized area.*

5 “(f) *BUS AND BUS FACILITIES STATE OF GOOD RE-*
6 *PAIR GRANT PROGRAM.—*

7 “(1) *IN GENERAL.—The Secretary may make*
8 *grants under this subsection to assist State and local*
9 *governmental authorities in financing bus and bus fa-*
10 *cility capital projects to maintain public transpor-*
11 *tation systems in a state of good repair.*

12 “(2) *COMPETITIVE PROCESS.—The Secretary*
13 *shall solicit grant applications and make grants for*
14 *capital projects on a competitive basis.*

15 “(3) *DISTRIBUTION.—The Secretary shall ensure*
16 *that not less than 40 percent of the funds allocated on*
17 *a competitive basis are distributed to rural areas.*

18 “(4) *PRIORITY CONSIDERATION.—In making*
19 *grants under this subsection, the Secretary shall give*
20 *priority to recipients providing bus-only or high-in-*
21 *tensity motorbus service (as defined in subsection*
22 *(e)(1)) in a State whose recipients’ total apportion-*
23 *ment from section 5338(a) in fiscal year 2012 minus*
24 *the recipients’ total apportionment from section*
25 *5338(a) in fiscal year 2011 does not exceed 90 percent*

1 *of the average annual amount the recipients in the*
2 *State received under section 5309(m)(2)(c), as in ef-*
3 *fect on October 1, 2011, in fiscal years 2006 through*
4 *2011.”.*

5 **SEC. 20029. AUTHORIZATIONS.**

6 *Section 5338 of title 49, United States Code, is amend-*
7 *ed to read as follows:*

8 **“§ 5338. Authorizations**

9 “(a) *FORMULA GRANTS.—*

10 “(1) *IN GENERAL.—There shall be available from*
11 *the Mass Transit Account of the Highway Trust Fund*
12 *to carry out sections 5305, 5307, 5308, 5310, 5311,*
13 *5312, 5313, 5314, 5315, 5322, 5335, and 5340, sub-*
14 *sections (c) and (e) of section 5337, and section*
15 *20005(b) of the Federal Public Transportation Act of*
16 *2012, \$8,360,565,000 for each of fiscal years 2012 and*
17 *2013.*

18 “(2) *ALLOCATION OF FUNDS.—Of the amounts*
19 *made available under paragraph (1)—*

20 “(A) *\$124,850,000 for each of fiscal years*
21 *2012 and 2013 shall be available to carry out*
22 *section 5305;*

23 “(B) *\$20,000,000 for each of fiscal years*
24 *2012 and 2013 shall be available to carry out*

1 *section 20005(b) of the Federal Public Transpor-*
2 *tation Act of 2012;*

3 *“(C) \$4,756,161,500 for each of fiscal years*
4 *2012 and 2013 shall be allocated in accordance*
5 *with section 5336 to provide financial assistance*
6 *for urbanized areas under section 5307;*

7 *“(D) \$65,150,000 for each of fiscal years*
8 *2012 and 2013 shall be available to carry out*
9 *section 5308, of which not less than \$8,500,000*
10 *shall be used to carry out activities under section*
11 *5312;*

12 *“(E) \$248,600,000 for each of fiscal years*
13 *2012 and 2013 shall be available to provide fi-*
14 *nancial assistance for services for the enhanced*
15 *mobility of seniors and individuals with disabil-*
16 *ities under section 5310;*

17 *“(F) \$591,190,000 for each of fiscal years*
18 *2012 and 2013 shall be available to provide fi-*
19 *nancial assistance for other than urbanized areas*
20 *under section 5311, of which not less than*
21 *\$30,000,000 shall be available to carry out sec-*
22 *tion 5311(c)(1) and \$20,000,000 shall be avail-*
23 *able to carry out section 5311(c)(2);*

24 *“(G) \$34,000,000 for each of fiscal years*
25 *2012 and 2013 shall be available to carry out re-*

1 *search, development, demonstration, and deploy-*
2 *ment projects under section 5312;*

3 “(H) \$6,500,000 for each of fiscal years
4 2012 and 2013 shall be available to carry out a
5 transit cooperative research program under sec-
6 tion 5313;

7 “(I) \$4,500,000 for each of fiscal years 2012
8 and 2013 shall be available for technical assist-
9 ance and standards development under section
10 5314;

11 “(J) \$5,000,000 for each of fiscal years 2012
12 and 2013 shall be available for the National
13 Transit Institute under section 5315;

14 “(K) \$2,000,000 for each of fiscal years
15 2012 and 2013 shall be available for workforce
16 development and human resource grants under
17 section 5322;

18 “(L) \$3,850,000 for each of fiscal years
19 2012 and 2013 shall be available to carry out
20 section 5335;

21 “(M) \$1,987,263,500 for each of fiscal years
22 2012 and 2013 shall be available to carry out
23 subsections (c) and (e) of section 5337; and

24 “(N) \$511,500,000 for each of fiscal years
25 2012 and 2013 shall be allocated in accordance

1 *with section 5340 to provide financial assistance*
2 *for urbanized areas under section 5307 and other*
3 *than urbanized areas under section 5311.*

4 “(b) *EMERGENCY RELIEF PROGRAM.*—*There are au-*
5 *thorized to be appropriated such sums as are necessary to*
6 *carry out section 5306.*

7 “(c) *CAPITAL INVESTMENT GRANTS.*—*There are au-*
8 *thorized to be appropriated to carry out section 5309,*
9 *\$1,955,000,000 for each of fiscal years 2012 and 2013, of*
10 *which not less than \$75,000,000 shall be available to carry*
11 *out section 5337(f).*

12 “(d) *PAUL S. SARBANES TRANSIT IN THE PARKS.*—
13 *There are authorized to be appropriated to carry out section*
14 *5320, \$26,900,000 for each of fiscal years 2012 and 2013.*

15 “(e) *FIXED GUIDEWAY STATE OF GOOD REPAIR*
16 *GRANT PROGRAM.*—*There are authorized to be appro-*
17 *priated to carry out section 5337(d), \$7,463,000 for each*
18 *of fiscal years 2012 and 2013.*

19 “(f) *ADMINISTRATION.*—

20 “(1) *IN GENERAL.*—*There are authorized to be*
21 *appropriated to carry out section 5334, \$108,350,000*
22 *for each of fiscal years 2012 and 2013.*

23 “(2) *SECTION 5329.*—*Of the amounts authorized*
24 *to be appropriated under paragraph (1), not less than*

1 \$10,000,000 shall be available to carry out section
2 5329.

3 “(3) SECTION 5326.—Of the amounts made avail-
4 able under paragraph (2), not less than \$1,000,000
5 shall be available to carry out section 5326.

6 “(g) OVERSIGHT.—

7 “(1) IN GENERAL.—Of the amounts made avail-
8 able to carry out this chapter for a fiscal year, the
9 Secretary may use not more than the following
10 amounts for the activities described in paragraph (2):

11 “(A) 0.5 percent of amounts made available
12 to carry out section 5305.

13 “(B) 0.75 percent of amounts made avail-
14 able to carry out section 5307.

15 “(C) 1 percent of amounts made available
16 to carry out section 5309.

17 “(D) 1 percent of amounts made available
18 to carry out section 601 of the Passenger Rail
19 Investment and Improvement Act of 2008 (Pub-
20 lic Law 110–432; 126 Stat. 4968).

21 “(E) 0.5 percent of amounts made available
22 to carry out section 5310.

23 “(F) 0.5 percent of amounts made available
24 to carry out section 5311.

1 “(G) 0.5 percent of amounts made available
2 to carry out section 5320.

3 “(H) 0.75 percent of amounts made avail-
4 able to carry out section 5337(c).

5 “(2) *ACTIVITIES.*—*The activities described in*
6 *this paragraph are as follows:*

7 “(A) *Activities to oversee the construction of*
8 *a major capital project.*

9 “(B) *Activities to review and audit the safe-*
10 *ty and security, procurement, management, and*
11 *financial compliance of a recipient or sub-*
12 *recipient of funds under this chapter.*

13 “(C) *Activities to provide technical assist-*
14 *ance generally, and to provide technical assist-*
15 *ance to correct deficiencies identified in compli-*
16 *ance reviews and audits carried out under this*
17 *section.*

18 “(3) *GOVERNMENT SHARE OF COSTS.*—*The Gov-*
19 *ernment shall pay the entire cost of carrying out a*
20 *contract under this subsection.*

21 “(4) *AVAILABILITY OF CERTAIN FUNDS.*—*Funds*
22 *made available under paragraph (1)(C) shall be made*
23 *available to the Secretary before allocating the funds*
24 *appropriated to carry out any project under a full*
25 *funding grant agreement.*

1 “(h) *GRANTS AS CONTRACTUAL OBLIGATIONS.*—

2 “(1) *GRANTS FINANCED FROM HIGHWAY TRUST*
3 *FUND.*—*A grant or contract that is approved by the*
4 *Secretary and financed with amounts made available*
5 *from the Mass Transit Account of the Highway Trust*
6 *Fund pursuant to this section is a contractual obliga-*
7 *tion of the Government to pay the Government share*
8 *of the cost of the project.*

9 “(2) *GRANTS FINANCED FROM GENERAL FUND.*—
10 *A grant or contract that is approved by the Secretary*
11 *and financed with amounts appropriated in advance*
12 *from the General Fund of the Treasury pursuant to*
13 *this section is a contractual obligation of the Govern-*
14 *ment to pay the Government share of the cost of the*
15 *project only to the extent that amounts are appro-*
16 *priated for such purpose by an Act of Congress.*

17 “(i) *AVAILABILITY OF AMOUNTS.*—*Amounts made*
18 *available by or appropriated under this section shall re-*
19 *main available until expended.”.*

20 **SEC. 20030. APPORTIONMENTS BASED ON GROWING STATES**
21 **AND HIGH DENSITY STATES FORMULA FAC-**
22 **TORS.**

23 *Section 5340 of title 49, United States Code, is amend-*
24 *ed to read as follows:*

1 **“§ 5340. Apportionments based on growing States and**
2 **high density States formula factors**

3 “(a) *DEFINITION.*—*In this section, the term ‘State’*
4 *shall mean each of the 50 States of the United States.*

5 “(b) *ALLOCATION.*—*Of the amounts made available for*
6 *each fiscal year under section 5338(a)(2)(N), the Secretary*
7 *shall apportion—*

8 “(1) *50 percent to States and urbanized areas in*
9 *accordance with subsection (c); and*

10 “(2) *50 percent to States and urbanized areas in*
11 *accordance with subsection (d).*

12 “(c) *GROWING STATE APPORTIONMENTS.*—

13 “(1) *APPORTIONMENT AMONG STATES.*—*The*
14 *amounts apportioned under subsection (b)(1) shall*
15 *provide each State with an amount equal to the total*
16 *amount apportioned multiplied by a ratio equal to*
17 *the population of that State forecast for the year that*
18 *is 15 years after the most recent decennial census, di-*
19 *vided by the total population of all States forecast for*
20 *the year that is 15 years after the most recent decen-*
21 *ennial census. Such forecast shall be based on the popu-*
22 *lation trend for each State between the most recent*
23 *decennial census and the most recent estimate of popu-*
24 *lation made by the Secretary of Commerce.*

1 “(2) *APPORTIONMENTS BETWEEN URBANIZED*
2 *AREAS AND OTHER THAN URBANIZED AREAS IN EACH*
3 *STATE.—*

4 “(A) *IN GENERAL.—The Secretary shall ap-*
5 *portion amounts to each State under paragraph*
6 *(1) so that urbanized areas in that State receive*
7 *an amount equal to the amount apportioned to*
8 *that State multiplied by a ratio equal to the sum*
9 *of the forecast population of all urbanized areas*
10 *in that State divided by the total forecast popu-*
11 *lation of that State. In making the appor-*
12 *tionment under this subparagraph, the Secretary*
13 *shall utilize any available forecasts made by the*
14 *State. If no forecasts are available, the Secretary*
15 *shall utilize data on urbanized areas and total*
16 *population from the most recent decennial cen-*
17 *sus.*

18 “(B) *REMAINING AMOUNTS.—Amounts re-*
19 *maining for each State after apportionment*
20 *under subparagraph (A) shall be apportioned to*
21 *that State and added to the amount made avail-*
22 *able for grants under section 5311.*

23 “(3) *APPORTIONMENTS AMONG URBANIZED*
24 *AREAS IN EACH STATE.—The Secretary shall appor-*
25 *tion amounts made available to urbanized areas in*

1 *each State under paragraph (2)(A) so that each ur-*
2 *banized area receives an amount equal to the amount*
3 *apportioned under paragraph (2)(A) multiplied by a*
4 *ratio equal to the population of each urbanized area*
5 *divided by the sum of populations of all urbanized*
6 *areas in the State. Amounts apportioned to each ur-*
7 *banized area shall be added to amounts apportioned*
8 *to that urbanized area under section 5336, and made*
9 *available for grants under section 5307.*

10 *“(d) HIGH DENSITY STATE APPORTIONMENTS.—*
11 *Amounts to be apportioned under subsection (b)(2) shall be*
12 *apportioned as follows:*

13 *“(1) ELIGIBLE STATES.—The Secretary shall*
14 *designate as eligible for an apportionment under this*
15 *subsection all States with a population density in ex-*
16 *cess of 370 persons per square mile.*

17 *“(2) STATE URBANIZED LAND FACTOR.—For*
18 *each State qualifying for an apportionment under*
19 *paragraph (1), the Secretary shall calculate an*
20 *amount equal to—*

21 *“(A) the total land area of the State (in*
22 *square miles); multiplied by*

23 *“(B) 370; multiplied by*

24 *“(C)(i) the population of the State in ur-*
25 *banized areas; divided by*

1 “(i) the total population of the State.

2 “(3) STATE APPORTIONMENT FACTOR.—For each
3 State qualifying for an apportionment under para-
4 graph (1), the Secretary shall calculate an amount
5 equal to the difference between the total population of
6 the State less the amount calculated in paragraph (2).

7 “(4) STATE APPORTIONMENT.—Each State
8 qualifying for an apportionment under paragraph (1)
9 shall receive an amount equal to the amount to be ap-
10 portioned under this subsection multiplied by the
11 amount calculated for the State under paragraph (3)
12 divided by the sum of the amounts calculated under
13 paragraph (3) for all States qualifying for an appor-
14 tionment under paragraph (1).

15 “(5) APPORTIONMENTS AMONG URBANIZED
16 AREAS IN EACH STATE.—The Secretary shall appor-
17 tion amounts made available to each State under
18 paragraph (4) so that each urbanized area receives an
19 amount equal to the amount apportioned under para-
20 graph (4) multiplied by a ratio equal to the popu-
21 lation of each urbanized area divided by the sum of
22 populations of all urbanized areas in the State.
23 Amounts apportioned to each urbanized area shall be
24 added to amounts apportioned to that urbanized area

1 *under section 5336, and made available for grants*
2 *under section 5307.”.*

3 **SEC. 20031. TECHNICAL AND CONFORMING AMENDMENTS.**

4 (a) *SECTION 5305.—Section 5305 of title 49, United*
5 *States Code, is amended—*

6 (1) *in subsection (c), by striking “sections 5303,*
7 *5304, and 5306” and inserting “sections 5303 and*
8 *5304”;*

9 (2) *in subsection (d), by striking “sections 5303*
10 *and 5306” each place that term appears and insert-*
11 *ing “section 5303”;*

12 (3) *in subsection (e)(1)(A), by striking “sections*
13 *5304, 5306, 5315, and 5322” and inserting “section*
14 *5304”;*

15 (4) *in subsection (f)—*

16 (A) *in the heading, by striking “GOVERN-*
17 *MENT’S” and inserting “GOVERNMENT”;* and

18 (B) *by striking “Government’s” and insert-*
19 *ing “Government”;* and

20 (5) *in subsection (g), by striking “section 5338(c)*
21 *for fiscal years 2005 through 2011 and for the period*
22 *beginning on October 1, 2011, and ending on March*
23 *31, 2012” and inserting “section 5338(a)(2)(A) for a*
24 *fiscal year”.*

1 (b) *SECTION 5313.*—*Section 5313(a) of title 49,*
2 *United States Code, is amended—*

3 (1) *in the first sentence, by striking “subsections*
4 *(a)(5)(C)(iii) and (d)(1) of section 5338” and insert-*
5 *ing section “5338(a)(2)(H)”;* and

6 (2) *in the second sentence, by striking “of Trans-*
7 *portation”.*

8 (c) *SECTION 5319.*—*Section 5319 of title 49, United*
9 *States Code, is amended, in the second sentence—*

10 (1) *by striking “sections 5307(e), 5309(h), and*
11 *5311(g) of this title” and inserting “sections 5307(e),*
12 *5309(k), and 5311(h)”;* and

13 (2) *by striking “of the United States” and in-*
14 *serting “made by the”.*

15 (d) *SECTION 5325.*—*Section 5325(b)(2)(A) of title 49,*
16 *United States Code, is amended by striking “title 48, Code*
17 *of Federal Regulations (commonly known as the Federal*
18 *Acquisition Regulation)” and inserting “the Federal Acqui-*
19 *sition Regulation, or any successor thereto”.*

20 (e) *SECTION 5330.*—*Effective 3 years after the effective*
21 *date of the final rules issued by the Secretary of Transpor-*
22 *tation under section 5329(e) of title 49, United States Code,*
23 *as amended by this division, section 5330 of title 49, United*
24 *States Code, is repealed.*

1 (f) *SECTION 5331.*—*Section 5331 of title 49, United*
2 *States Code, is amended by striking “Secretary of Trans-*
3 *portation” each place that term appears and inserting*
4 *“Secretary”.*

5 (g) *SECTION 5332.*—*Section 5332(c)(1) of title 49,*
6 *United States Code, is amended by striking “of Transpor-*
7 *tation”.*

8 (h) *SECTION 5333.*—*Section 5333(a) of title 49,*
9 *United States Code, is amended by striking “sections 3141–*
10 *3144” and inserting “sections 3141 through 3144”.*

11 (i) *SECTION 5334.*—*Section 5334 of title 49, United*
12 *States Code, is amended—*

13 (1) *in subsection (c)—*

14 (A) *by striking “Secretary of Transpor-*
15 *tation” each place that term appears and insert-*
16 *ing “Secretary”; and*

17 (B) *in paragraph (1), by striking “Commit-*
18 *tees on Transportation and Infrastructure and*
19 *Appropriations of the House of Representatives*
20 *and the Committees on Banking, Housing, and*
21 *Urban Affairs and Appropriations of the Sen-*
22 *ate” and inserting “Committee on Banking,*
23 *Housing, and Urban Affairs and the Committee*
24 *on Appropriations of the Senate and the Com-*
25 *mittee on Transportation and Infrastructure and*

1 *the Committee on Appropriations of the House of*
2 *Representatives*”;

3 (2) *in subsection (d), by striking “of Transpor-*
4 *tation*”;

5 (3) *in subsection (e), by striking “of Transpor-*
6 *tation*”;

7 (4) *in subsection (f), by striking “of Transpor-*
8 *tation*”;

9 (5) *in subsection (g), in the matter preceding*
10 *paragraph (1)—*

11 (A) *by striking “of Transportation”*; and

12 (B) *by striking “subsection (a)(3) or (4) of*
13 *this section” and inserting “paragraph (3) or (4)*
14 *of subsection (a)”*;

15 (6) *in subsection (h)—*

16 (A) *in paragraph (1), in the matter pre-*
17 *ceding subparagraph (A), by striking “of Trans-*
18 *portation”*; and

19 (B) *in paragraph (2), by striking “of this*
20 *section”*;

21 (7) *in subsection (i)(1), by striking “of Trans-*
22 *portation”*; and

23 (8) *in subsection (j), as so redesignated by sec-*
24 *tion 20025 of this division, by striking “Committees*
25 *on Banking, Housing, and Urban Affairs and Appro-*

1 *priations of the Senate and Committees on Transpor-*
 2 *tation and Infrastructure and Appropriations of the*
 3 *House of Representatives” and inserting “Committee*
 4 *on Banking, Housing, and Urban Affairs and the*
 5 *Committee on Appropriations of the Senate and the*
 6 *Committee on Transportation and Infrastructure and*
 7 *the Committee on Appropriations of the House of*
 8 *Representatives”.*

9 *(j) SECTION 5335.—Section 5335(a) of title 49, United*
 10 *States Code, is amended by striking “of Transportation”.*

11 *(k) TABLE OF SECTIONS.—The table of sections for*
 12 *chapter 53 of title 49, United States Code, is amended to*
 13 *read as follows:*

“Sec.

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

“5302. *Definitions.*

“5303. *Metropolitan transportation planning.*

“5304. *Statewide and nonmetropolitan transportation planning.*

“5305. *Planning programs.*

“5306. *Public transportation emergency relief program.*

“5307. *Urbanized area formula grants.*

“5308. *Clean fuel grant program.*

“5309. *Fixed guideway capital investment grants.*

“5310. *Formula grants for the enhanced mobility of seniors and individuals with disabilities.*

“5311. *Formula grants for other than urbanized areas.*

“5312. *Research, development, demonstration, and deployment projects.*

“5313. *Transit cooperative research program.*

“5314. *Technical assistance and standards development.*

“5315. *National Transit Institute.*

“[5316. *Repealed.]*

“[5317. *Repealed.]*

“5318. *Bus testing facilities.*

“5319. *Bicycle facilities.*

“5320. *Alternative transportation in parks and public lands.*

“[5321. *Repealed.]*

“5322. *Public transportation workforce development and human resource programs.*

“5323. *General provisions.*

“[5324. *Repealed.]*

- “5325. Contract requirements.*
- “5326. Transit asset management.*
- “5327. Project management oversight.*
- “[5328. Repealed.]*
- “5329. Public transportation safety program.*
- “5330. State safety oversight.*
- “5331. Alcohol and controlled substances testing.*
- “5332. Nondiscrimination.*
- “5333. Labor standards.*
- “5334. Administrative provisions.*
- “5335. National transit database.*
- “5336. Apportionment of appropriations for formula grants.*
- “5337. State of good repair grants.*
- “5338. Authorizations.*
- “[5339. Repealed.]*
- “5340. Apportionments based on growing States and high density States formula factors.*

1 **DIVISION C—TRANSPORTATION**
2 **SAFETY AND SURFACE TRANS-**
3 **PORTATION POLICY**
4 **TITLE I—MOTOR VEHICLE AND**
5 **HIGHWAY SAFETY IMPROVE-**
6 **MENT ACT OF 2012**

7 **SEC. 31001. SHORT TITLE.**

8 *This title may be cited as the “Motor Vehicle and*
9 *Highway Safety Improvement Act of 2012” or “Mariah’s*
10 *Act”.*

11 **SEC. 31002. DEFINITION.**

12 *In this title, the term “Secretary” means the Secretary*
13 *of Transportation.*

14 **Subtitle A—Highway Safety**

15 **SEC. 31101. AUTHORIZATION OF APPROPRIATIONS.**

16 *(a) IN GENERAL.—The following sums are authorized*
17 *to be appropriated out of the Highway Trust Fund (other*
18 *than the Mass Transit Account):*

19 *(1) HIGHWAY SAFETY PROGRAMS.—For carrying*
20 *out section 402 of title 23, United States Code—*

21 *(A) \$243,000,000 for fiscal year 2012; and*

22 *(B) \$243,000,000 for fiscal year 2013.*

23 *(2) HIGHWAY SAFETY RESEARCH AND DEVELOP-*
24 *MENT.—For carrying out section 403 of title 23,*
25 *United States Code—*

1 (A) \$130,000,000 for fiscal year 2012; and

2 (B) \$139,000,000 for fiscal year 2013.

3 (3) COMBINED OCCUPANT PROTECTION
4 GRANTS.—For carrying out section 405 of title 23,
5 United States Code—

6 (A) \$44,000,000 for fiscal year 2012; and

7 (B) \$44,000,000 for fiscal year 2013.

8 (4) STATE TRAFFIC SAFETY INFORMATION SYS-
9 TEM IMPROVEMENTS.—For carrying out section 408
10 of title 23, United States Code—

11 (A) \$44,000,000 for fiscal year 2012; and

12 (B) \$44,000,000 for fiscal year 2013.

13 (5) IMPAIRED DRIVING COUNTERMEASURES.—
14 For carrying out section 410 of title 23, United States
15 Code—

16 (A) \$139,000,000 for fiscal year 2012; and

17 (B) \$139,000,000 for fiscal year 2013.

18 (6) DISTRACTED DRIVING GRANTS.—For car-
19 rying out section 411 of title 23, United States
20 Code—

21 (A) \$39,000,000 for fiscal year 2012; and

22 (B) \$39,000,000 for fiscal year 2013.

23 (7) NATIONAL DRIVER REGISTER.—For the Na-
24 tional Highway Traffic Safety Administration to

1 *carry out chapter 303 of title 49, United States*
2 *Code—*

3 (A) \$5,000,000 for fiscal year 2012; and

4 (B) \$5,000,000 for fiscal year 2013.

5 (8) *HIGH VISIBILITY ENFORCEMENT PROGRAM.—*

6 *For carrying out section 2009 of SAFETEA-LU (23*
7 *U.S.C. 402 note)—*

8 (A) \$37,000,000 for fiscal year 2012; and

9 (B) \$37,000,000 for fiscal year 2013.

10 (9) *MOTORCYCLIST SAFETY.—For carrying out*
11 *section 2010 of SAFETEA-LU (23 U.S.C. 402*
12 *note)—*

13 (A) \$6,000,000 for fiscal year 2012; and

14 (B) \$6,000,000 for fiscal year 2013.

15 (10) *ADMINISTRATIVE EXPENSES.—For adminis-*
16 *trative and related operating expenses of the National*
17 *Highway Traffic Safety Administration in carrying*
18 *out chapter 4 of title 23, United States Code, and this*
19 *subtitle—*

20 (A) \$25,581,280 for fiscal year 2012; and

21 (B) \$25,862,674 for fiscal year 2013.

22 (11) *DRIVER ALCOHOL DETECTION SYSTEM FOR*
23 *SAFETY RESEARCH.—For carrying out section 413 of*
24 *title 23, United States Code—*

25 (A) \$12,000,000 for fiscal year 2012; and

1 (B) \$12,000,000 for fiscal year 2013.

2 (12) STATE GRADUATED DRIVER LICENSING
3 LAWS.—For carrying out section 414 of title 23,
4 United States Code—

5 (A) \$22,000,000 for fiscal year 2012; and

6 (B) \$22,000,000 for fiscal year 2013.

7 (b) PROHIBITION ON OTHER USES.—Except as other-
8 wise provided in chapter 4 of title 23, United States Code,
9 in this subtitle, and in the amendments made by this sub-
10 title, the amounts made available from the Highway Trust
11 Fund (other than the Mass Transit Account) for a program
12 under such chapter—

13 (1) shall only be used to carry out such program;

14 and

15 (2) may not be used by States or local govern-
16 ments for construction purposes.

17 (c) APPLICABILITY OF TITLE 23.—Except as otherwise
18 provided in chapter 4 of title 23, United States Code, and
19 in this subtitle, amounts made available under subsection
20 (a) for fiscal years 2012 and 2013 shall be available for
21 obligation in the same manner as if such funds were appor-
22 tioned under chapter 1 of title 23, United States Code.

23 (d) REGULATORY AUTHORITY.—Grants awarded
24 under this subtitle shall be in accordance with regulations
25 issued by the Secretary.

1 (e) *STATE MATCHING REQUIREMENTS.*—If a grant
2 awarded under this subtitle requires a State to share in
3 the cost, the aggregate of all expenditures for highway safety
4 activities made during any fiscal year by the State and
5 its political subdivisions (exclusive of Federal funds) for
6 carrying out the grant (other than planning and adminis-
7 tration) shall be available for the purpose of crediting the
8 State during such fiscal year for the non-Federal share of
9 the cost of any project under this subtitle (other than plan-
10 ning or administration) without regard to whether such ex-
11 penditures were actually made in connection with such
12 project.

13 (f) *MAINTENANCE OF EFFORT.*—

14 (1) *REQUIREMENT.*—No grant may be made to
15 a State under section 405, 408, or 410 of title 23,
16 United States Code, in any fiscal year unless the
17 State enters into such agreements with the Secretary
18 as the Secretary may require to ensure that the State
19 will maintain its aggregate expenditures from all
20 State and local sources for programs described in such
21 sections at or above the average level of such expendi-
22 tures in its 2 fiscal years preceding the date of enact-
23 ment of this Act.

24 (2) *WAIVER.*—Upon the request of a State, the
25 Secretary may waive or modify the requirements

1 *under paragraph (1) for not more than 1 fiscal year*
2 *if the Secretary determines that such a waiver would*
3 *be equitable due to exceptional or uncontrollable cir-*
4 *cumstances.*

5 *(g) TRANSFERS.—In each fiscal year, the Secretary*
6 *may transfer any amounts remaining available under*
7 *paragraphs (3), (4), (5), (6), (9), (11), and (12) of sub-*
8 *section (a) to the amounts made available under paragraph*
9 *(1) or any other of such paragraphs in order to ensure, to*
10 *the maximum extent possible, that all funds are obligated.*

11 *(h) GRANT APPLICATION AND DEADLINE.—To receive*
12 *a grant under this subtitle, a State shall submit an applica-*
13 *tion, and the Secretary shall establish a single deadline for*
14 *such applications to enable the award of grants early in*
15 *the next fiscal year.*

16 *(i) ALLOCATION TO SUPPORT STATE DISTRACTED*
17 *DRIVING LAWS.—Of the amounts available under sub-*
18 *section (a)(6) for distracted driving grants, the Secretary*
19 *may expend, in each fiscal year, up to \$5,000,000 for the*
20 *development and placement of broadcast media to support*
21 *the enforcement of State distracted driving laws.*

22 **SEC. 31102. HIGHWAY SAFETY PROGRAMS.**

23 *(a) PROGRAMS INCLUDED.—Section 402(a) of title 23,*
24 *United States Code, is amended to read as follows:*

25 *“(a) PROGRAM REQUIRED.—*

1 “(1) *IN GENERAL.*—*Each State shall have a*
2 *highway safety program, approved by the Secretary,*
3 *that is designed to reduce traffic accidents and the re-*
4 *sulting deaths, injuries, and property damage.*

5 “(2) *UNIFORM GUIDELINES.*—*Programs required*
6 *under paragraph (1) shall comply with uniform*
7 *guidelines, promulgated by the Secretary and ex-*
8 *pressed in terms of performance criteria, that—*

9 “(A) *include programs—*

10 “(i) *to reduce injuries and deaths re-*
11 *sulting from motor vehicles being driven in*
12 *excess of posted speed limits;*

13 “(ii) *to encourage the proper use of oc-*
14 *cupant protection devices (including the use*
15 *of safety belts and child restraint systems)*
16 *by occupants of motor vehicles;*

17 “(iii) *to reduce injuries and deaths re-*
18 *sulting from persons driving motor vehicles*
19 *while impaired by alcohol or a controlled*
20 *substance;*

21 “(iv) *to prevent accidents and reduce*
22 *injuries and deaths resulting from accidents*
23 *involving motor vehicles and motorcycles;*

1 “(v) to reduce injuries and deaths re-
2 sulting from accidents involving school
3 buses;

4 “(vi) to reduce accidents resulting from
5 unsafe driving behavior (including aggres-
6 sive or fatigued driving and distracted driv-
7 ing arising from the use of electronic devices
8 in vehicles); and

9 “(vii) to improve law enforcement serv-
10 ices in motor vehicle accident prevention,
11 traffic supervision, and post-accident proce-
12 dures;

13 “(B) improve driver performance, includ-
14 ing—

15 “(i) driver education;

16 “(ii) driver testing to determine pro-
17 ficiency to operate motor vehicles; and

18 “(iii) driver examinations (physical,
19 mental, and driver licensing);

20 “(C) improve pedestrian performance and
21 bicycle safety;

22 “(D) include provisions for—

23 “(i) an effective record system of acci-
24 dents (including resulting injuries and
25 deaths);

1 “(ii) accident investigations to deter-
2 mine the probable causes of accidents, inju-
3 ries, and deaths;

4 “(iii) vehicle registration, operation,
5 and inspection; and

6 “(iv) emergency services; and

7 “(E) to the extent determined appropriate
8 by the Secretary, are applicable to federally ad-
9 ministered areas where a Federal department or
10 agency controls the highways or supervises traffic
11 operations.”.

12 (b) ADMINISTRATION OF STATE PROGRAMS.—Section
13 402(b)(1) of title 23, United States Code, is amended—

14 (1) in subparagraph (D), by striking “and” at
15 the end;

16 (2) by redesignating subparagraph (E) as sub-
17 paragraph (F);

18 (3) by inserting after subparagraph (D) the fol-
19 lowing:

20 “(E) beginning on October 1, 2012, provide
21 for a robust, data-driven traffic safety enforce-
22 ment program to prevent traffic violations,
23 crashes, and crash fatalities and injuries in
24 areas most at risk for such incidents, to the sat-
25 isfaction of the Secretary;” and

1 (4) *in subparagraph (F), as redesignated—*

2 (A) *in clause (i), by inserting “and high-*
3 *visibility law enforcement mobilizations coordi-*
4 *nated by the Secretary” after “mobilizations”;*

5 (B) *in clause (iii), by striking “and” at the*
6 *end;*

7 (C) *in clause (iv), by striking the period at*
8 *the end and inserting “; and”;* and

9 (D) *by adding at the end the following:*

10 *“(v) ensuring that the State will co-*
11 *ordinate its highway safety plan, data col-*
12 *lection, and information systems with the*
13 *State strategic highway safety plan (as de-*
14 *fined in section 148(a)).”.*

15 (c) *APPROVED HIGHWAY SAFETY PROGRAMS.—Sec-*
16 *tion 402(c) of title 23, United States Code, is amended—*

17 (1) *by striking “(c) Funds authorized” and in-*
18 *serting the following:*

19 *“(c) USE OF FUNDS.—*

20 *“(1) IN GENERAL.—Funds authorized”;*

21 (2) *by striking “Such funds” and inserting the*
22 *following:*

23 *“(2) APPORTIONMENT.—Except for amounts*
24 *identified in subsection (l) and section 403(e), funds*
25 *described in paragraph (1)”;*

1 (3) by striking “The Secretary shall not” and all
2 that follows through “subsection, a highway safety
3 program” and inserting “A highway safety pro-
4 gram”;

5 (4) by inserting “A State may use the funds ap-
6 portioned under this section, in cooperation with
7 neighboring States, for highway safety programs or
8 related projects that may confer benefits on such
9 neighboring States.” after “in every State.”;

10 (5) by striking “50 per centum” and inserting
11 “20 percent”; and

12 (6) by striking “The Secretary shall promptly”
13 and all that follows and inserting the following:

14 “(3) REAPPORTIONMENT.—The Secretary shall
15 promptly apportion the funds withheld from a State’s
16 apportionment to the State if the Secretary approves
17 the State’s highway safety program or determines
18 that the State has begun implementing an approved
19 program, as appropriate, not later than July 31st of
20 the fiscal year for which the funds were withheld. If
21 the Secretary determines that the State did not cor-
22 rect its failure within such period, the Secretary shall
23 reapportion the withheld funds to the other States in
24 accordance with the formula specified in paragraph
25 (2) not later than the last day of the fiscal year.”.

1 (d) *USE OF HIGHWAY SAFETY PROGRAM FUNDS.*—
2 Section 402(g) of title 23, United States Code, is amended
3 to read as follows:

4 “(g) *SAVINGS PROVISION.*—

5 “(1) *IN GENERAL.*—*Except as provided under*
6 *paragraph (2), nothing in this section may be con-*
7 *strued to authorize the appropriation or expenditure*
8 *of funds for—*

9 “(A) *highway construction, maintenance, or*
10 *design (other than design of safety features of*
11 *highways to be incorporated into guidelines); or*

12 “(B) *any purpose for which funds are au-*
13 *thorized by section 403.*

14 “(2) *DEMONSTRATION PROJECTS.*—*A State may*
15 *use funds made available to carry out this section to*
16 *assist in demonstration projects carried out by the*
17 *Secretary under section 403.”*

18 (e) *IN GENERAL.*—*Section 402 of title 23, United*
19 *States Code, is amended—*

20 (1) *by striking subsections (k) and (m);*

21 (2) *by redesignating subsections (i) and (j) as*
22 *subsections (h) and (i), respectively; and*

23 (3) *by redesignating subsection (l) as subsection*
24 *(j).*

1 (f) *HIGHWAY SAFETY PLAN AND REPORTING RE-*
2 *QUIREMENTS.*—Section 402 of title 23, United States Code,
3 *as amended by this section, is further amended by adding*
4 *at the end the following:*

5 “(k) *HIGHWAY SAFETY PLAN AND REPORTING RE-*
6 *QUIREMENTS.*—

7 “(1) *IN GENERAL.*—*The Secretary shall require*
8 *each State to develop and submit to the Secretary a*
9 *highway safety plan that complies with the require-*
10 *ments under this subsection not later than July 1,*
11 *2012, and annually thereafter.*

12 “(2) *CONTENTS.*—*State highway safety plans*
13 *submitted under paragraph (1) shall include—*

14 “(A) *performance measures required by the*
15 *Secretary or otherwise necessary to support addi-*
16 *tional State safety goals, including—*

17 “(i) *documentation of current safety*
18 *levels for each performance measure;*

19 “(ii) *quantifiable annual performance*
20 *targets for each performance measure; and*

21 “(iii) *a justification for each perform-*
22 *ance target;*

23 “(B) *a strategy for programming funds ap-*
24 *portioned to the State under this section on*
25 *projects and activities that will allow the State*

1 to meet the performance targets described in sub-
2 paragraph (A);

3 “(C) data and data analysis supporting the
4 effectiveness of proposed countermeasures;

5 “(D) a description of any Federal, State,
6 local, or private funds that the State plans to
7 use, in addition to funds apportioned to the
8 State under this section, to carry out the strat-
9 egy described in subparagraph (B);

10 “(E) beginning with the plan submitted by
11 July 1, 2013, a report on the State’s success in
12 meeting State safety goals set forth in the pre-
13 vious year’s highway safety plan; and

14 “(F) an application for any additional
15 grants available to the State under this chapter.

16 “(3) *PERFORMANCE MEASURES.*—For the first
17 highway safety plan submitted under this subsection,
18 the performance measures required by the Secretary
19 under paragraph (2)(A) shall be limited to those de-
20 veloped by the National Highway Traffic Safety Ad-
21 ministration and the Governor’s Highway Safety As-
22 sociation and described in the report, ‘Traffic Safety
23 Performance Measures for States and Federal Agen-
24 cies’ (DOT HS 811 025). For subsequent highway
25 safety plans, the Secretary shall consult with the Gov-

1 *ernor's Highway Safety Association and safety ex-*
2 *perts if the Secretary makes revisions to the set of re-*
3 *quired performance measures.*

4 *“(4) REVIEW OF HIGHWAY SAFETY PLANS.—*

5 *“(A) IN GENERAL.—Not later than 60 days*
6 *after the date on which a State's highway safety*
7 *plan is received by the Secretary, the Secretary*
8 *shall review and approve or disapprove the plan.*

9 *“(B) APPROVALS AND DISAPPROVALS.—*

10 *“(i) APPROVALS.—The Secretary shall*
11 *approve a State's highway safety plan if the*
12 *Secretary determines that—*

13 *“(I) the plan is evidence-based*
14 *and supported by data;*

15 *“(II) the performance targets are*
16 *adequate; and*

17 *“(III) the plan, once implemented,*
18 *will allow the State to meet such tar-*
19 *gets.*

20 *“(ii) DISAPPROVALS.—The Secretary*
21 *shall disapprove a State's highway safety*
22 *plan if the Secretary determines that the*
23 *plan does not—*

24 *“(I) set appropriate performance*
25 *targets; or*

1 “(II) provide for evidence-based
2 programming of funding in a manner
3 sufficient to allow the State to meet
4 such targets.

5 “(C) ACTIONS UPON DISAPPROVAL.—If the
6 Secretary disapproves a State’s highway safety
7 plan, the Secretary shall—

8 “(i) inform the State of the reasons for
9 such disapproval; and

10 “(ii) require the State to resubmit the
11 plan with any modifications that the Sec-
12 retary determines to be necessary.

13 “(D) REVIEW OF RESUBMITTED PLANS.—If
14 the Secretary requires a State to resubmit a
15 highway safety plan, with modifications, the
16 Secretary shall review and approve or dis-
17 approve the modified plan not later than 30
18 days after the date on which the Secretary re-
19 ceives such plan.

20 “(E) REPROGRAMMING AUTHORITY.—If the
21 Secretary determines that the modifications con-
22 tained in a State’s resubmitted highway safety
23 plan do not provide for the programming of
24 funding in a manner sufficient to meet the
25 State’s performance goals, the Secretary, in con-

1 *sultation with the State, shall take such action*
2 *as may be necessary to bring the State's plan*
3 *into compliance with the performance targets.*

4 “(F) *PUBLIC NOTICE.*—*A State shall make*
5 *the State's highway safety plan, and decisions of*
6 *the Secretary concerning approval or dis-*
7 *approval of a revised plan, available to the pub-*
8 *lic.”.*

9 *(g) COOPERATIVE RESEARCH AND EVALUATION.*—*Sec-*
10 *tion 402 of title 23, United States Code, as amended by*
11 *this section, is further amended by adding at the end the*
12 *following:*

13 “(l) *COOPERATIVE RESEARCH AND EVALUATION.*—

14 “(1) *ESTABLISHMENT AND FUNDING.*—*Notwith-*
15 *standing the apportionment formula set forth in sub-*
16 *section (c)(2), \$2,500,000 of the total amount avail-*
17 *able for apportionment to the States for highway safe-*
18 *ty programs under subsection (c) in each fiscal year*
19 *shall be available for expenditure by the Secretary,*
20 *acting through the Administrator of the National*
21 *Highway Traffic Safety Administration, for a cooper-*
22 *ative research and evaluation program to research*
23 *and evaluate priority highway safety counter-*
24 *measures.*

1 “(2) *ADMINISTRATION.*—*The program established*
2 *under paragraph (1)—*

3 “(A) *shall be administered by the Adminis-*
4 *trator of the National Highway Traffic Safety*
5 *Administration; and*

6 “(B) *shall be jointly managed by the Gov-*
7 *ernors Highway Safety Association and the Na-*
8 *tional Highway Traffic Safety Administration.”.*

9 “(h) *TEEN TRAFFIC SAFETY PROGRAM.*—*Section 402 of*
10 *title 23, United States Code, as amended by this section,*
11 *is further amended by adding at the end the following:*

12 “(m) *TEEN TRAFFIC SAFETY PROGRAM.*—

13 “(1) *PROGRAM AUTHORIZED.*—*Subject to the re-*
14 *quirements of a State’s highway safety plan, as ap-*
15 *proved by the Secretary under subsection (k), a State*
16 *may use a portion of the amounts received under this*
17 *section to implement a statewide teen traffic safety*
18 *program to improve traffic safety for teen drivers.*

19 “(2) *STRATEGIES.*—*The program implemented*
20 *under paragraph (1)—*

21 “(A) *shall include peer-to-peer education*
22 *and prevention strategies in schools and commu-*
23 *nities designed to—*

24 “(i) *increase safety belt use;*

25 “(ii) *reduce speeding;*

1 “(iii) reduce impaired and distracted
2 driving;

3 “(iv) reduce underage drinking; and

4 “(v) reduce other behaviors by teen
5 drivers that lead to injuries and fatalities;
6 and

7 “(B) may include—

8 “(i) working with student-led groups
9 and school advisors to plan and implement
10 teen traffic safety programs;

11 “(ii) providing subgrants to schools
12 throughout the State to support the estab-
13 lishment and expansion of student groups
14 focused on teen traffic safety;

15 “(iii) providing support, training, and
16 technical assistance to establish and expand
17 school and community safety programs for
18 teen drivers;

19 “(iv) creating statewide or regional
20 websites to publicize and circulate informa-
21 tion on teen safety programs;

22 “(v) conducting outreach and pro-
23 viding educational resources for parents;

24 “(vi) establishing State or regional ad-
25 visory councils comprised of teen drivers to

1 *provide input and recommendations to the*
2 *governor and the governor’s safety rep-*
3 *resentative on issues related to the safety of*
4 *teen drivers;*

5 “(vii) *collaborating with law enforce-*
6 *ment;*

7 “(viii) *organizing and hosting State*
8 *and regional conferences for teen drivers;*

9 “(ix) *establishing partnerships and*
10 *promoting coordination among community*
11 *stakeholders, including public, not-for-prof-*
12 *it, and for profit entities; and*

13 “(x) *funding a coordinator position for*
14 *the teen safety program in the State or re-*
15 *gion.*”.

16 **SEC. 31103. HIGHWAY SAFETY RESEARCH AND DEVELOP-**
17 **MENT.**

18 *Section 403 of title 23, United States Code, is amended*
19 *to read as follows:*

20 **“§ 403. Highway safety research and development**

21 “(a) *DEFINED TERM.—In this section, the term ‘Fed-*
22 *eral laboratory’ includes—*

23 “(1) *a government-owned, government-operated*
24 *laboratory; and*

1 “(2) a government-owned, contractor-operated
2 laboratory.

3 “(b) GENERAL AUTHORITY.—

4 “(1) RESEARCH AND DEVELOPMENT ACTIVI-
5 TIES.—The Secretary may conduct research and de-
6 velopment activities, including demonstration projects
7 and the collection and analysis of highway and motor
8 vehicle safety data and related information needed to
9 carry out this section, with respect to—

10 “(A) all aspects of highway and traffic safe-
11 ty systems and conditions relating to—

12 “(i) vehicle, highway, driver, pas-
13 senger, motorcyclist, bicyclist, and pedes-
14 trian characteristics;

15 “(ii) accident causation and investiga-
16 tions;

17 “(iii) communications;

18 “(iv) emergency medical services; and

19 “(v) transportation of the injured;

20 “(B) human behavioral factors and their ef-
21 fect on highway and traffic safety, including—

22 “(i) driver education;

23 “(ii) impaired driving;

24 “(iii) distracted driving; and

1 “(iv) new technologies installed in, or
2 brought into, vehicles;

3 “(C) an evaluation of the effectiveness of
4 countermeasures to increase highway and traffic
5 safety, including occupant protection and
6 alcohol- and drug-impaired driving technologies
7 and initiatives;

8 “(D) the development of technologies to de-
9 tect drug impaired drivers; and

10 “(E) the effect of State laws on any aspects,
11 activities, or programs described in subpara-
12 graphs (A) through (D).

13 “(2) COOPERATION, GRANTS, AND CONTRACTS.—

14 *The Secretary may carry out this section—*

15 “(A) independently;

16 “(B) in cooperation with other Federal de-
17 partments, agencies, and instrumentalities and
18 Federal laboratories;

19 “(C) by entering into contracts, cooperative
20 agreements, and other transactions with the Na-
21 tional Academy of Sciences, any Federal labora-
22 tory, State or local agency, authority, associa-
23 tion, institution, foreign country, or person (as
24 defined in chapter 1 of title 1); or

1 “(D) by making grants to the National
2 Academy of Sciences, any Federal laboratory,
3 State or local agency, authority, association, in-
4 stitution, or person (as defined in chapter 1 of
5 title 1).

6 “(c) COLLABORATIVE RESEARCH AND DEVELOP-
7 MENT.—

8 “(1) IN GENERAL.—To encourage innovative so-
9 lutions to highway safety problems, stimulate vol-
10 untary improvements in highway safety, and stimu-
11 late the marketing of new highway safety related tech-
12 nology by private industry, the Secretary is author-
13 ized to carry out, on a cost-shared basis, collaborative
14 research and development with—

15 “(A) non-Federal entities, including State
16 and local governments, foreign countries, colleges,
17 universities, corporations, partnerships, sole pro-
18 prietorships, organizations serving the interests
19 of children, people with disabilities, low-income
20 populations, and older adults, and trade associa-
21 tions that are incorporated or established under
22 the laws of any State or the United States; and

23 “(B) Federal laboratories.

24 “(2) AGREEMENTS.—In carrying out this sub-
25 section, the Secretary may enter into cooperative re-

1 *search and development agreements (as defined in sec-*
2 *tion 12 of the Stevenson-Wydler Technology Innova-*
3 *tion Act of 1980 (15 U.S.C. 3710a)) in which the Sec-*
4 *retary provides not more than 50 percent of the cost*
5 *of any research or development project under this sub-*
6 *section.*

7 *“(3) USE OF TECHNOLOGY.—The research, devel-*
8 *opment, or use of any technology pursuant to an*
9 *agreement under this subsection, including the terms*
10 *under which technology may be licensed and the re-*
11 *sulting royalties may be distributed, shall be subject*
12 *to the provisions of the Stevenson-Wydler Technology*
13 *Innovation Act of 1980 (15 U.S.C. 3701 et seq.).*

14 *“(d) TITLE TO EQUIPMENT.—In furtherance of the*
15 *purposes set forth in section 402, the Secretary may vest*
16 *title to equipment purchased for demonstration projects*
17 *with funds authorized under this section to State or local*
18 *agencies on such terms and conditions as the Secretary de-*
19 *termines to be appropriate.*

20 *“(e) TRAINING.—Notwithstanding the apportionment*
21 *formula set forth in section 402(c)(2), 1 percent of the total*
22 *amount available for apportionment to the States for high-*
23 *way safety programs under section 402(c) in each fiscal*
24 *year shall be available, through the end of the succeeding*
25 *fiscal year, to the Secretary, acting through the Adminis-*

1 *trator of the National Highway Traffic Safety Administra-*
2 *tion—*

3 “(1) *to provide training, conducted or developed*
4 *by Federal or non-Federal entity or personnel, to Fed-*
5 *eral, State, and local highway safety personnel; and*

6 “(2) *to pay for any travel, administrative, and*
7 *other expenses related to such training.*

8 “(f) *DRIVER LICENSING AND FITNESS TO DRIVE*
9 *CLEARINGHOUSE.—From amounts made available under*
10 *this section, the Secretary, acting through the Adminis-*
11 *trator of the National Highway Traffic Safety Administra-*
12 *tion, is authorized to expend \$1,280,000 between the date*
13 *of enactment of the Motor Vehicle and Highway Safety Im-*
14 *provement Act of 2012 and September 30, 2013, to establish*
15 *an electronic clearinghouse and technical assistance service*
16 *to collect and disseminate research and analysis of medical*
17 *and technical information and best practices concerning*
18 *drivers with medical issues that may be used by State driv-*
19 *er licensing agencies in making licensing qualification deci-*
20 *sions.*

21 “(g) *INTERNATIONAL HIGHWAY SAFETY INFORMATION*
22 *AND COOPERATION.—*

23 “(1) *ESTABLISHMENT.—The Secretary, acting*
24 *through the Administrator of the National Highway*
25 *Traffic Safety Administration, may establish an*

1 *international highway safety information and co-*
2 *operation program to—*

3 *“(A) inform the United States highway*
4 *safety community of laws, projects, programs,*
5 *data, and technology in foreign countries that*
6 *could be used to enhance highway safety in the*
7 *United States;*

8 *“(B) permit the exchange of information*
9 *with foreign countries about laws, projects, pro-*
10 *grams, data, and technology that could be used*
11 *to enhance highway safety; and*

12 *“(C) allow the Secretary, represented by the*
13 *Administrator, to participate and cooperate in*
14 *international activities to enhance highway safe-*
15 *ty.*

16 *“(2) COOPERATION.—The Secretary may carry*
17 *out this subsection in cooperation with any appro-*
18 *priate Federal agency, State or local agency or au-*
19 *thority, foreign government, or multinational institu-*
20 *tion.*

21 *“(h) PROHIBITION ON CERTAIN DISCLOSURES.—Any*
22 *report of the National Highway Traffic Safety Administra-*
23 *tion, or of any officer, employee, or contractor of the Na-*
24 *tional Highway Traffic Safety Administration, relating to*
25 *any highway traffic accident or the investigation of such*

1 *accident conducted pursuant to this chapter or chapter 301*
2 *shall be made available to the public in a manner that does*
3 *not identify individuals.*

4 “(i) *MODEL SPECIFICATIONS FOR DEVICES.—The Sec-*
5 *retary, acting through the Administrator of the National*
6 *Highway Traffic Safety Administration, may—*

7 “(1) *develop model specifications and testing*
8 *procedures for devices, including devices designed to*
9 *measure the concentration of alcohol in the body;*

10 “(2) *conduct periodic tests of such devices;*

11 “(3) *publish a Conforming Products List of such*
12 *devices that have met the model specifications; and*

13 “(4) *may require that any necessary tests of such*
14 *devices are conducted by a Federal laboratory and*
15 *paid for by the device manufacturers.”.*

16 **SEC. 31104. NATIONAL DRIVER REGISTER.**

17 *Section 30302(b) of title 49, United States Code, is*
18 *amended by adding at the end the following: “The Secretary*
19 *shall make continual improvements to modernize the Reg-*
20 *ister’s data processing system.”.*

21 **SEC. 31105. COMBINED OCCUPANT PROTECTION GRANTS.**

22 “(a) *IN GENERAL.—Section 405 of title 23, United*
23 *States Code, is amended to read as follows:*

1 **“§ 405. Combined occupant protection grants**

2 “(a) *GENERAL AUTHORITY.*—Subject to the require-
3 ments of this section, the Secretary of Transportation shall
4 award grants to States that adopt and implement effective
5 occupant protection programs to reduce highway deaths
6 and injuries resulting from individuals riding unrestrained
7 or improperly restrained in motor vehicles.

8 “(b) *FEDERAL SHARE.*—The Federal share of the costs
9 of activities funded using amounts from grants awarded
10 under this section may not exceed 80 percent for each fiscal
11 year for which a State receives a grant.

12 “(c) *ELIGIBILITY.*—

13 “(1) *HIGH SEAT BELT USE RATE.*—A State with
14 an observed seat belt use rate of 90 percent or higher,
15 based on the most recent data from a survey that con-
16 forms with national criteria established by the Na-
17 tional Highway Traffic Safety Administration, shall
18 be eligible for a grant in a fiscal year if the State—

19 “(A) submits an occupant protection plan
20 during the first fiscal year;

21 “(B) participates in the Click It or Ticket
22 national mobilization;

23 “(C) has an active network of child re-
24 straint inspection stations; and

1 “(D) has a plan to recruit, train, and
2 maintain a sufficient number of child passenger
3 safety technicians.

4 “(2) LOWER SEAT BELT USE RATE.—A State
5 with an observed seat belt use rate below 90 percent,
6 based on the most recent data from a survey that con-
7 forms with national criteria established by the Na-
8 tional Highway Traffic Safety Administration, shall
9 be eligible for a grant in a fiscal year if—

10 “(A) the State meets all of the requirements
11 under subparagraphs (A) through (D) of para-
12 graph (1); and

13 “(B) the Secretary determines that the State
14 meets at least 3 of the following criteria:

15 “(i) The State conducts sustained (on-
16 going and periodic) seat belt enforcement at
17 a defined level of participation during the
18 year.

19 “(ii) The State has enacted and en-
20 forces a primary enforcement seat belt use
21 law.

22 “(iii) The State has implemented coun-
23 termeasure programs for high-risk popu-
24 lations, such as drivers on rural roadways,

1 *unrestrained nighttime drivers, or teenage*
2 *drivers.*

3 “(iv) *The State has enacted and en-*
4 *forces occupant protection laws requiring*
5 *front and rear occupant protection use by*
6 *all occupants in an age-appropriate re-*
7 *straint.*

8 “(v) *The State has implemented a com-*
9 *prehensive occupant protection program in*
10 *which the State has—*

11 “(I) *conducted a program assess-*
12 *ment;*

13 “(II) *developed a statewide stra-*
14 *tegic plan;*

15 “(III) *designated an occupant*
16 *protection coordinator; and*

17 “(IV) *established a statewide occu-*
18 *pant protection task force.*

19 “(vi) *The State—*

20 “(I) *completed an assessment of*
21 *its occupant protection program dur-*
22 *ing the 3-year period preceding the*
23 *grant year; or*

24 “(II) *will conduct such an assess-*
25 *ment during the first year of the grant.*

1 “(d) *USE OF GRANT AMOUNTS.*—*Grant funds received*
2 *pursuant to this section may be used to—*

3 “(1) *carry out a program to support high-visi-*
4 *bility enforcement mobilizations, including paid*
5 *media that emphasizes publicity for the program, and*
6 *law enforcement;*

7 “(2) *carry out a program to train occupant pro-*
8 *tection safety professionals, police officers, fire and*
9 *emergency medical personnel, educators, and parents*
10 *concerning all aspects of the use of child restraints*
11 *and occupant protection;*

12 “(3) *carry out a program to educate the public*
13 *concerning the proper use and installation of child re-*
14 *straints, including related equipment and informa-*
15 *tion systems;*

16 “(4) *carry out a program to provide community*
17 *child passenger safety services, including programs*
18 *about proper seating positions for children and how*
19 *to reduce the improper use of child restraints;*

20 “(5) *purchase and distribute child restraints to*
21 *low-income families if not more than 5 percent of the*
22 *funds received in a fiscal year are used for this pur-*
23 *pose;*

24 “(6) *establish and maintain information systems*
25 *containing data concerning occupant protection, in-*

1 *cluding the collection and administration of child*
2 *passenger safety and occupant protection surveys; and*

3 *“(7) carry out a program to educate the public*
4 *concerning the dangers of leaving children unattended*
5 *in vehicles.*

6 *“(e) GRANT AMOUNT.—The allocation of grant funds*
7 *under this section to a State for a fiscal year shall be in*
8 *proportion to the State’s apportionment under section 402*
9 *for fiscal year 2009.*

10 *“(f) REPORT.—A State that receives a grant under this*
11 *section shall submit a report to the Secretary that docu-*
12 *ments the manner in which the grant amounts were obli-*
13 *gated and expended and identifies the specific programs*
14 *carried out with the grant funds. The report shall be in*
15 *a form prescribed by the Secretary and may be combined*
16 *with other State grant reporting requirements under chap-*
17 *ter 4 of title 23, United States Code.*

18 *“(g) DEFINITIONS.—In this section:*

19 *“(1) CHILD RESTRAINT.—The term ‘child re-*
20 *straint’ means any device (including child safety seat,*
21 *booster seat, harness, and excepting seat belts) de-*
22 *signed for use in a motor vehicle to restrain, seat, or*
23 *position children who weigh 65 pounds (30 kilo-*
24 *grams) or less, and certified to the Federal motor ve-*
25 *hicle safety standard prescribed by the National*

1 Highway Traffic Safety Administration for child re-
2 straints.

3 “(2) *SEAT BELT*.—The term ‘seat belt’ means—

4 “(A) with respect to open-body motor vehi-
5 cles, including convertibles, an occupant re-
6 straint system consisting of a lap belt or a lap
7 belt and a detachable shoulder belt; and

8 “(B) with respect to other motor vehicles, an
9 occupant restraint system consisting of inte-
10 grated lap and shoulder belts.”.

11 (b) *CONFORMING AMENDMENT*.—The analysis for
12 chapter 4 of title 23, United States Code, is amended by
13 striking the item relating to section 405 and inserting the
14 following:

“405. Combined occupant protection grants.”.

15 **SEC. 31106. STATE TRAFFIC SAFETY INFORMATION SYSTEM**
16 **IMPROVEMENTS.**

17 Section 408 of title 23, United States Code, is amended
18 to read as follows:

19 **“§408. State traffic safety information system im-**
20 **provements**

21 “(a) *GENERAL AUTHORITY*.—Subject to the require-
22 ments of this section, the Secretary of Transportation shall
23 award grants to States to support the development and im-
24 plementation of effective State programs that—

1 “(1) *improve the timeliness, accuracy, complete-*
2 *ness, uniformity, integration, and accessibility of the*
3 *State safety data that is needed to identify priorities*
4 *for Federal, State, and local highway and traffic safe-*
5 *ty programs;*

6 “(2) *evaluate the effectiveness of efforts to make*
7 *such improvements;*

8 “(3) *link the State data systems, including traf-*
9 *fic records, with other data systems within the State,*
10 *such as systems that contain medical, roadway, and*
11 *economic data;*

12 “(4) *improve the compatibility and interoper-*
13 *ability of the data systems of the State with national*
14 *data systems and data systems of other States; and*

15 “(5) *enhance the ability of the Secretary to ob-*
16 *serve and analyze national trends in crash occur-*
17 *rences, rates, outcomes, and circumstances.*

18 “(b) *FEDERAL SHARE.—The Federal share of the cost*
19 *of adopting and implementing in a fiscal year a State pro-*
20 *gram described in this section may not exceed 80 percent.*

21 “(c) *ELIGIBILITY.—A State is not eligible for a grant*
22 *under this section in a fiscal year unless the State dem-*
23 *onstrates, to the satisfaction of the Secretary, that the*
24 *State—*

1 “(1) has a functioning traffic records coordi-
2 nating committee (referred to in this subsection as
3 ‘TRCC’) that meets at least 3 times a year;

4 “(2) has designated a TRCC coordinator;

5 “(3) has established a State traffic record stra-
6 tegic plan that has been approved by the TRCC and
7 describes specific quantifiable and measurable im-
8 provements anticipated in the State’s core safety
9 databases, including crash, citation or adjudication,
10 driver, emergency medical services or injury surveil-
11 lance system, roadway, and vehicle databases;

12 “(4) has demonstrated quantitative progress in
13 relation to the significant data program attribute
14 of—

15 “(A) accuracy;

16 “(B) completeness;

17 “(C) timeliness;

18 “(D) uniformity;

19 “(E) accessibility; or

20 “(F) integration of a core highway safety
21 database; and

22 “(5) has certified to the Secretary that an assess-
23 ment of the State’s highway safety data and traffic
24 records system was conducted or updated during the
25 preceding 5 years.

1 “(d) *USE OF GRANT AMOUNTS.*—Grant funds received
2 by a State under this section shall be used for making data
3 program improvements to core highway safety databases re-
4 lated to quantifiable, measurable progress in any of the 6
5 significant data program attributes set forth in subsection
6 (c)(4).

7 “(e) *GRANT AMOUNT.*—The allocation of grant funds
8 under this section to a State for a fiscal year shall be in
9 proportion to the State’s apportionment under section 402
10 for fiscal year 2009.”.

11 **SEC. 31107. IMPAIRED DRIVING COUNTERMEASURES.**

12 (a) *IN GENERAL.*—Section 410 of title 23, United
13 States Code, is amended to read as follows:

14 **“§ 410. Impaired driving countermeasures**

15 “(a) *GRANTS AUTHORIZED.*—Subject to the require-
16 ments of this section, the Secretary of Transportation shall
17 award grants to States that adopt and implement—

18 “(1) effective programs to reduce driving under
19 the influence of alcohol, drugs, or the combination of
20 alcohol and drugs; or

21 “(2) alcohol-ignition interlock laws.

22 “(b) *FEDERAL SHARE.*—The Federal share of the costs
23 of activities funded using amounts from grants under this
24 section may not exceed 80 percent in any fiscal year in
25 which the State receives a grant.

1 “(c) *ELIGIBILITY.*—

2 “(1) *LOW-RANGE STATES.*—*Low-range States*
3 *shall be eligible for a grant under this section.*

4 “(2) *MID-RANGE STATES.*—*A mid-range State*
5 *shall be eligible for a grant under this section if—*

6 “(A) *a statewide impaired driving task*
7 *force in the State developed a statewide plan*
8 *during the most recent 3 calendar years to ad-*
9 *dress the problem of impaired driving; or*

10 “(B) *the State will convene a statewide im-*
11 *paired driving task force to develop such a plan*
12 *during the first year of the grant.*

13 “(3) *HIGH-RANGE STATES.*—*A high-range State*
14 *shall be eligible for a grant under this section if the*
15 *State—*

16 “(A)(i) *conducted an assessment of the*
17 *State’s impaired driving program during the*
18 *most recent 3 calendar years; or*

19 “(ii) *will conduct such an assessment dur-*
20 *ing the first year of the grant;*

21 “(B) *convenes, during the first year of the*
22 *grant, a statewide impaired driving task force to*
23 *develop a statewide plan that—*

1 “(i) addresses any recommendations
2 from the assessment conducted under sub-
3 paragraph (A);

4 “(ii) includes a detailed plan for
5 spending any grant funds provided under
6 this section; and

7 “(iii) describes how such spending sup-
8 ports the statewide program;

9 “(C)(i) submits the statewide plan to the
10 National Highway Traffic Safety Administra-
11 tion during the first year of the grant for the
12 agency’s review and approval;

13 “(ii) annually updates the statewide plan
14 in each subsequent year of the grant; and

15 “(iii) submits each updated statewide plan
16 for the agency’s review and comment; and

17 “(D) appoints a full or part-time impaired
18 driving coordinator—

19 “(i) to coordinate the State’s activities
20 to address enforcement and adjudication of
21 laws to address driving while impaired by
22 alcohol; and

23 “(ii) to oversee the implementation of
24 the statewide plan.

25 “(d) USE OF GRANT AMOUNTS.—

1 “(1) *REQUIRED PROGRAMS.—High-range States*
2 *shall use grant funds for—*

3 “(A) *high visibility enforcement efforts; and*

4 “(B) *any of the activities described in para-*
5 *graph (2) if—*

6 “(i) *the activity is described in the*
7 *statewide plan; and*

8 “(ii) *the Secretary approves the use of*
9 *funding for such activity.*

10 “(2) *AUTHORIZED PROGRAMS.—Medium-range*
11 *and low-range States may use grant funds for—*

12 “(A) *any of the purposes described in para-*
13 *graph (1);*

14 “(B) *paid and earned media in support of*
15 *high visibility enforcement efforts;*

16 “(C) *hiring a full-time or part-time im-*
17 *paired driving coordinator of the State’s activi-*
18 *ties to address the enforcement and adjudication*
19 *of laws regarding driving while impaired by al-*
20 *cohol;*

21 “(D) *court support of high visibility en-*
22 *forcement efforts;*

23 “(E) *alcohol ignition interlock programs;*

24 “(F) *improving blood-alcohol concentration*
25 *testing and reporting;*

1 “(G) *establishing driving while intoxicated*
2 *courts;*

3 “(H) *conducting—*

4 “(i) *standardized field sobriety train-*
5 *ing;*

6 “(ii) *advanced roadside impaired driv-*
7 *ing evaluation training; and*

8 “(iii) *drug recognition expert training*
9 *for law enforcement;*

10 “(I) *training and education of criminal jus-*
11 *tice professionals (including law enforcement,*
12 *prosecutors, judges and probation officers) to as-*
13 *sisst such professionals in handling impaired*
14 *driving cases;*

15 “(J) *traffic safety resource prosecutors;*

16 “(K) *judicial outreach liaisons;*

17 “(L) *equipment and related expenditures*
18 *used in connection with impaired driving en-*
19 *forcement in accordance with criteria established*
20 *by the National Highway Traffic Safety Admin-*
21 *istration;*

22 “(M) *training on the use of alcohol screen-*
23 *ing and brief intervention;*

24 “(N) *developing impaired driving informa-*
25 *tion systems; and*

1 “(O) costs associated with a ‘24-7 sobriety
2 program’.

3 “(3) OTHER PROGRAMS.—Low-range States may
4 use grant funds for any expenditure designed to re-
5 duce impaired driving based on problem identifica-
6 tion. Medium and high-range States may use funds
7 for such expenditures upon approval by the Secretary.

8 “(e) GRANT AMOUNT.—Subject to subsection (f), the al-
9 location of grant funds to a State under this section for
10 a fiscal year shall be in proportion to the State’s apportion-
11 ment under section 402(c) for fiscal year 2009.

12 “(f) GRANTS TO STATES THAT ADOPT AND ENFORCE
13 MANDATORY ALCOHOL-IGNITION INTERLOCK LAWS.—

14 “(1) IN GENERAL.—The Secretary shall make a
15 separate grant under this section to each State that
16 adopts and is enforcing a mandatory alcohol-ignition
17 interlock law for all individuals convicted of driving
18 under the influence of alcohol or of driving while in-
19 toxicated.

20 “(2) USE OF FUNDS.—Such grants may be used
21 by recipient States only for costs associated with the
22 State’s alcohol-ignition interlock program, including
23 screening, assessment, and program and offender over-
24 sight.

1 “(3) *ALLOCATION.*—*Funds made available under*
2 *this subsection shall be allocated among States de-*
3 *scribed in paragraph (1) on the basis of the appor-*
4 *tionment formula under section 402(c).*

5 “(4) *FUNDING.*—*Not more than 15 percent of the*
6 *amounts made available to carry out this section in*
7 *a fiscal year shall be made available by the Secretary*
8 *for making grants under this subsection.*

9 “(g) *DEFINITIONS.*—*In this section:*

10 “(1) *24-7 SOBRIETY PROGRAM.*—*The term ‘24-7*
11 *sobriety program’ means a State law or program that*
12 *authorizes a State court or a State agency, as a con-*
13 *dition of sentence, probation, parole, or work permit,*
14 *to—*

15 “(A) *require an individual who plead guilty*
16 *or was convicted of driving under the influence*
17 *of alcohol or drugs to totally abstain from alco-*
18 *hol or drugs for a period of time; and*

19 “(B) *require the individual to be subject to*
20 *testing for alcohol or drugs—*

21 “(i) *at least twice a day;*

22 “(ii) *by continuous transdermal alco-*
23 *hol monitoring via an electronic monitoring*
24 *device; or*

1 “(iii) by an alternate method with the
2 concurrence of the Secretary.

3 “(2) *AVERAGE IMPAIRED DRIVING FATALITY*
4 *RATE.*—The term ‘average impaired driving fatality
5 rate’ means the number of fatalities in motor vehicle
6 crashes involving a driver with a blood alcohol con-
7 centration of at least 0.08 for every 100,000,000 vehi-
8 cle miles traveled, based on the most recently reported
9 3 calendar years of final data from the *Fatality*
10 *Analysis Reporting System*, as calculated in accord-
11 ance with regulations prescribed by the Administrator
12 of the *National Highway Traffic Safety Administra-*
13 *tion*.

14 “(3) *HIGH-RANGE STATE.*—The term ‘high-range
15 State’ means a State that has an average impaired
16 driving fatality rate of 0.60 or higher.

17 “(4) *LOW-RANGE STATE.*—The term ‘low-range
18 State’ means a State that has an average impaired
19 driving fatality rate of 0.30 or lower.

20 “(5) *MID-RANGE STATE.*—The term ‘mid-range
21 State’ means a State that has an average impaired
22 driving fatality rate that is higher than 0.30 and
23 lower than 0.60.”.

24 “(b) *CONFORMING AMENDMENT.*—The analysis for
25 chapter 4 of title 23, *United States Code*, is amended by

1 *striking the item relating to section 410 and inserting the*
 2 *following:*

“410. Impaired driving countermeasures.”.

3 **SEC. 31108. DISTRACTED DRIVING GRANTS.**

4 *(a) IN GENERAL.—Section 411 of title 23, United*
 5 *States Code, is amended to read as follows:*

6 **“§ 411. Distracted driving grants**

7 *“(a) IN GENERAL.—The Secretary shall award a grant*
 8 *under this section to any State that enacts and enforces a*
 9 *statute that meets the requirements set forth in subsections*
 10 *(b) and (c).*

11 *“(b) PROHIBITION ON TEXTING WHILE DRIVING.—A*
 12 *State statute meets the requirements set forth in this sub-*
 13 *section if the statute—*

14 *“(1) prohibits drivers from texting through a*
 15 *personal wireless communications device while driv-*
 16 *ing;*

17 *“(2) makes violation of the statute a primary of-*
 18 *fense;*

19 *“(3) establishes—*

20 *“(A) a minimum fine for a first violation*
 21 *of the statute; and*

22 *“(B) increased fines for repeat violations;*
 23 *and*

24 *“(4) provides increased civil and criminal pen-*
 25 *alties than would otherwise apply if a vehicle acci-*

1 *dent is caused by a driver who is using such a device*
2 *in violation of the statute.*

3 “(c) *PROHIBITION ON YOUTH CELL PHONE USE*
4 *WHILE DRIVING.—A State statute meets the requirements*
5 *set forth in this subsection if the statute—*

6 “(1) *prohibits a driver who is younger than 18*
7 *years of age from using a personal wireless commu-*
8 *nications device while driving;*

9 “(2) *makes violation of the statute a primary of-*
10 *fense;*

11 “(3) *requires distracted driving issues to be test-*
12 *ed as part of the State driver’s license examination;*

13 “(4) *establishes—*

14 “(A) *a minimum fine for a first violation*
15 *of the statute; and*

16 “(B) *increased fines for repeat violations;*
17 *and*

18 “(5) *provides increased civil and criminal pen-*
19 *alties than would otherwise apply if a vehicle acci-*
20 *dent is caused by a driver who is using such a device*
21 *in violation of the statute.*

22 “(d) *PERMITTED EXCEPTIONS.—A statute that meets*
23 *the requirements set forth in subsections (b) and (c) may*
24 *provide exceptions for—*

1 “(1) a driver who uses a personal wireless com-
2 munications device to contact emergency services;

3 “(2) emergency services personnel who use a per-
4 sonal wireless communications device while—

5 “(A) operating an emergency services vehi-
6 cle; and

7 “(B) engaged in the performance of their
8 duties as emergency services personnel; and

9 “(3) an individual employed as a commercial
10 motor vehicle driver or a school bus driver who uses
11 a personal wireless communications device within the
12 scope of such individual’s employment if such use is
13 permitted under the regulations promulgated pursu-
14 ant to section 31152 of title 49.

15 “(e) *USE OF GRANT FUNDS.*—Of the grant funds re-
16 ceived by a State under this section—

17 “(1) at least 50 percent shall be used—

18 “(A) to educate the public through adver-
19 tising containing information about the dangers
20 of texting or using a cell phone while driving;

21 “(B) for traffic signs that notify drivers
22 about the distracted driving law of the State; or

23 “(C) for law enforcement costs related to the
24 enforcement of the distracted driving law; and

1 “(2) up to 50 percent may be used for other
2 projects that—

3 “(A) improve traffic safety; and

4 “(B) are consistent with the criteria set
5 forth in section 402(a).

6 “(f) *ADDITIONAL GRANTS.*—In fiscal year 2012, the
7 Secretary may use up to 25 percent of the funding available
8 for grants under this section to award grants to States
9 that—

10 “(1) enacted statutes before July 1, 2011, which
11 meet the requirements under paragraphs (1) and (2)
12 of subsection (b); and

13 “(2) are otherwise ineligible for a grant under
14 this section.

15 “(g) *DISTRACTED DRIVING STUDY.*—

16 “(1) *IN GENERAL.*—The Secretary shall conduct
17 a study of all forms of distracted driving.

18 “(2) *COMPONENTS.*—The study conducted under
19 paragraph (1) shall—

20 “(A) examine the effect of distractions other
21 than the use of personal wireless communications
22 on motor vehicle safety;

23 “(B) identify metrics to determine the na-
24 ture and scope of the distracted driving problem;

1 “(C) identify the most effective methods to
2 enhance education and awareness; and

3 “(D) identify the most effective method of
4 reducing deaths and injuries caused by all forms
5 of distracted driving.

6 “(3) *REPORT.*—Not later than 1 year after the
7 date of enactment of the Motor Vehicle and Highway
8 Safety Improvement Act of 2012, the Secretary shall
9 submit a report containing the results of the study
10 conducted under this subsection to—

11 “(A) the Committee on Commerce, Science,
12 and Transportation of the Senate; and

13 “(B) the Committee on Transportation and
14 Infrastructure of the House of Representatives.

15 “(h) *DEFINITIONS.*—In this section:

16 “(1) *DRIVING.*—The term ‘driving’—

17 “(A) means operating a motor vehicle on a
18 public road, including operation while tempo-
19 rarily stationary because of traffic, a traffic light
20 or stop sign, or otherwise; and

21 “(B) does not include operating a motor ve-
22 hicle when the vehicle has pulled over to the side
23 of, or off, an active roadway and has stopped in
24 a location where it can safely remain stationary.

1 “(2) *PERSONAL WIRELESS COMMUNICATIONS DE-*
2 *VICE.—The term ‘personal wireless communications*
3 *device’—*

4 “(A) *means a device through which personal*
5 *wireless services (as defined in section*
6 *332(c)(7)(C)(i) of the Communications Act of*
7 *1934 (47 U.S.C. 332(c)(7)(C)(i))) are trans-*
8 *mitted; and*

9 “(B) *does not include a global navigation*
10 *satellite system receiver used for positioning,*
11 *emergency notification, or navigation purposes.*

12 “(3) *PRIMARY OFFENSE.—The term ‘primary of-*
13 *fense’ means an offense for which a law enforcement*
14 *officer may stop a vehicle solely for the purpose of*
15 *issuing a citation in the absence of evidence of an-*
16 *other offense.*

17 “(4) *PUBLIC ROAD.—The term ‘public road’ has*
18 *the meaning given that term in section 402(c).*

19 “(5) *TEXTING.—The term ‘texting’ means read-*
20 *ing from or manually entering data into a personal*
21 *wireless communications device, including doing so*
22 *for the purpose of SMS texting, e-mailing, instant*
23 *messaging, or engaging in any other form of elec-*
24 *tronic data retrieval or electronic data communica-*
25 *tion.”.*

1 (b) *CONFORMING AMENDMENT.*—*The analysis for*
2 *chapter 4 of title 23, United States Code, is amended by*
3 *striking the item relating to section 411 and inserting the*
4 *following:*

 “411. *Distracted driving grants.*”.

5 **SEC. 31109. HIGH VISIBILITY ENFORCEMENT PROGRAM.**

6 Section 2009 of SAFETEA-LU (23 U.S.C. 402 note)
7 *is amended—*

8 (1) *in subsection (a)—*

9 (A) *by striking “at least 2” and inserting*
10 *“at least 3”; and*

11 (B) *by striking “years 2006 through 2012.”*
12 *and inserting “fiscal years 2012 and 2013. The*
13 *Administrator may also initiate and support ad-*
14 *ditional campaigns in each of fiscal years 2012*
15 *and 2013 for the purposes specified in subsection*
16 *(b).”;*

17 (2) *in subsection (b) by striking “either or both”*
18 *and inserting “outcomes related to at least 1”;*

19 (3) *in subsection (c), by inserting “and Internet-*
20 *based outreach” after “print media advertising”;*

21 (4) *in subsection (e), by striking “subsections*
22 *(a), (c), and (f)” and inserting “subsection (c)”;*

23 (5) *by striking subsection (f); and*

24 (6) *by redesignating subsection (g) as subsection*
25 *(f).*

1 **SEC. 31110. MOTORCYCLIST SAFETY.**

2 *Section 2010 of SAFETEA-LU (23 U.S.C. 402 note)*
 3 *is amended—*

4 *(1) by striking subsections (b) and (g);*

5 *(2) by redesignating subsections (c), (d), (e), and*
 6 *(f) as subsections (b), (c), (d), and (e), respectively;*
 7 *and*

8 *(3) in subsection (c)(1), as redesignated, by strik-*
 9 *ing “to the satisfaction of the Secretary—” and all*
 10 *that follows and inserting “, to the satisfaction of the*
 11 *Secretary, at least 2 of the 6 criteria listed in para-*
 12 *graph (2).”.*

13 **SEC. 31111. DRIVER ALCOHOL DETECTION SYSTEM FOR**
 14 **SAFETY RESEARCH.**

15 *(a) IN GENERAL.—Chapter 4 of title 23, United States*
 16 *Code, is amended by adding at the end the following:*

17 **“§413. In-vehicle alcohol detection device research**

18 *“(a) IN GENERAL.—The Administrator of the National*
 19 *Highway Traffic Safety Administration shall carry out a*
 20 *collaborative research effort under chapter 301 of title 49,*
 21 *United States Code, to continue to explore the feasibility*
 22 *and the potential benefits of, and the public policy chal-*
 23 *lenges associated with, more widespread deployment of in-*
 24 *vehicle technology to prevent alcohol-impaired driving.*

25 *“(b) REPORTS.—The Administrator shall submit a re-*
 26 *port annually to the Senate Committee on Commerce,*

1 *Science, and Transportation and the House of Representa-*
2 *tives Committee on Transportation and Infrastructure—*

3 “(1) *describing progress in carrying out the col-*
4 *laborative research effort; and*

5 “(2) *including an accounting for the use of Fed-*
6 *eral funds obligated or expended in carrying out that*
7 *effort.*

8 “(c) *DEFINITIONS.—In this title:*

9 “(1) *ALCOHOL-IMPAIRED DRIVING.—The term*
10 *‘alcohol-impaired driving’ means operation of a*
11 *motor vehicle (as defined in section 30102(a)(6) of*
12 *title 49, United States Code) by an individual whose*
13 *blood alcohol content is at or above the legal limit.*

14 “(2) *LEGAL LIMIT.—The term ‘legal limit’*
15 *means a blood alcohol concentration of 0.08 percent or*
16 *greater (as specified by chapter 163 of title 23, United*
17 *States Code) or such other percentage limitation as*
18 *may be established by applicable Federal, State, or*
19 *local law.”.*

20 “(b) *CLERICAL AMENDMENT.—The analysis for chapter*
21 *4 of title 23, United States Code, is amended by inserting*
22 *after the item relating to section 412 the following:*

“413. In-vehicle alcohol detection device research.”.

1 **SEC. 31112. STATE GRADUATED DRIVER LICENSING LAWS.**

2 (a) *IN GENERAL.*—Chapter 4 of title 23, United States
3 Code, as amended by this title, is further amended by add-
4 ing at the end the following:

5 **“§414. State Graduated Driver Licensing Incentive**
6 **Grant**

7 “(a) *GRANTS AUTHORIZED.*—Subject to the require-
8 ments of this section, the Secretary shall award grants to
9 States that adopt and implement graduated driver licensing
10 laws in accordance with the requirements set forth in sub-
11 section (b).

12 “(b) *MINIMUM REQUIREMENTS.*—

13 “(1) *IN GENERAL.*—A State meets the require-
14 ments set forth in this subsection if the State has a
15 graduated driver licensing law that requires novice
16 drivers younger than 21 years of age to comply with
17 the 2-stage licensing process described in paragraph
18 (2) before receiving an unrestricted driver’s license.

19 “(2) *LICENSING PROCESS.*—A State is in com-
20 pliance with the 2-stage licensing process described in
21 this paragraph if the State’s driver’s license laws in-
22 clude—

23 “(A) a learner’s permit stage that—

24 “(i) is at least 6 months in duration;

1 “(ii) prohibits the driver from using a
2 cellular telephone or any communications
3 device in a nonemergency situation; and

4 “(iii) remains in effect until the driv-
5 er—

6 “(I) reaches 16 years of age and
7 enters the intermediate stage; or

8 “(II) reaches 18 years of age;

9 “(B) an intermediate stage that—

10 “(i) commences immediately after the
11 expiration of the learner’s permit stage;

12 “(ii) is at least 6 months in duration;

13 “(iii) prohibits the driver from using a
14 cellular telephone or any communications
15 device in a nonemergency situation;

16 “(iv) restricts driving at night;

17 “(v) prohibits the driver from oper-
18 ating a motor vehicle with more than 1
19 nonfamilial passenger younger than 21
20 years of age unless a licensed driver who is
21 at least 21 years of age is in the motor vehi-
22 cle; and

23 “(vi) remains in effect until the driver
24 reaches 18 years of age; and

1 “(C) any other requirement prescribed by
2 the Secretary of Transportation, including—

3 “(i) in the learner’s permit stage—

4 “(I) at least 40 hours of behind-
5 the-wheel training with a licensed
6 driver who is at least 21 years of age;

7 “(II) a driver training course;
8 and

9 “(III) a requirement that the
10 driver be accompanied and supervised
11 by a licensed driver, who is at least 21
12 years of age, at all times while such
13 driver is operating a motor vehicle;
14 and

15 “(ii) in the learner’s permit or inter-
16 mediate stage, a requirement, in addition to
17 any other penalties imposed by State law,
18 that the grant of an unrestricted driver’s li-
19 cense be automatically delayed for any indi-
20 vidual who, during the learner’s permit or
21 intermediate stage, is convicted of a driv-
22 ing-related offense, including—

23 “(I) driving while intoxicated;

24 “(II) misrepresentation of his or
25 her true age;

- 1 “(III) reckless driving;
- 2 “(IV) driving without wearing a
- 3 seat belt;
- 4 “(V) speeding; or
- 5 “(VI) any other driving-related of-
- 6 fense, as determined by the Secretary.

7 “(c) RULEMAKING.—

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

9 gate regulations necessary to implement the require-

10 ments under subsection (b), in accordance with the

11 notice and comment provisions under section 553 of

12 title 5, United States Code.

13 “(2) EXCEPTION.—A State that otherwise meets

14 the minimum requirements set forth in subsection (b)

15 shall be deemed by the Secretary to be in compliance

16 with the requirement set forth in subsection (b) if the

17 State enacted a law before January 1, 2011, estab-

18 lishing a class of license that permits licensees or ap-

19 plicants younger than 18 years of age to drive a

20 motor vehicle—

21 “(A) in connection with work performed on,

22 or for the operation of, a farm owned by family

23 members who are directly related to the appli-

24 cant or licensee; or

1 “(B) if demonstrable hardship would result
2 from the denial of a license to the licensees or ap-
3 plicants.

4 “(d) ALLOCATION.—Grant funds allocated to a State
5 under this section for a fiscal year shall be in proportion
6 to a State’s apportionment under section 402 for such fiscal
7 year.

8 “(e) USE OF FUNDS.—Grant funds received by a State
9 under this section may be used for—

10 “(1) enforcing a 2-stage licensing process that
11 complies with subsection (b)(2);

12 “(2) training for law enforcement personnel and
13 other relevant State agency personnel relating to the
14 enforcement described in paragraph (1);

15 “(3) publishing relevant educational materials
16 that pertain directly or indirectly to the State grad-
17 uated driver licensing law;

18 “(4) carrying out other administrative activities
19 that the Secretary considers relevant to the State’s 2-
20 stage licensing process; and

21 “(5) carrying out a teen traffic safety program
22 described in section 402(m).”.

23 **SEC. 31113. AGENCY ACCOUNTABILITY.**

24 Section 412 of title 23, United States Code, is amend-
25 ed—

1 (1) *by amending subsection (a) to read as fol-*
2 *lows:*

3 “(a) *TRIENNIAL STATE MANAGEMENT REVIEWS.—*

4 “(1) *IN GENERAL.—Except as provided under*
5 *paragraph (2), the Secretary shall conduct a review*
6 *of each State highway safety program at least once*
7 *every 3 years.*

8 “(2) *EXCEPTIONS.—The Secretary may conduct*
9 *reviews of the highway safety programs of the United*
10 *States Virgin Islands, Guam, American Samoa, and*
11 *the Commonwealth of the Northern Mariana Islands*
12 *as often as the Secretary determines to be appro-*
13 *priate.*

14 “(3) *COMPONENTS.—Reviews under this sub-*
15 *section shall include—*

16 “(A) *a management evaluation of all grant*
17 *programs funded under this chapter;*

18 “(B) *an assessment of State data collection*
19 *and evaluation relating to performance measures*
20 *established by the Secretary;*

21 “(C) *a comparison of State efforts under*
22 *subparagraphs (A) and (B) to best practices and*
23 *programs that have been evaluated for effective-*
24 *ness; and*

1 “(D) the development of recommendations
2 on how each State could—

3 “(i) improve the management and
4 oversight of its grant activities; and

5 “(ii) provide a management and over-
6 sight plan for such grant programs.”; and

7 (2) by striking subsection (f).

8 **SEC. 31114. EMERGENCY MEDICAL SERVICES.**

9 Section 10202 of Public Law 109–59 (42 U.S.C. 300d–
10 4), is amended by adding at the end the following:

11 “(b) NATIONAL EMERGENCY MEDICAL SERVICES ADVI-
12 SORY COUNCIL.—

13 “(1) ESTABLISHMENT.—The Secretary of Trans-
14 portation, in coordination with the Secretary of
15 Health and Human Services and the Secretary of
16 Homeland Security, shall establish a National Emer-
17 gency Medical Services Advisory Council (referred to
18 in this subsection as the ‘Advisory Council’).

19 “(2) MEMBERSHIP.—The Advisory Council shall
20 be composed of 25 members, who—

21 “(A) shall be appointed by the Secretary of
22 Transportation; and

23 “(B) shall collectively be representative of
24 all sectors of the emergency medical services com-
25 munity.

1 “(3) *PURPOSES.*—*The purposes of the Advisory*
2 *Council are to advise and consult with—*

3 “(A) *the Federal Interagency Committee on*
4 *Emergency Medical Services on matters relating*
5 *to emergency medical services issues; and*

6 “(B) *the Secretary of Transportation on*
7 *matters relating to emergency medical services*
8 *issues affecting the Department of Transpor-*
9 *tation.*

10 “(4) *ADMINISTRATION.*—*The Administrator of*
11 *the National Highway Traffic Safety Administration*
12 *shall provide administrative support to the Advisory*
13 *Council, including scheduling meetings, setting agen-*
14 *das, keeping minutes and records, and producing re-*
15 *ports.*

16 “(5) *LEADERSHIP.*—*The members of the Advi-*
17 *sory Council shall annually select a chairperson of the*
18 *Council.*

19 “(6) *MEETINGS.*—*The Advisory Council shall*
20 *meet as frequently as is determined necessary by the*
21 *chairperson of the Council.*

22 “(7) *ANNUAL REPORTS.*—*The Advisory Council*
23 *shall prepare an annual report to the Secretary of*
24 *Transportation regarding the Council’s actions and*
25 *recommendations.”.*

1 ***Subtitle B—Enhanced Safety***
2 ***Authorities***

3 **SEC. 31201. DEFINITION OF MOTOR VEHICLE EQUIPMENT.**

4 *Section 30102(a)(7)(C) of title 49, United States Code,*
5 *is amended to read as follows:*

6 “(C) *any device or an article or apparel,*
7 *including a motorcycle helmet and excluding*
8 *medicine or eyeglasses prescribed by a licensed*
9 *practitioner, that—*

10 “(i) *is not a system, part, or compo-*
11 *nent of a motor vehicle; and*

12 “(ii) *is manufactured, sold, delivered,*
13 *or offered to be sold for use on public streets,*
14 *roads, and highways with the apparent*
15 *purpose of safeguarding motor vehicles and*
16 *highway users against risk of accident, in-*
17 *jury, or death.”.*

18 **SEC. 31202. PERMIT REMINDER SYSTEM FOR NON-USE OF**
19 ***SAFETY BELTS.***

20 *(a) IN GENERAL.—Chapter 301 of title 49, United*
21 *States Code, is amended—*

22 (1) *in section 30122, by striking subsection (d);*
23 *and*

24 (2) *by amending section 30124 to read as fol-*
25 *lows:*

1 **“§ 30124. Nonuse of safety belts**

2 *“A motor vehicle safety standard prescribed under this*
 3 *chapter may not require a manufacturer to comply with*
 4 *the standard by using a safety belt interlock designed to*
 5 *prevent starting or operating a motor vehicle if an occupant*
 6 *is not using a safety belt.”.*

7 **(b) CONFORMING AMENDMENT.**—*The analysis for*
 8 *chapter 301 of title 49, United States Code, is amended by*
 9 *striking the item relating to section 30124 and inserting*
 10 *the following:*

“Sec. 30124. Nonuse of safety belts.”.

11 **SEC. 31203. CIVIL PENALTIES.**

12 **(a) IN GENERAL.**—*Section 30165 of title 49, United*
 13 *States Code, is amended—*

14 **(1) in subsection (a)—**

15 **(A) in paragraph (1)—**

16 **(i) by striking “30123(d)” and insert-**
 17 **ing “30123(a)”;** *and*

18 **(ii) by striking “\$15,000,000” and in-**
 19 **serting “\$250,000,000”;** *and*

20 **(B) in paragraph (3), by striking**
 21 **“\$15,000,000” and inserting “\$250,000,000”;**
 22 *and*

23 **(2) by amending subsection (c) to read as fol-**
 24 **lows:**

1 “(c) *RELEVANT FACTORS IN DETERMINING AMOUNT*
2 *OF PENALTY OR COMPROMISE.*—*In determining the*
3 *amount of a civil penalty or compromise under this section,*
4 *the Secretary of Transportation shall consider the nature,*
5 *circumstances, extent, and gravity of the violation. Such de-*
6 *termination shall include, as appropriate—*

7 “(1) *the nature of the defect or noncompliance;*

8 “(2) *knowledge by the person charged of its obli-*
9 *gation to recall or notify the public;*

10 “(3) *the severity of the risk of injury;*

11 “(4) *the occurrence or absence of injury;*

12 “(5) *the number of motor vehicles or items of*
13 *motor vehicle equipment distributed with the defect or*
14 *noncompliance;*

15 “(6) *the existence of an imminent hazard;*

16 “(7) *actions taken by the person charged to iden-*
17 *tify, investigate, or mitigate the condition;*

18 “(8) *the appropriateness of such penalty in rela-*
19 *tion to the size of the business of the person charged,*
20 *including the potential for undue adverse economic*
21 *impacts;*

22 “(9) *whether the person has previously been as-*
23 *essed civil penalties under this section during the*
24 *most recent 5 years; and*

25 “(10) *other appropriate factors.*”

1 **(b) CIVIL PENALTY CRITERIA.**—*Not later than 1 year*
 2 *after the date of the enactment of this Act, the Secretary*
 3 *shall issue a final rule, in accordance with the procedures*
 4 *of section 553 of title 5, United States Code, which provides*
 5 *an interpretation of the penalty factors described in section*
 6 *30165(c) of title 49, United States Code.*

7 **(c) CONSTRUCTION.**—*Nothing in this section may be*
 8 *construed as preventing the imposition of penalties under*
 9 *section 30165 of title 49, United States Code, before the*
 10 *issuance of a final rule under subsection (b).*

11 **SEC. 31204. MOTOR VEHICLE SAFETY RESEARCH AND DE-**
 12 **VELOPMENT.**

13 **(a) IN GENERAL.**—*Chapter 301 of title 49, United*
 14 *States Code, is amended by adding at the end the following:*

15 “**SUBCHAPTER V—MOTOR VEHICLE SAFETY**
 16 **RESEARCH AND DEVELOPMENT**

17 “**§ 30181. Policy**

18 “*The Secretary of Transportation shall conduct re-*
 19 *search, development, and testing on any area or aspect of*
 20 *motor vehicle safety necessary to carry out this chapter.*

21 “**§ 30182. Powers and duties**

22 “**(a) IN GENERAL.**—*The Secretary of Transportation*
 23 *shall—*

24 “(1) *conduct motor vehicle safety research, devel-*
 25 *opment, and testing programs and activities, includ-*

1 *ing new and emerging technologies that impact or*
2 *may impact motor vehicle safety;*

3 *“(2) collect and analyze all types of motor vehi-*
4 *cle and highway safety data and related information*
5 *to determine the relationship between motor vehicle or*
6 *motor vehicle equipment performance characteristics*
7 *and—*

8 *“(A) accidents involving motor vehicles; and*

9 *“(B) deaths or personal injuries resulting*
10 *from those accidents;*

11 *“(3) promote, support, and advance the edu-*
12 *cation and training of motor vehicle safety staff of the*
13 *National Highway Traffic Safety Administration, in-*
14 *cluding using program funds for—*

15 *“(A) planning, implementing, conducting,*
16 *and presenting results of program activities; and*

17 *“(B) travel and related expenses;*

18 *“(4) obtain experimental and other motor vehi-*
19 *cles and motor vehicle equipment for research or test-*
20 *ing;*

21 *“(5)(A) use any test motor vehicles and motor*
22 *vehicle equipment suitable for continued use, as deter-*
23 *mined by the Secretary to assist in carrying out this*
24 *chapter or any other chapter of this title; or*

1 “(B) sell or otherwise dispose of test motor vehi-
2 cles and motor vehicle equipment and use the result-
3 ing proceeds to carry out this chapter;

4 “(6) award grants to States and local govern-
5 ments, interstate authorities, and nonprofit institu-
6 tions; and

7 “(7) enter into cooperative agreements, collabo-
8 rative research, or contracts with Federal agencies,
9 interstate authorities, State and local governments,
10 other public entities, private organizations and per-
11 sons, nonprofit institutions, colleges and universities,
12 consumer advocacy groups, corporations, partner-
13 ships, sole proprietorships, trade associations, Federal
14 laboratories (including government-owned, govern-
15 ment-operated laboratories and government-owned,
16 contractor-operated laboratories), and foreign govern-
17 ments and research organizations.

18 “(b) *USE OF PUBLIC AGENCIES.*—In carrying out this
19 subchapter, the Secretary shall avoid duplication by using
20 the services, research, and testing facilities of public agen-
21 cies, as appropriate.

22 “(c) *FACILITIES.*—The Secretary may plan, design,
23 and build a new facility or modify an existing facility to
24 conduct research, development, and testing in traffic safety,
25 highway safety, and motor vehicle safety.

1 “(d) *AVAILABILITY OF INFORMATION, PATENTS, AND*
 2 *DEVELOPMENTS.*—When the United States Government
 3 makes more than a minimal contribution to a research or
 4 development activity under this chapter, the Secretary shall
 5 include in the arrangement for the activity a provision to
 6 ensure that all information, patents, and developments re-
 7 lated to the activity are available to the public without
 8 charge. The owner of a background patent may not be de-
 9 prived of a right under the patent.

10 **“§ 30183. Prohibition on certain disclosures.**

11 “Any report of the National Highway Traffic Safety
 12 Administration, or of any officer, employee, or contractor
 13 of the National Highway Traffic Safety Administration, re-
 14 lating to any highway traffic accident or the investigation
 15 of such accident conducted pursuant to this chapter or sec-
 16 tion 403 of title 23, shall be made available to the public
 17 in a manner that does not identify individuals.”.

18 (b) *CONFORMING AMENDMENTS.*—

19 (1) *AMENDMENT OF CHAPTER ANALYSIS.*—The
 20 chapter analysis for chapter 301 of title 49, United
 21 States Code, is amended by adding at the end the fol-
 22 lowing:

“SUBCHAPTER V—MOTOR VEHICLE SAFETY RESEARCH AND DEVELOPMENT

“30181. Policy.

“30182. Powers and duties.

“30183. Prohibition on certain disclosures.”.

1 (2) *DELETION OF REDUNDANT MATERIAL.*—
2 Chapter 301 of title 49, United States Code, is
3 amended—

4 (A) in the chapter analysis, by striking the
5 item relating to section 30168; and

6 (B) by striking section 30168.

7 **SEC. 31205. ODOMETER REQUIREMENTS.**

8 (a) *DEFINITION.*—Section 32702(5) of title 49, United
9 States Code, is amended by inserting “or system of compo-
10 nents” after “instrument”.

11 (b) *ELECTRONIC DISCLOSURES OF ODOMETER INFOR-*
12 *MATION.*—Section 32705 of title 49, United States Code, is
13 amended by adding at the end the following:

14 “(g) *ELECTRONIC DISCLOSURES.*—Not later than 18
15 months after the date of enactment of the Motor Vehicle and
16 Highway Safety Improvement Act of 2012, in carrying out
17 this section, the Secretary shall prescribe regulations per-
18 mitting any written disclosures or notices and related mat-
19 ters to be provided electronically.”.

20 **SEC. 31206. INCREASED PENALTIES AND DAMAGES FOR**
21 **ODOMETER FRAUD.**

22 Chapter 327 of title 49, United States Code, is amend-
23 ed—

24 (1) in section 32709(a)(1)—

1 (A) by striking “\$2,000” and inserting
2 “\$10,000”; and

3 (B) by striking “\$100,000” and inserting
4 “\$1,000,000”; and

5 (2) in section 32710(a), by striking “\$1,500”
6 and inserting “\$10,000”.

7 **SEC. 31207. EXTEND PROHIBITIONS ON IMPORTING NON-**
8 **COMPLIANT VEHICLES AND EQUIPMENT TO**
9 **DEFECTIVE VEHICLES AND EQUIPMENT.**

10 Section 30112 of title 49, United States Code, is
11 amended—

12 (1) in subsection (a), by adding at the end the
13 following:

14 “(3) Except as provided in this section, section 30114,
15 subsections (i) and (j) of section 30120, and subchapter III,
16 a person may not sell, offer for sale, introduce or deliver
17 for introduction in interstate commerce, or import into the
18 United States any motor vehicle or motor vehicle equipment
19 if the vehicle or equipment contains a defect related to
20 motor vehicle safety about which notice was given under
21 section 30118(c) or an order was issued under section
22 30118(b). Nothing in this paragraph may be construed to
23 prohibit the importation of a new motor vehicle that re-
24 ceives a required recall remedy before being sold to a con-
25 sumer in the United States.”; and

1 (2) *in subsection (b)(2)—*

2 (A) *in subparagraph (A), by striking “or”*
3 *at the end;*

4 (B) *in subparagraph (B), by adding “or”*
5 *at the end; and*

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

7 “*(C) having no reason to know, despite ex-*
8 *ercising reasonable care, that a motor vehicle or*
9 *motor vehicle equipment contains a defect related*
10 *to motor vehicle safety about which notice was*
11 *given under section 30118(c) or an order was*
12 *issued under section 30118(b);”.*

13 **SEC. 31208. FINANCIAL RESPONSIBILITY REQUIREMENTS**
14 **FOR IMPORTERS.**

15 *Chapter 301 of title 49, United States Code, is amend-*
16 *ed—*

17 (1) *in the chapter analysis, by striking the item*
18 *relating to subchapter III and inserting the following:*

 “*SUBCHAPTER III—IMPORTING MOTOR VEHICLES AND EQUIPMENT*”;

19 (2) *in the heading for subchapter III, by striking*
20 “*NONCOMPLYING*”; *and*

21 (3) *in section 30147, by amending subsection (b)*
22 *to read as follows:*

23 “(b) **FINANCIAL RESPONSIBILITY REQUIREMENT.**—

24 “*(1) RULEMAKING.—The Secretary of Transpor-*
25 *tation may issue regulations requiring each person*

1 *that imports a motor vehicle or motor vehicle equip-*
2 *ment into the customs territory of the United States,*
3 *including a registered importer (or any successor in*
4 *interest), provide and maintain evidence, satisfactory*
5 *to the Secretary, of sufficient financial responsibility*
6 *to meet its obligations under section 30117(b), sec-*
7 *tions 30118 through 30121, and section 30166(f). In*
8 *making a determination of sufficient financial re-*
9 *sponsibility under this Rule, the Secretary, to avoid*
10 *duplicative requirements, shall first, to the extent*
11 *practicable, rely on existing reporting and record-*
12 *keeping requirements and other information available*
13 *to the Secretary, and shall coordinate with other Fed-*
14 *eral agencies, including the Securities and Exchange*
15 *Commission, to access information collected and made*
16 *publicly available under existing reporting and rec-*
17 *ordkeeping requirements.*

18 *“(2) REFUSAL OF ADMISSION.—If the Secretary*
19 *of Transportation believes that a person described in*
20 *paragraph (1) has not provided and maintained evi-*
21 *dence of sufficient financial responsibility to meet the*
22 *obligations referred to in paragraph (1), the Secretary*
23 *of Homeland Security shall first offer the person an*
24 *opportunity to remedy the deficiency within 30 days,*
25 *and if not remedied thereafter may refuse the admis-*

1 *sion into the customs territory of the United States of*
2 *any motor vehicle or motor vehicle equipment im-*
3 *ported by the person.*

4 “(3) *EXCEPTION.—This subsection shall not*
5 *apply to original manufacturers (or wholly owned*
6 *subsidiaries) of motor vehicles that, prior to the date*
7 *of enactment of the Motor Vehicle and Highway Safe-*
8 *ty Improvement Act of 2012—*

9 “(A) *have imported motor vehicles into the*
10 *United States that are certified to comply with*
11 *all applicable Federal motor vehicle safety stand-*
12 *ards;*

13 “(B) *have submitted to the Secretary appro-*
14 *priate manufacturer identification information*
15 *under part 566 of title 49, Code of Federal Regu-*
16 *lations; and*

17 “(C) *if applicable, have identified a current*
18 *agent for service of process in accordance with*
19 *part 551 of title 49, Code of Federal Regula-*
20 *tions.”.*

21 **SEC. 31209. CONDITIONS ON IMPORTATION OF VEHICLES**
22 **AND EQUIPMENT.**

23 *Chapter 301 of title 49, United States Code, is amend-*
24 *ed—*

1 (1) *in the chapter analysis, by striking the item*
2 *relating to section 30164 and inserting the following:*

“30164. *Service of process; conditions on importation of vehicles and equipment.*”;

3 *and*

4 (2) *in section 30164—*

5 (A) *in the section heading, by adding “;*

6 **CONDITIONS ON IMPORTATION OF VEHI-**
7 **CLES AND EQUIPMENT”** *at the end; and*

8 (B) *by adding at the end the following:*

9 “(c) *IDENTIFYING INFORMATION.—A manufacturer*
10 *(including an importer) offering a motor vehicle or motor*
11 *vehicle equipment for import shall provide such information*
12 *as the Secretary may, by rule, request including—*

13 “(1) *the product by name and the manufactur-*
14 *er’s address; and*

15 “(2) *each retailer or distributor to which the*
16 *manufacturer directly supplied motor vehicles or*
17 *motor vehicle equipment over which the Secretary has*
18 *jurisdiction under this chapter.*

19 “(d) *RULEMAKING.—In issuing a rulemaking, the Sec-*
20 *retary shall seek to reduce duplicative requirements by co-*
21 *ordinating with Department of Homeland Security. The*
22 *Secretary may issue regulations that—*

23 “(1) *condition the import of a motor vehicle or*
24 *motor vehicle equipment on the manufacturer’s com-*
25 *pliance with—*

1 “(A) *the requirements under this section;*

2 “(B) *any rules issued with respect to such*
3 *requirements; or*

4 “(C) *any other requirements under this*
5 *chapter or rules issued with respect to such re-*
6 *quirements;*

7 “(2) *provide an opportunity for the manufac-*
8 *turer to present information before the Secretary’s de-*
9 *termination as to whether the manufacturer’s imports*
10 *should be restricted; and*

11 “(3) *establish a process by which a manufacturer*
12 *may petition for reinstatement of its ability to import*
13 *motor vehicles or motor vehicle equipment.*

14 “(e) *EXCEPTION.—The requirements of subsections (c)*
15 *and (d) shall not apply to original manufacturers (or whol-*
16 *ly owned subsidiaries) of motor vehicles that, prior to the*
17 *date of enactment of the Motor Vehicle and Highway Safety*
18 *Improvement Act of 2012—*

19 “(1) *have imported motor vehicles into the*
20 *United States that are certified to comply with all*
21 *applicable Federal motor vehicle safety standards,*

22 “(2) *have submitted to the Secretary appropriate*
23 *manufacturer identification information under part*
24 *566 of title 49, Code of Federal Regulations; and*

1 “(3) if applicable, have identified a current
2 agent for service of process in accordance with part
3 551 of title 49, Code of Federal Regulations.”.

4 **SEC. 31210. PORT INSPECTIONS; SAMPLES FOR EXAMINA-**
5 **TION OR TESTING.**

6 Section 30166(c) of title 49, United States Code, is
7 amended—

8 (1) in paragraph (2), by striking “and” at the
9 end;

10 (2) in paragraph (3)—

11 (A) in subparagraph (A), by inserting “(in-
12 cluding at United States ports of entry)” after
13 “held for introduction in interstate commerce”;
14 and

15 (B) in subparagraph (D), by striking the
16 period at the end and inserting a semicolon; and
17 (3) by adding at the end the following:

18 “(4) shall enter into a memorandum of under-
19 standing with the Secretary of Homeland Security for
20 inspections and sampling of motor vehicle equipment
21 being offered for import to determine compliance with
22 this chapter or a regulation or order issued under this
23 chapter.”.

1 ***Subtitle C—Transparency and***
2 ***Accountability***

3 **SEC. 31301. IMPROVED NATIONAL HIGHWAY TRAFFIC SAFE-**
4 **TY ADMINISTRATION VEHICLE SAFETY DATA-**
5 **BASE.**

6 (a) *IN GENERAL.*—Not later than 2 years after the
7 date of enactment of this Act, the Secretary shall improve
8 public accessibility to information on the National High-
9 way Traffic Safety Administration’s publicly accessible ve-
10 hicle safety databases by—

11 (1) *improving organization and functionality,*
12 *including modern web design features, and allowing*
13 *for data to be searched, aggregated, and downloaded;*

14 (2) *providing greater consistency in presentation*
15 *of vehicle safety issues; and*

16 (3) *improving searchability about specific vehi-*
17 *cles and issues through standardization of commonly*
18 *used search terms.*

19 (b) *VEHICLE RECALL INFORMATION.*—

20 (1) *IN GENERAL.*—Not later than 1 year after
21 the date of enactment of this Act, the Secretary shall
22 require that motor vehicle safety recall information—

23 (A) *is available to the public on the Inter-*
24 *net;*

1 (B) is searchable by vehicle make and model
2 and vehicle identification number;

3 (C) is in a format that preserves consumer
4 privacy; and

5 (D) includes information about each recall
6 that has not been completed for each vehicle.

7 (2) *RULEMAKING.*—The Secretary may initiate
8 a rulemaking proceeding to require each manufac-
9 turer to provide the information described in para-
10 graph (1), with respect to that manufacturer’s motor
11 vehicles, at no cost on a publicly accessible Internet
12 website.

13 (3) *DATABASE AWARENESS PROMOTION ACTIVI-*
14 *TIES.*—The Secretary, in consultation with the heads
15 of other relevant agencies, shall promote consumer
16 awareness of the information made available to the
17 public pursuant to this subsection.

18 **SEC. 31302. NATIONAL HIGHWAY TRAFFIC SAFETY ADMINIS-**
19 **TRATION HOTLINE FOR MANUFACTURER,**
20 **DEALER, AND MECHANIC PERSONNEL.**

21 The Secretary shall—

22 (1) establish a means by which mechanics, pas-
23 senger motor vehicle dealership personnel, and pas-
24 senger motor vehicle manufacturer personnel may di-
25 rectly and confidentially contact the National High-

1 way Traffic Safety Administration to report potential
2 passenger motor vehicle safety defects; and

3 (2) publicize the means for contacting the Na-
4 tional Highway Traffic Safety Administration in a
5 manner that targets mechanics, passenger motor vehi-
6 cle dealership personnel, and manufacturer personnel.

7 **SEC. 31303. CONSUMER NOTICE OF SOFTWARE UPDATES**
8 **AND OTHER COMMUNICATIONS WITH DEAL-**
9 **ERS.**

10 (a) *INTERNET ACCESSIBILITY.*—Section 30166(f) of
11 title 49, United States Code, is amended—

12 (1) by striking “A manufacturer shall give the
13 Secretary of Transportation” and inserting the fol-
14 lowing:

15 “(1) *IN GENERAL.*—A manufacturer shall give
16 the Secretary of Transportation, and make available
17 on a publicly accessible Internet website,”; and

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

19 “(2) *NOTICES.*—Communications required to be
20 submitted to the Secretary and made available on a
21 publicly accessible Internet website under this sub-
22 section shall include all notices to dealerships of soft-
23 ware upgrades and modifications recommended by a
24 manufacturer for all previously sold vehicles. Notice is
25 required even if the software upgrade or modification

1 *is not related to a safety defect or noncompliance with*
2 *a motor vehicle safety standard. The notice shall in-*
3 *clude a plain language description of the purpose of*
4 *the update and that description shall be prominently*
5 *placed at the beginning of the notice.*

6 “(3) *INDEX.—Communications required to be*
7 *submitted to the Secretary under this subsection shall*
8 *be accompanied by an index to each communication,*
9 *which—*

10 “(A) *identifies the make, model, and model*
11 *year of the affected vehicles;*

12 “(B) *includes a concise summary of the sub-*
13 *ject matter of the communication; and*

14 “(C) *shall be made available by the Sec-*
15 *retary to the public on the Internet in a search-*
16 *able format.”.*

17 **SEC. 31304. PUBLIC AVAILABILITY OF EARLY WARNING**
18 **DATA.**

19 *Section 30166(m) of title 49, United States Code, is*
20 *amended in paragraph (4), by amending subparagraph (C)*
21 *to read as follows:*

22 “(C) *DISCLOSURE.—*

23 “(i) *IN GENERAL.—The information*
24 *provided to the Secretary pursuant to this*
25 *subsection shall be disclosed publicly unless*

1 *exempt from disclosure under section 552(b)*
 2 *of title 5.*

3 “(ii) *PRESUMPTION.—In admin-*
 4 *istering this subparagraph, the Secretary*
 5 *shall presume in favor of maximum public*
 6 *availability of information.”.*

7 **SEC. 31305. CORPORATE RESPONSIBILITY FOR NATIONAL**
 8 **HIGHWAY TRAFFIC SAFETY ADMINISTRATION**
 9 **REPORTS.**

10 (a) *IN GENERAL.—Section 30166 of title 49, United*
 11 *States Code, is amended by adding at the end the following:*

12 “(o) *CORPORATE RESPONSIBILITY FOR REPORTS.—*

13 “(1) *IN GENERAL.—The Secretary shall require a*
 14 *senior official responsible for safety in each company*
 15 *submitting information to the Secretary in response*
 16 *to a request for information in a safety defect or com-*
 17 *pliance investigation under this chapter to certify*
 18 *that—*

19 “(A) *the signing official has reviewed the*
 20 *submission; and*

21 “(B) *based on the official’s knowledge, the*
 22 *submission does not—*

23 “(i) *contain any untrue statement of a*
 24 *material fact; or*

1 “(ii) omit to state a material fact nec-
2 essary in order to make the statements
3 made not misleading, in light of the cir-
4 cumstances under which such statements
5 were made.

6 “(2) NOTICE.—The certification requirements of
7 this section shall be clearly stated on any request for
8 information under paragraph (1).”.

9 (b) CIVIL PENALTY.—Section 30165(a) of title 49,
10 United States Code, is amended—

11 (1) in paragraph (3), by striking “A person”
12 and inserting “Except as provided in paragraph (4),
13 a person”; and

14 (2) by adding at the end the following:

15 “(4) FALSE, MISLEADING, OR INCOMPLETE RE-
16 PORTS.—A person who knowingly and willfully sub-
17 mits materially false, misleading, or incomplete infor-
18 mation to the Secretary, after certifying the same in-
19 formation as accurate and complete under the certifi-
20 cation process established pursuant to section
21 30166(o), shall be subject to a civil penalty of not
22 more than \$5,000 per day. The maximum penalty
23 under this paragraph for a related series of daily vio-
24 lations is \$5,000,000.”.

1 **SEC. 31306. PASSENGER MOTOR VEHICLE INFORMATION**
2 **PROGRAM.**

3 (a) *DEFINITION.*—Section 32301 of title 49, United
4 States Code, is amended—

5 (1) by redesignating paragraphs (1) and (2) as
6 paragraphs (2) and (3), respectively;

7 (2) by inserting before paragraph (2), as redesign-
8 ated, the following:

9 “(1) ‘crash avoidance’ means preventing or miti-
10 gating a crash;”; and

11 (3) in paragraph (2), as redesignated, by strik-
12 ing the period at the end and inserting “; and”.

13 (b) *INFORMATION INCLUDED.*—Section 32302(a) of
14 title 49, United States Code, is amended—

15 (1) in paragraph (2), by inserting “, crash
16 avoidance, and any other areas the Secretary deter-
17 mines will improve the safety of passenger motor ve-
18 hicles” after “crashworthiness”; and

19 (2) by striking paragraph (4).

20 **SEC. 31307. PROMOTION OF VEHICLE DEFECT REPORTING.**

21 Section 32302 of title 49, United States Code, is
22 amended by adding at the end the following:

23 “(d) *MOTOR VEHICLE DEFECT REPORTING INFORMA-*
24 *TION.*—

25 “(1) *RULEMAKING REQUIRED.*—Not later than 1
26 year after the date of the enactment of the Motor Ve-

1 *hicle and Highway Safety Improvement Act of 2012,*
2 *the Secretary shall prescribe regulations that require*
3 *passenger motor vehicle manufacturers—*

4 “(A) *to affix, in the glove compartment or*
5 *in another readily accessible location on the ve-*
6 *hicle, a sticker, decal, or other device that pro-*
7 *vides, in simple and understandable language,*
8 *information about how to submit a safety-related*
9 *motor vehicle defect complaint to the National*
10 *Highway Traffic Safety Administration;*

11 “(B) *to prominently print the information*
12 *described in subparagraph (A) on a separate*
13 *page within the owner’s manual; and*

14 “(C) *to not place such information on the*
15 *label required under section 3 of the Automobile*
16 *Information Disclosure Act (15 U.S.C. 1232).*

17 “(2) *APPLICATION.—The requirements under*
18 *paragraph (1) shall apply to passenger motor vehicles*
19 *manufactured in any model year beginning more*
20 *than 1 year after the date on which a final rule is*
21 *published under paragraph (1).”.*

1 **SEC. 31308. WHISTLEBLOWER PROTECTIONS FOR MOTOR**
2 **VEHICLE MANUFACTURERS, PART SUP-**
3 **PLIERS, AND DEALERSHIP EMPLOYEES.**

4 (a) *IN GENERAL.*—Subchapter IV of chapter 301 of
5 title 49, United States Code, is amended by adding at the
6 end the following:

7 **“§ 30171. Protection of employees providing motor ve-**
8 **hicle safety information**

9 “(a) *DISCRIMINATION AGAINST EMPLOYEES OF MANU-*
10 *FACTURERS, PART SUPPLIERS, AND DEALERSHIPS.*—No
11 motor vehicle manufacturer, part supplier, or dealership
12 may discharge an employee or otherwise discriminate
13 against an employee with respect to compensation, terms,
14 conditions, or privileges of employment because the em-
15 ployee (or any person acting pursuant to a request of the
16 employee)—

17 “(1) provided, caused to be provided, or is about
18 to provide (with any knowledge of the employer) or
19 cause to be provided to the employer or the Secretary
20 of Transportation information relating to any motor
21 vehicle defect, noncompliance, or any violation or al-
22 leged violation of any notification or reporting re-
23 quirement of this chapter;

24 “(2) has filed, caused to be filed, or is about to
25 file (with any knowledge of the employer) or cause to
26 be filed a proceeding relating to any violation or al-

1 *leged violation of any motor vehicle defect, noncompli-*
2 *ance, or any violation or alleged violation of any no-*
3 *tification or reporting requirement of this chapter;*

4 “(3) *testified or is about to testify in such a pro-*
5 *ceeding;*

6 “(4) *assisted or participated or is about to assist*
7 *or participate in such a proceeding; or*

8 “(5) *objected to, or refused to participate in, any*
9 *activity that the employee reasonably believed to be in*
10 *violation of any provision of any Act enforced by the*
11 *Secretary of Transportation, or any order, rule, regu-*
12 *lation, standard, or ban under any such Act.*

13 “(b) *COMPLAINT PROCEDURE.—*

14 “(1) *FILING AND NOTIFICATION.—A person who*
15 *believes that he or she has been discharged or other-*
16 *wise discriminated against by any person in viola-*
17 *tion of subsection (a) may, not later than 180 days*
18 *after the date on which such violation occurs, file (or*
19 *have any person file on his or her behalf) a complaint*
20 *with the Secretary of Labor (hereinafter in this sec-*
21 *tion referred to as the ‘Secretary’) alleging such dis-*
22 *charge or discrimination. Upon receipt of such a com-*
23 *plaint, the Secretary shall notify, in writing, the per-*
24 *son named in the complaint of the filing of the com-*
25 *plaint, of the allegations contained in the complaint,*

1 *of the substance of evidence supporting the complaint,*
2 *and of the opportunities that will be afforded to such*
3 *person under paragraph (2).*

4 “(2) *INVESTIGATION; PRELIMINARY ORDER.—*

5 “(A) *IN GENERAL.—Not later than 60 days*
6 *after the date of receipt of a complaint filed*
7 *under paragraph (1) and after affording the per-*
8 *son named in the complaint an opportunity to*
9 *submit to the Secretary a written response to the*
10 *complaint and an opportunity to meet with a*
11 *representative of the Secretary to present state-*
12 *ments from witnesses, the Secretary shall conduct*
13 *an investigation and determine whether there is*
14 *reasonable cause to believe that the complaint*
15 *has merit and notify, in writing, the complain-*
16 *ant and the person alleged to have committed a*
17 *violation of subsection (a) of the Secretary’s find-*
18 *ings. If the Secretary concludes that there is a*
19 *reasonable cause to believe that a violation of*
20 *subsection (a) has occurred, the Secretary shall*
21 *accompany the Secretary’s findings with a pre-*
22 *liminary order providing the relief prescribed by*
23 *paragraph (3)(B). Not later than 30 days after*
24 *the date of notification of findings under this*
25 *paragraph, either the person alleged to have com-*

1 *mitted the violation or the complainant may file*
2 *objections to the findings or preliminary order,*
3 *or both, and request a hearing on the record. The*
4 *filing of such objections shall not operate to stay*
5 *any reinstatement remedy contained in the pre-*
6 *liminary order. Such hearings shall be conducted*
7 *expeditiously. If a hearing is not requested in*
8 *such 30-day period, the preliminary order shall*
9 *be deemed a final order that is not subject to ju-*
10 *dicial review.*

11 *“(B) REQUIREMENTS.—*

12 *“(i) REQUIRED SHOWING BY COM-*
13 *PLAINANT.—The Secretary shall dismiss a*
14 *complaint filed under this subsection and*
15 *shall not conduct an investigation otherwise*
16 *required under subparagraph (A) unless the*
17 *complainant makes a prima facie showing*
18 *that any behavior described in paragraphs*
19 *(1) through (5) of subsection (a) was a con-*
20 *tributing factor in the unfavorable per-*
21 *sonnel action alleged in the complaint.*

22 *“(ii) SHOWING BY EMPLOYER.—Not-*
23 *withstanding a finding by the Secretary*
24 *that the complainant has made the showing*
25 *required under clause (i), no investigation*

1 *otherwise required under subparagraph (A)*
2 *shall be conducted if the employer dem-*
3 *onstrates, by clear and convincing evidence,*
4 *that the employer would have taken the*
5 *same unfavorable personnel action in the*
6 *absence of that behavior.*

7 “(iii) *CRITERIA FOR DETERMINATION*
8 *BY SECRETARY.*—*The Secretary may deter-*
9 *mine that a violation of subsection (a) has*
10 *occurred only if the complainant dem-*
11 *onstrates that any behavior described in*
12 *paragraphs (1) through (5) of subsection (a)*
13 *was a contributing factor in the unfavorable*
14 *personnel action alleged in the complaint.*

15 “(iv) *PROHIBITION.*—*Relief may not*
16 *be ordered under subparagraph (A) if the*
17 *employer demonstrates, by clear and con-*
18 *vincing evidence, that the employer would*
19 *have taken the same unfavorable personnel*
20 *action in the absence of that behavior.*

21 “(3) *FINAL ORDER.*—

22 “(A) *DEADLINE FOR ISSUANCE; SETTLE-*
23 *MENT AGREEMENTS.*—*Not later than 120 days*
24 *after the date of conclusion of a hearing under*
25 *paragraph (2), the Secretary shall issue a final*

1 *order providing the relief prescribed by this*
2 *paragraph or denying the complaint. At any*
3 *time before issuance of a final order, a pro-*
4 *ceeding under this subsection may be terminated*
5 *on the basis of a settlement agreement entered*
6 *into by the Secretary, the complainant, and the*
7 *person alleged to have committed the violation.*

8 “(B) *REMEDY.*—*If, in response to a com-*
9 *plaint filed under paragraph (1), the Secretary*
10 *determines that a violation of subsection (a) has*
11 *occurred, the Secretary shall order the person*
12 *who committed such violation—*

13 *“(i) to take affirmative action to abate*
14 *the violation;*

15 *“(ii) to reinstate the complainant to*
16 *his or her former position together with the*
17 *compensation (including back pay) and re-*
18 *store the terms, conditions, and privileges*
19 *associated with his or her employment; and*

20 *“(iii) to provide compensatory dam-*
21 *ages to the complainant.*

22 “(C) *ATTORNEYS’ FEES.*—*If such an order*
23 *is issued under this paragraph, the Secretary, at*
24 *the request of the complainant, shall assess*
25 *against the person against whom the order is*

1 *issued a sum equal to the aggregate amount of*
2 *all costs and expenses (including attorneys' and*
3 *expert witness fees) reasonably incurred, as de-*
4 *termined by the Secretary, by the complainant*
5 *for, or in connection with, bringing the com-*
6 *plaint upon which the order was issued.*

7 *“(D) FRIVOLOUS COMPLAINTS.—If the Sec-*
8 *retary determines that a complaint under para-*
9 *graph (1) is frivolous or has been brought in bad*
10 *faith, the Secretary may award to the prevailing*
11 *employer a reasonable attorney's fee not exceed-*
12 *ing \$1,000.*

13 *“(E) DE NOVO REVIEW.—With respect to a*
14 *complaint under paragraph (1), if the Secretary*
15 *of Labor has not issued a final decision within*
16 *210 days after the filing of the complaint and if*
17 *the delay is not due to the bad faith of the em-*
18 *ployee, the employee may bring an original ac-*
19 *tion at law or equity for de novo review in the*
20 *appropriate district court of the United States,*
21 *which shall have jurisdiction over such an action*
22 *without regard to the amount in controversy,*
23 *and which action shall, at the request of either*
24 *party to the action, be tried by the court with a*
25 *jury. The action shall be governed by the same*

1 *legal burdens of proof specified in paragraph*
2 *(2)(B) for review by the Secretary of Labor.*

3 “(4) *REVIEW.*—

4 “(A) *APPEAL TO COURT OF APPEALS.*—*Any*
5 *person adversely affected or aggrieved by an*
6 *order issued under paragraph (3) may obtain re-*
7 *view of the order in the United States Court of*
8 *Appeals for the circuit in which the violation,*
9 *with respect to which the order was issued, alleg-*
10 *edly occurred or the circuit in which the com-*
11 *plainant resided on the date of such violation.*
12 *The petition for review shall be filed not later*
13 *than 60 days after the date of the issuance of the*
14 *final order of the Secretary. Review shall con-*
15 *form to chapter 7 of title 5. The commencement*
16 *of proceedings under this subparagraph shall*
17 *not, unless ordered by the court, operate as a*
18 *stay of the order.*

19 “(B) *LIMITATION ON COLLATERAL AT-*
20 *TACK.*—*An order of the Secretary with respect to*
21 *which review could have been obtained under*
22 *subparagraph (A) shall not be subject to judicial*
23 *review in any criminal or other civil proceeding.*

24 “(5) *ENFORCEMENT OF ORDER BY SECRETARY.*—

25 *Whenever any person fails to comply with an order*

1 *issued under paragraph (3), the Secretary may file a*
2 *civil action in the United States district court for the*
3 *district in which the violation was found to occur to*
4 *enforce such order. In actions brought under this*
5 *paragraph, the district courts shall have jurisdiction*
6 *to grant all appropriate relief, including injunctive*
7 *relief and compensatory damages.*

8 “(6) *ENFORCEMENT OF ORDER BY PARTIES.*—

9 “(A) *COMMENCEMENT OF ACTION.*—*A per-*
10 *son on whose behalf an order was issued under*
11 *paragraph (3) may commence a civil action*
12 *against the person to whom such order was*
13 *issued to require compliance with such order.*
14 *The appropriate United States district court*
15 *shall have jurisdiction, without regard to the*
16 *amount in controversy or the citizenship of the*
17 *parties, to enforce such order.*

18 “(B) *ATTORNEY FEES.*—*The court, in*
19 *issuing any final order under this paragraph,*
20 *may award costs of litigation (including reason-*
21 *able attorney and expert witness fees) to any*
22 *party whenever the court determines such award*
23 *is appropriate.*

1 “(c) *MANDAMUS*.—Any nondiscretionary duty im-
2 posed under this section shall be enforceable in a mandamus
3 proceeding brought under section 1361 of title 28.

4 “(d) *NONAPPLICABILITY TO DELIBERATE VIOLA-*
5 *TIONS*.—Subsection (a) shall not apply with respect to an
6 employee of a motor vehicle manufacturer, part supplier,
7 or dealership who, acting without direction from such motor
8 vehicle manufacturer, part supplier, or dealership (or such
9 person’s agent), deliberately causes a violation of any re-
10 quirement relating to motor vehicle safety under this chap-
11 ter.”.

12 (b) *CONFORMING AMENDMENT*.—The table of sections
13 for chapter 301 of title 49, United States Code, is amended
14 by inserting after the item relating to section 30170 the fol-
15 lowing:

“30171. Protection of employees providing motor vehicle safety information.”.

16 **SEC. 31309. ANTI-REVOLVING DOOR.**

17 (a) *AMENDMENT*.—Subchapter I of chapter 301 of title
18 49, United States Code, is amended by adding at the end
19 the following:

20 **“§ 30107. Restriction on covered motor vehicle safety**
21 **officials**

22 “(a) *IN GENERAL*.—During the 2-year period after the
23 termination of his or her service or employment, a covered
24 vehicle safety official may not knowingly make, with the
25 intent to influence, any communication to or appearance

1 *before any officer or employee of the National Highway*
2 *Traffic Safety Administration on behalf of any manufac-*
3 *turer subject to regulation under this chapter in connection*
4 *with any matter involving motor vehicle safety on which*
5 *such person seeks official action by any officer or employee*
6 *of the National Highway Traffic Safety Administration.*

7 “(b) *MANUFACTURERS.*—*It is unlawful for any manu-*
8 *facturer or other person subject to regulation under this*
9 *chapter to employ or contract for the services of an indi-*
10 *vidual to whom subsection (a) applies during the 2-year*
11 *period commencing on the individual’s termination of em-*
12 *ployment with the National Highway Traffic Safety Ad-*
13 *ministration in a capacity in which the individual is pro-*
14 *hibited from serving during that period.*

15 “(c) *SPECIAL RULE FOR DETAILEES.*—*For purposes*
16 *of this section, a person who is detailed from 1 department,*
17 *agency, or other entity to another department, agency, or*
18 *other entity shall, during the period such person is detailed,*
19 *be deemed to be an officer or employee of both departments,*
20 *agencies, or such entities.*

21 “(d) *SAVINGS PROVISION.*—*Nothing in this section*
22 *may be construed to expand, contract, or otherwise affect*
23 *the application of any waiver or criminal penalties under*
24 *section 207 of title 18.*

1 “(e) *EXCEPTION FOR TESTIMONY.*—*Nothing in this*
2 *section may be construed to prevent an individual from giv-*
3 *ing testimony under oath, or from making statements re-*
4 *quired to be made under penalty of perjury.*

5 “(f) *DEFINED TERM.*—*In this section, the term ‘cov-*
6 *ered vehicle safety official’ means any officer or employee*
7 *of the National Highway Traffic Safety Administration—*

8 “(1) *who, during the final 12 months of his or*
9 *her service or employment with the agency, serves or*
10 *served in a technical or legal capacity, and whose job*
11 *responsibilities include or included vehicle safety de-*
12 *fect investigation, vehicle safety compliance, vehicle*
13 *safety rulemaking, or vehicle safety research; and*

14 “(2) *who serves in a supervisory or management*
15 *capacity over an officer or employee described in*
16 *paragraph (1).*

17 “(g) *EFFECTIVE DATE.*—*This section shall apply to*
18 *covered vehicle safety officials who terminate service or em-*
19 *ployment with the National Highway Traffic Safety Ad-*
20 *ministration after the date of enactment of the Motor Vehi-*
21 *cle and Highway Safety Improvement Act of 2012.”.*

22 “(b) *CIVIL PENALTY.*—*Section 30165(a) of title 49,*
23 *United States Code, as amended by this subtitle, is further*
24 *amended by adding at the end the following:*

1 “(5) *IMPROPER INFLUENCE.*—*An individual who*
2 *violates section 30107(a) is liable to the United States*
3 *Government for a civil penalty, as determined under*
4 *section 216(b) of title 18, for an offense under section*
5 *207 of that title. A manufacturer or other person sub-*
6 *ject to regulation under this chapter who violates sec-*
7 *tion 30107(b) is liable to the United States Govern-*
8 *ment for a civil penalty equal to the sum of—*

9 “(A) *an amount equal to not less than*
10 *\$100,000; and*

11 “(B) *an amount equal to 90 percent of the*
12 *annual compensation or fee paid or payable to*
13 *the individual with respect to whom the viola-*
14 *tion occurred.”.*

15 (c) *STUDY OF DEPARTMENT OF TRANSPORTATION*
16 *POLICIES ON OFFICIAL COMMUNICATION WITH FORMER*
17 *MOTOR VEHICLE SAFETY ISSUE EMPLOYEES.*—*Not later*
18 *than 1 year after the date of the enactment of this Act, the*
19 *Inspector General of the Department of Transportation*
20 *shall—*

21 (1) *review the Department of Transportation’s*
22 *policies and procedures applicable to official commu-*
23 *nication with former employees concerning motor ve-*
24 *hicle safety compliance matters for which they had re-*
25 *sponsibility during the last 12 months of their tenure*

1 *at the Department, including any limitations on the*
2 *ability of such employees to submit comments, or oth-*
3 *erwise communicate directly with the Department, on*
4 *motor vehicle safety issues; and*

5 *(2) submit a report to the Committee on Com-*
6 *merce, Science, and Transportation of the Senate and*
7 *the Committee on Energy and Commerce of the House*
8 *of Representatives that contains the Inspector Gen-*
9 *eral's findings, conclusions, and recommendations for*
10 *strengthening those policies and procedures to mini-*
11 *mize the risk of undue influence without compro-*
12 *miting the ability of the Department to employ and*
13 *retain highly qualified individuals for such respon-*
14 *sibilities.*

15 *(d) POST-EMPLOYMENT POLICY STUDY.—*

16 *(1) IN GENERAL.—The Inspector General of the*
17 *Department of Transportation shall conduct a study*
18 *of the Department's policies relating to post-employ-*
19 *ment restrictions on employees who perform functions*
20 *related to transportation safety.*

21 *(2) REPORT.—Not later than 1 year after the*
22 *date of enactment of this Act, the Inspector General*
23 *shall submit a report containing the results of the*
24 *study conducted under paragraph (1) to—*

1 (A) *the Committee on Commerce, Science,*
2 *and Transportation of the Senate;*

3 (B) *the Committee on Energy and Com-*
4 *merce of the House of Representatives; and*

5 (C) *the Secretary of Transportation.*

6 (3) *USE OF RESULTS.—The Secretary of Trans-*
7 *portation shall review the results of the study con-*
8 *ducted under paragraph (1) and take whatever action*
9 *the Secretary determines to be appropriate.*

10 (e) *CONFORMING AMENDMENT.—The table of contents*
11 *for chapter 301 of title 49, United States Code, is amended*
12 *by inserting after the item relating to section 30106 the fol-*
13 *lowing:*

 “30107. *Restriction on covered motor vehicle safety officials.*”.

14 **SEC. 31310. STUDY OF CRASH DATA COLLECTION.**

15 (a) *IN GENERAL.—Not later than 1 year after the date*
16 *of enactment of this Act, the Secretary shall submit a report*
17 *to the Committee on Commerce, Science, and Transpor-*
18 *tation of the Senate the Committee on Energy and Com-*
19 *merce of the House of Representatives regarding the quality*
20 *of data collected through the National Automotive Sampling*
21 *System, including the Special Crash Investigations Pro-*
22 *gram.*

23 (b) *REVIEW.—The Administrator of the National*
24 *Highway Traffic Safety Administration (referred to in this*
25 *section as the “Administration”) shall conduct a com-*

1 *prehensive review of the data elements collected from each*
2 *crash to determine if additional data should be collected.*
3 *The review under this subsection shall include input from*
4 *interested parties, including suppliers, automakers, safety*
5 *advocates, the medical community, and research organiza-*
6 *tions.*

7 (c) *CONTENTS.—The report issued under this section*
8 *shall include—*

9 (1) *the analysis and conclusions the Administra-*
10 *tion can reach from the amount of motor vehicle crash*
11 *data collected in a given year;*

12 (2) *the additional analysis and conclusions the*
13 *Administration could reach if more crash investiga-*
14 *tions were conducted each year;*

15 (3) *the number of investigations per year that*
16 *would allow for optimal data analysis and crash in-*
17 *formation;*

18 (4) *the results of the comprehensive review con-*
19 *ducted pursuant to subsection (b);*

20 (5) *recommendations for improvements to the*
21 *Administration’s data collection program; and*

22 (6) *the resources needed by the Administration to*
23 *implement such recommendations.*

1 **SEC. 31311. UPDATE MEANS OF PROVIDING NOTIFICATION;**
2 **IMPROVING EFFICACY OF RECALLS.**

3 (a) *UPDATE OF MEANS OF PROVIDING NOTIFICA-*
4 *TION.—Section 30119(d) of title 49, United States Code, is*
5 *amended—*

6 (1) *by striking, in paragraph (1), “by first class*
7 *mail” and inserting “in the manner prescribed by the*
8 *Secretary, by regulation”;*

9 (2) *in paragraph (2)—*

10 (A) *by striking “(except a tire) shall be sent*
11 *by first class mail” and inserting “shall be sent*
12 *in the manner prescribed by the Secretary, by*
13 *regulation,”; and*

14 (B) *by striking the second sentence;*

15 (3) *in paragraph (3)—*

16 (A) *by striking the first sentence;*

17 (B) *by inserting “to the notification re-*
18 *quired under paragraphs (1) and (2)” after “ad-*
19 *dition”;* and

20 (C) *by inserting “by the manufacturer”*
21 *after “given”;* and

22 (4) *in paragraph (4), by striking “by certified*
23 *mail or quicker means if available” and inserting “in*
24 *the manner prescribed by the Secretary, by regula-*
25 *tion”.*

1 **(b) IMPROVING EFFICACY OF RECALLS.**—Section
2 30119(e) of title 49, United States Code, is amended—

3 (1) in the subsection heading, by striking “SEC-
4 OND” and inserting “ADDITIONAL”;

5 (2) by striking “If the Secretary” and inserting
6 the following:

7 “(1) **SECOND NOTIFICATION.**—If the Secretary”;
8 and

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

10 “(2) **ADDITIONAL NOTIFICATIONS.**—If the Sec-
11 retary determines, after considering the severity of the
12 defect or noncompliance, that the second notification
13 by a manufacturer does not result in an adequate
14 number of motor vehicles or items of replacement
15 equipment being returned for remedy, the Secretary
16 may order the manufacturer—

17 “(A) to send additional notifications in the
18 manner prescribed by the Secretary, by regula-
19 tion;

20 “(B) to take additional steps to locate and
21 notify each person registered under State law as
22 the owner or lessee or the most recent purchaser
23 or lessee, as appropriate; and

1 “(C) to emphasize the magnitude of the safe-
2 ty risk caused by the defect or noncompliance in
3 such notification.”.

4 **SEC. 31312. EXPANDING CHOICES OF REMEDY AVAILABLE**
5 **TO MANUFACTURERS OF REPLACEMENT**
6 **EQUIPMENT.**

7 Section 30120 of title 49, United States Code, is
8 amended—

9 (1) in subsection (a)(1), by amending subpara-
10 graph (B) to read as follows:

11 “(B) if replacement equipment, by repair-
12 ing the equipment, replacing the equipment with
13 identical or reasonably equivalent equipment, or
14 by refunding the purchase price.”;

15 (2) in the heading of subsection (i), by adding
16 “OF NEW VEHICLES OR EQUIPMENT” at the end; and

17 (3) in the heading of subsection (j), by striking
18 “REPLACED” and inserting “REPLACEMENT”.

19 **SEC. 31313. RECALL OBLIGATIONS AND BANKRUPTCY OF**
20 **MANUFACTURER.**

21 (a) *IN GENERAL.*—Chapter 301 of title 49, United
22 States Code, is amended by inserting the following after sec-
23 tion 30120:

1 **“§30120A. Recall obligations and bankruptcy of a**
2 **manufacturer**

3 “A manufacturer’s filing of a petition in bankruptcy
4 under chapter 11 of title 11, does not negate the manufac-
5 turer’s duty to comply with section 30112 or sections 30115
6 through 30120 of this title. In any bankruptcy proceeding,
7 the manufacturer’s obligations under such sections shall be
8 treated as a claim of the United States Government against
9 such manufacturer, subject to subchapter II of chapter 37
10 of title 31, United States Code, and given priority pursuant
11 to section 3713(a)(1)(A) of such chapter, notwithstanding
12 section 3713(a)(2), to ensure that consumers are adequately
13 protected from any safety defect or noncompliance deter-
14 mined to exist in the manufacturer’s products. This section
15 shall apply equally to actions of a manufacturer taken be-
16 fore or after the filing of a petition in bankruptcy.”

17 (b) CONFORMING AMENDMENT.—The chapter analysis
18 of chapter 301 of title 49, United States Code, is amended
19 by inserting after the item relating to section 30120 the fol-
20 lowing:

“30120a. Recall obligations and bankruptcy of a manufacturer.”.

21 **SEC. 31314. REPEAL OF INSURANCE REPORTS AND INFOR-**
22 **MATION PROVISION.**

23 Chapter 331 of title 49, United States Code, is amend-
24 ed—

1 (1) *in the chapter analysis, by striking the item*
 2 *relating to section 33112; and*

3 (2) *by striking section 33112.*

4 **SEC. 31315. MONRONEY STICKER TO PERMIT ADDITIONAL**
 5 **SAFETY RATING CATEGORIES.**

6 *Section 3(g)(2) of the Automobile Information Disclo-*
 7 *sure Act (15 U.S.C. 1232(g)(2)), is amended by inserting*
 8 *“safety rating categories that may include” after “refers*
 9 *to”.*

10 ***Subtitle D—Vehicle Electronics and***
 11 ***Safety Standards***

12 **SEC. 31401. NATIONAL HIGHWAY TRAFFIC SAFETY ADMINIS-**
 13 **TRATION ELECTRONICS, SOFTWARE, AND EN-**
 14 **GINEERING EXPERTISE.**

15 (a) **COUNCIL FOR VEHICLE ELECTRONICS, VEHICLE**
 16 **SOFTWARE, AND EMERGING TECHNOLOGIES.—**

17 (1) **IN GENERAL.—***The Secretary shall establish,*
 18 *within the National Highway Traffic Safety Admin-*
 19 *istration, a Council for Vehicle Electronics, Vehicle*
 20 *Software, and Emerging Technologies (referred to in*
 21 *this section as the “Council”) to build, integrate, and*
 22 *aggregate the Administration’s expertise in passenger*
 23 *motor vehicle electronics and other new and emerging*
 24 *technologies.*

1 (2) *IMPLEMENTATION OF ROADMAP.*—*The Council*
2 *shall research the inclusion of emerging light-*
3 *weight plastic and composite technologies in motor ve-*
4 *hicles to increase fuel efficiency, lower emissions, meet*
5 *fuel economy standards, and enhance passenger motor*
6 *vehicle safety through continued utilization of the Ad-*
7 *ministration’s Plastic and Composite Intensive Vehi-*
8 *cle Safety Roadmap (Report No. DOT HS 810 863).*

9 (3) *INTRA-AGENCY COORDINATION.*—*The Council*
10 *shall coordinate with all components of the Adminis-*
11 *tration responsible for vehicle safety, including re-*
12 *search and development, rulemaking, and defects in-*
13 *vestigation.*

14 (b) *HONORS RECRUITMENT PROGRAM.*—

15 (1) *ESTABLISHMENT.*—*The Secretary shall estab-*
16 *lish, within the National Highway Traffic Safety Ad-*
17 *ministration, an honors program for engineering stu-*
18 *dents, computer science students, and other students*
19 *interested in vehicle safety that will enable such stu-*
20 *dents to train with engineers and other safety officials*
21 *for a career in vehicle safety.*

22 (2) *STIPEND.*—*The Secretary is authorized to*
23 *provide a stipend to students during their participa-*
24 *tion in the program established pursuant to para-*
25 *graph (1).*

1 (c) *ASSESSMENT.*—*The Council, in consultation with*
2 *affected stakeholders, shall assess the implications of emerg-*
3 *ing safety technologies in passenger motor vehicles, includ-*
4 *ing the effect of such technologies on consumers, product*
5 *availability, and cost.*

6 **SEC. 31402. VEHICLE STOPPING DISTANCE AND BRAKE**
7 **OVERRIDE STANDARD.**

8 *Not later than 1 year after the date of enactment of*
9 *this Act, the Secretary shall prescribe a Federal motor vehi-*
10 *cle safety standard that—*

11 (1) *mitigates unintended acceleration in pas-*
12 *senger motor vehicles;*

13 (2) *establishes performance requirements, based*
14 *on the speed, size, and weight of the vehicle, that en-*
15 *able a driver to bring a passenger motor vehicle safely*
16 *to a full stop by normal braking application even if*
17 *the vehicle is simultaneously receiving accelerator*
18 *input signals, including a full-throttle input signal;*

19 (3) *may permit compliance through a system*
20 *that requires brake pedal application, after a period*
21 *of time determined by the Secretary, to override an*
22 *accelerator pedal input signal in order to stop the ve-*
23 *hicle;*

24 (4) *requires that redundant circuits or other*
25 *mechanisms be built into accelerator control systems,*

1 *including systems controlled by electronic throttle, to*
2 *maintain vehicle control in the event of failure of the*
3 *primary circuit or mechanism; and*

4 *(5) may permit vehicles to incorporate a means*
5 *to temporarily disengage the function required under*
6 *paragraph (2) to facilitate operations, such as ma-*
7 *neuversing trailers or climbing steep hills, which may*
8 *require the simultaneous operation of brake and accel-*
9 *erator.*

10 **SEC. 31403. PEDAL PLACEMENT STANDARD.**

11 *(a) IN GENERAL.—The Secretary shall initiate a rule-*
12 *making proceeding to consider a Federal motor vehicle safe-*
13 *ty standard that would mitigate potential obstruction of*
14 *pedal movement in passenger motor vehicles, after taking*
15 *into account—*

16 *(1) various pedal mounting configurations; and*

17 *(2) minimum clearances for passenger motor ve-*
18 *hicle foot pedals with respect to other pedals, the vehi-*
19 *cle floor (including aftermarket floor coverings), and*
20 *any other potential obstructions to pedal movement*
21 *that the Secretary determines to be relevant.*

22 *(b) DEADLINE.—*

23 *(1) IN GENERAL.—Except as provided under*
24 *paragraph (2), the Secretary shall issue a final rule*
25 *to implement the safety standard described in sub-*

1 *section (a) not later than 3 years after the date of the*
2 *enactment of this Act.*

3 (2) *REPORT.—If the Secretary determines that a*
4 *pedal placement standard does not meet the require-*
5 *ments and considerations set forth in subsections (a)*
6 *and (b) of section 30111 of title 49, United States*
7 *Code, the Secretary shall submit a report describing*
8 *the reasons for not prescribing such standard to—*

9 (A) *the Committee on Commerce, Science,*
10 *and Transportation of the Senate; and*

11 (B) *the Committee on Energy and Com-*
12 *merce of the House of Representatives.*

13 (c) *COMBINED RULEMAKING.—The Secretary may*
14 *combine the rulemaking proceeding required under sub-*
15 *section (a) with the rulemaking proceeding required under*
16 *section 31402.*

17 **SEC. 31404. ELECTRONIC SYSTEMS PERFORMANCE STAND-**
18 **ARD.**

19 (a) *IN GENERAL.—Not later than 2 years after the*
20 *date of enactment of this Act, the Secretary shall initiate*
21 *a rulemaking proceeding to consider prescribing or amend-*
22 *ing a Federal motor vehicle safety standard that—*

23 (1) *requires electronic systems in passenger*
24 *motor vehicles to meet minimum performance require-*
25 *ments; and*

1 (2) *may include requirements for—*
2 (A) *electronic components;*
3 (B) *the interaction of electronic components;*
4 (C) *security needs for those electronic sys-*
5 *tems to prevent unauthorized access; or*
6 (D) *the effect of surrounding environments*
7 *on those electronic systems.*

8 (b) *DEADLINE.—*

9 (1) *IN GENERAL.—Except as provided under*
10 *paragraph (2), the Secretary shall issue a final rule*
11 *to implement the safety standard described in sub-*
12 *section (a) not later than 4 years after the date of en-*
13 *actment of this Act.*

14 (2) *REPORT.—If the Secretary determines that*
15 *such a standard does not meet the requirements and*
16 *considerations set forth in subsections (a) and (b) of*
17 *section 30111 of title 49, United States Code, the Sec-*
18 *retary shall submit a report describing the reasons for*
19 *not prescribing such standard to—*

20 (A) *the Committee on Commerce, Science,*
21 *and Transportation of the Senate; and*

22 (B) *the Committee on Energy and Com-*
23 *merce of the House of Representatives.*

24 (c) *NATIONAL ACADEMY OF SCIENCES.—In conducting*
25 *the rulemaking under subsection (a), the Secretary shall*

1 *consider the findings and recommendations of the National*
2 *Academy of Sciences, if any, pursuant to its study of elec-*
3 *tronic vehicle controls.*

4 **SEC. 31405. PUSHBUTTON IGNITION SYSTEMS STANDARD.**

5 (a) *PUSHBUTTON IGNITION STANDARD.—*

6 (1) *IN GENERAL.—The Secretary shall initiate a*
7 *rulemaking proceeding to consider a Federal motor*
8 *vehicle safety standard for passenger motor vehicles*
9 *with pushbutton ignition systems that establishes a*
10 *standardized operation of such systems when used by*
11 *drivers, including drivers who may be unfamiliar*
12 *with such systems, in an emergency situation when*
13 *the vehicle is in motion.*

14 (2) *OTHER IGNITION SYSTEMS.—In the rule-*
15 *making proceeding initiated under paragraph (1), the*
16 *Secretary may include any other ignition-starting*
17 *mechanism that the Secretary determines should be*
18 *considered.*

19 (b) *PUSHBUTTON IGNITION SYSTEM DEFINED.—The*
20 *term “pushbutton ignition system” means a mechanism,*
21 *such as the push of a button, for starting a passenger motor*
22 *vehicle that does not involve the physical insertion and*
23 *turning of a tangible key.*

24 (c) *DEADLINE.—*

1 (1) *IN GENERAL.*—*Except as provided under*
2 *paragraph (2), the Secretary shall issue a final rule*
3 *to implement the standard described in subsection (a)*
4 *not later than 2 years after the date of the enactment*
5 *of this Act.*

6 (2) *REPORT.*—*If the Secretary determines that a*
7 *standard does not meet the requirements and consid-*
8 *erations set forth in subsections (a) and (b) of section*
9 *30111 of title 49, United States Code, the Secretary*
10 *shall submit a report describing the reasons for not*
11 *prescribing such standard to—*

12 (A) *the Committee on Commerce, Science,*
13 *and Transportation of the Senate; and*

14 (B) *the Committee on Energy and Com-*
15 *merce of the House of Representatives.*

16 **SEC. 31406. VEHICLE EVENT DATA RECORDERS.**

17 (a) *MANDATORY EVENT DATA RECORDERS.*—

18 (1) *IN GENERAL.*—*Not later than 180 days after*
19 *the date of enactment of this Act, the Secretary shall*
20 *revise part 563 of title 49, Code of Federal Regula-*
21 *tions, to require, beginning with model year 2015,*
22 *that new passenger motor vehicles sold in the United*
23 *States be equipped with an event data recorder that*
24 *meets the requirements under that part.*

1 (2) *PENALTY.*—*The violation of any provision*
2 *under part 563 of title 49, Code of Federal Regula-*
3 *tions—*

4 (A) *shall be deemed to be a violation of sec-*
5 *tion 30112 of title 49, United States Code;*

6 (B) *shall be subject to civil penalties under*
7 *section 30165(a) of that title; and*

8 (C) *shall not subject a manufacturer (as de-*
9 *finied in section 30102(a)(5) of that title) to the*
10 *requirements under section 30120 of that title.*

11 (b) *LIMITATIONS ON INFORMATION RETRIEVAL.*—

12 (1) *OWNERSHIP OF DATA.*—*Any data in an*
13 *event data recorder required under part 563 of title*
14 *49, Code of Federal Regulations, regardless of when*
15 *the passenger motor vehicle in which it is installed*
16 *was manufactured, is the property of the owner, or in*
17 *the case of a leased vehicle, the lessee of the passenger*
18 *motor vehicle in which the data recorder is installed.*

19 (2) *PRIVACY.*—*Data recorded or transmitted by*
20 *such a data recorder may not be retrieved by a person*
21 *other than the owner or lessee of the motor vehicle in*
22 *which the recorder is installed unless—*

23 (A) *a court authorizes retrieval of the infor-*
24 *mation in furtherance of a legal proceeding;*

1 (B) the owner or lessee consents to the re-
2 trieval of the information for any purpose, in-
3 cluding the purpose of diagnosing, servicing, or
4 repairing the motor vehicle;

5 (C) the information is retrieved pursuant to
6 an investigation or inspection authorized under
7 section 1131(a) or 30166 of title 49, United
8 States Code, and the personally identifiable in-
9 formation of the owner, lessee, or driver of the ve-
10 hicle and the vehicle identification number is not
11 disclosed in connection with the retrieved infor-
12 mation; or

13 (D) the information is retrieved for the pur-
14 pose of determining the need for, or facilitating,
15 emergency medical response in response to a
16 motor vehicle crash.

17 (c) *REPORT TO CONGRESS.*—Two years after the date
18 of implementation of subsection (a), the Secretary shall
19 study the safety impact and the impact on individual pri-
20 vacy of event data recorders in passenger motor vehicles and
21 report its findings to the Committee on Commerce, Science,
22 and Transportation of the Senate and the Committee on
23 Energy and Commerce of the House of Representatives. The
24 report shall include—

1 (1) *the safety benefits gained from installation of*
2 *event data recorders;*

3 (2) *the recommendations on what, if any, addi-*
4 *tional data the event data recorder should be modified*
5 *to record;*

6 (3) *the additional safety benefit such information*
7 *would yield;*

8 (4) *the estimated cost to manufacturers to imple-*
9 *ment the new enhancements;*

10 (5) *an analysis of how the information proposed*
11 *to be recorded by an event data recorder conforms to*
12 *applicable legal, regulatory, and policy requirements*
13 *regarding privacy;*

14 (6) *a determination of the risks and effects of col-*
15 *lecting and maintaining the information proposed to*
16 *be recorded by an event data recorder;*

17 (7) *an examination and evaluation of the protec-*
18 *tions and alternative processes for handling informa-*
19 *tion recorded by an event data recorder to mitigate*
20 *potential privacy risks.*

21 (d) *REVISED REQUIREMENTS FOR EVENT DATA RE-*
22 *CORDERES.—Based on the findings of the study under sub-*
23 *section (c), the Secretary shall initiate a rulemaking pro-*
24 *ceeding to revise part 563 of title 49, Code of Federal Regu-*
25 *lations. The rule—*

1 (1) shall require event data recorders to capture
2 and store data related to motor vehicle safety covering
3 a reasonable time period before, during, and after a
4 motor vehicle crash or airbag deployment, including
5 a rollover;

6 (2) shall require that data stored on such event
7 data recorders be accessible, regardless of vehicle man-
8 ufacturer or model, with commercially available
9 equipment in a specified data format;

10 (3) shall establish requirements for preventing
11 unauthorized access to the data stored on an event
12 data recorder in order to protect the security, integ-
13 rity, and authenticity of the data; and

14 (4) may require an interoperable data access
15 port to facilitate universal accessibility and analysis.

16 (e) *DISCLOSURE OF EXISTENCE AND PURPOSE OF*
17 *EVENT DATA RECORDER.*—The rule issued under sub-
18 *section (d) shall require that any owner’s manual or simi-*
19 *lar documentation provided to the first purchaser of a pas-*
20 *senger motor vehicle for purposes other than resale—*

21 (1) disclose that the vehicle is equipped with such
22 a data recorder; and

23 (2) explain the purpose of the data recorder.

24 (f) *ACCESS TO EVENT DATA RECORDERS IN AGENCY*
25 *INVESTIGATIONS.*—Section 30166(c)(3)(C) of title 49,

1 *United States Code, is amended by inserting “, including*
2 *any electronic data contained within the vehicle’s diag-*
3 *nostic system or event data recorder” after “equipment.”*

4 (g) *DEADLINE FOR RULEMAKING.—The Secretary*
5 *shall issue a final rule under subsection (d) not later than*
6 *4 years after the date of enactment of this Act.*

7 **SEC. 31407. PROHIBITION ON ELECTRONIC VISUAL ENTER-**
8 **TAINMENT IN DRIVER’S VIEW.**

9 (a) *VISUAL ENTERTAINMENT SCREENS IN DRIVER’S*
10 *VIEW.—Not later than 2 years after the date of enactment*
11 *of this Act, the Secretary of Transportation shall issue a*
12 *final rule that prescribes a Federal motor vehicle safety*
13 *standard prohibiting electronic screens from displaying*
14 *broadcast television, movies, video games, and other forms*
15 *of similar visual entertainment that is visible to the driver*
16 *while driving.*

17 (b) *EXCEPTIONS.—The standard prescribed under sub-*
18 *section (a) shall allow electronic screens that display infor-*
19 *mation or images regarding operation of the vehicle, vehicle*
20 *surroundings, and telematic functions, such as the vehicles*
21 *navigation and communications system, weather, time, or*
22 *the vehicle’s audio system.*

1 **SEC. 31408. COMMERCIAL MOTOR VEHICLE ROLLOVER PRE-**
2 **VENTION AND CRASH MITIGATION.**

3 (a) *RULEMAKING.*—Not later than 3 months after the
4 date of enactment of this Act, the Secretary of Transpor-
5 tation shall initiate a rulemaking proceeding pursuant to
6 section 30111 of title 49, United States Code, to prescribe
7 or amend a Federal motor vehicle safety standard to reduce
8 commercial motor vehicle rollover and loss of control crashes
9 and mitigate deaths and injuries associated with such
10 crashes for air-braked truck tractors and motorcoaches with
11 a gross vehicle weight rating of more than 26,000 pounds.

12 (b) *REQUIRED PERFORMANCE STANDARDS.*—The rule-
13 making proceeding initiated under subsection (a) shall es-
14 tablish standards to reduce the occurrence of rollovers and
15 loss of control crashes consistent with stability enhancing
16 technologies, such as electronic stability control systems.

17 (c) *DEADLINE.*—Not later than 18 months after the
18 date of enactment of this Act, the Secretary shall issue a
19 final rule under subsection (a).

20 **Subtitle E—Child Safety Standards**

21 **SEC. 31501. CHILD SAFETY SEATS.**

22 (a) *PROTECTION FOR LARGER CHILDREN.*—Not later
23 than 1 year after the date of enactment of this Act, the Sec-
24 retary shall issue a final rule amending Federal Motor Ve-
25 hicle Safety Standard Number 213 to establish frontal crash

1 *protection requirements for child restraint systems for chil-*
2 *dren weighing more than 65 pounds.*

3 (b) *SIDE IMPACT CRASHES.*—Not later than 2 years
4 after the date of enactment of this Act, the Secretary shall
5 issue a final rule amending Federal Motor Vehicle Safety
6 Standard Number 213 to improve the protection of children
7 seated in child restraint systems during side impact crash-
8 es.

9 (c) *FRONTAL IMPACT TEST PARAMETERS.*—

10 (1) *COMMENCEMENT.*—Not later than 2 years
11 after the date of enactment of this Act, the Secretary
12 shall commence a rulemaking proceeding to amend
13 test parameters under Federal Motor Vehicle Safety
14 Standard Number 213 to better replicate real world
15 conditions.

16 (2) *FINAL RULE.*—Not later than 4 years after
17 the date of enactment of this Act, the Secretary shall
18 issue a final rule pursuant to paragraph (1).

19 **SEC. 31502. CHILD RESTRAINT ANCHORAGE SYSTEMS.**

20 (a) *INITIATION OF RULEMAKING PROCEEDING.*—Not
21 later than 1 year after the date of enactment of this Act,
22 the Secretary shall initiate a rulemaking proceeding to—

23 (1) amend Federal Motor Vehicle Safety Stand-
24 ard Number 225 (relating to child restraint anchor-
25 age systems) to improve the visibility of, accessibility

1 *to, and ease of use for lower anchorages and tethers*
2 *in all rear seat seating positions if such anchorages*
3 *and tethers are feasible; and*

4 *(2) amend Federal Motor Vehicle Safety Stand-*
5 *ard Number 213 (relating to child restraint systems)*
6 *or Federal Motor Vehicle Safety Standard Number*
7 *225 (relating to child restraint anchorage systems)—*

8 *(A) to establish a maximum allowable*
9 *weight of the child and child restraint for stand-*
10 *ardizing the recommended use of child restraint*
11 *anchorage systems in all vehicles; and*

12 *(B) to provide the information described in*
13 *subparagraph (A) to the consumer.*

14 *(b) FINAL RULE.—*

15 *(1) IN GENERAL.—Except as provided under*
16 *paragraph (2), the Secretary shall issue a final rule*
17 *under subsection (a) not later than 3 years after the*
18 *date of the enactment of this Act.*

19 *(2) REPORT.—If the Secretary determines that*
20 *an amendment to the standard referred to in sub-*
21 *section (a) does not meet the requirements and consid-*
22 *erations set forth in subsections (a) and (b) of section*
23 *30111 of title 49, United States Code, the Secretary*
24 *shall submit a report describing the reasons for not*
25 *prescribing such a standard to—*

1 (A) *the Committee on Commerce, Science,*
2 *and Transportation of the Senate; and*

3 (B) *the Committee on Energy and Com-*
4 *merce of the House of Representatives.*

5 **SEC. 31503. REAR SEAT BELT REMINDERS.**

6 (a) *INITIATION OF RULEMAKING PROCEEDING.—Not*
7 *later than 2 years after the date of enactment of this Act,*
8 *the Secretary shall initiate a rulemaking proceeding to*
9 *amend Federal Motor Vehicle Safety Standard Number 208*
10 *(relating to occupant crash protection) to provide a safety*
11 *belt use warning system for designated seating positions in*
12 *the rear seat.*

13 (b) *FINAL RULE.—*

14 (1) *IN GENERAL.—Except as provided under*
15 *paragraph (2), the Secretary shall issue a final rule*
16 *under subsection (a) not later than 3 years after the*
17 *date of enactment of this Act.*

18 (2) *REPORT.—If the Secretary determines that*
19 *an amendment to the standard referred to in sub-*
20 *section (a) does not meet the requirements and consid-*
21 *erations set forth in subsections (a) and (b) of section*
22 *30111 of title 49, United States Code, the Secretary*
23 *shall submit a report describing the reasons for not*
24 *prescribing such a standard to—*

1 (A) *the Committee on Commerce, Science,*
2 *and Transportation of the Senate; and*

3 (B) *the Committee on Energy and Com-*
4 *merce of the House of Representatives.*

5 **SEC. 31504. UNATTENDED PASSENGER REMINDERS.**

6 (a) *SAFETY RESEARCH INITIATIVE.*—*Not later than 2*
7 *years after the date of enactment of this Act, the Secretary*
8 *shall complete research into the development of performance*
9 *requirements to warn drivers that a child or other unat-*
10 *tended passenger remains in a rear seating position after*
11 *the vehicle motor is disengaged.*

12 (b) *SPECIFICATIONS.*—*In carrying out subsection (a),*
13 *the Secretary shall consider performance requirements*
14 *that—*

15 (1) *sense weight, the presence of a buckled seat*
16 *belt, or other indications of the presence of a child or*
17 *other passenger; and*

18 (2) *provide an alert to prevent hyperthermia and*
19 *hypothermia that can result in death or severe inju-*
20 *ries.*

21 (c) *RULEMAKING OR REPORT.*—

22 (1) *RULEMAKING.*—*Not later than 1 year after*
23 *the completion of each research and testing initiative*
24 *required under subsection (a), the Secretary shall ini-*
25 *tiate a rulemaking proceeding to issue a Federal*

1 *motor vehicle safety standard if the Secretary deter-*
2 *mines that such a standard meets the requirements*
3 *and considerations set forth in subsections (a) and (b)*
4 *of section 30111 of title 49, United States Code.*

5 (2) *REPORT.—If the Secretary determines that*
6 *the standard described in subsection (a) does not meet*
7 *the requirements and considerations set forth in sub-*
8 *sections (a) and (b) of section 30111 of title 49,*
9 *United States Code, the Secretary shall submit a re-*
10 *port describing the reasons for not prescribing such a*
11 *standard to—*

12 (A) *the Committee on Commerce, Science,*
13 *and Transportation of the Senate; and*

14 (B) *the Committee on Energy and Com-*
15 *merce of the House of Representatives.*

16 **SEC. 31505. NEW DEADLINE.**

17 *If the Secretary determines that any deadline for*
18 *issuing a final rule under this Act cannot be met, the Sec-*
19 *retary shall—*

20 (1) *provide the Committee on Commerce,*
21 *Science, and Transportation of the Senate and the*
22 *Committee on Energy and Commerce of the House of*
23 *Representatives with an explanation for why such*
24 *deadline cannot be met; and*

25 (2) *establish a new deadline for that rule.*

1 ***Subtitle F—Improved Daytime and***
2 ***Nighttime Visibility of Agricul-***
3 ***tural Equipment***

4 ***SEC. 31601. RULEMAKING ON VISIBILITY OF AGRICULTURAL***
5 ***EQUIPMENT.***

6 *(a) DEFINITIONS.—In this section:*

7 *(1) AGRICULTURAL EQUIPMENT.—The term “ag-*
8 *ricultural equipment” has the meaning given the term*
9 *“agricultural field equipment” in ASABE Standard*
10 *390.4, entitled “Definitions and Classifications of Ag-*
11 *ricultural Field Equipment”, which was published in*
12 *January 2005 by the American Society of Agriculture*
13 *and Biological Engineers, or any successor standard.*

14 *(2) PUBLIC ROAD.—The term “public road” has*
15 *the meaning given the term in section 101(a)(27) of*
16 *title 23, United States Code.*

17 *(b) RULEMAKING.—*

18 *(1) IN GENERAL.—Not later than 2 years after*
19 *the date of enactment of this Act, the Secretary of*
20 *Transportation, after consultation with representa-*
21 *tives of the American Society of Agricultural and Bi-*
22 *ological Engineers and appropriate Federal agencies,*
23 *and with other appropriate persons, shall promulgate*
24 *a rule to improve the daytime and nighttime visi-*

1 *bility of agricultural equipment that may be operated*
2 *on a public road.*

3 (2) *MINIMUM STANDARDS.—The rule promul-*
4 *gated pursuant to this subsection shall—*

5 (A) *establish minimum lighting and mark-*
6 *ing standards for applicable agricultural equip-*
7 *ment manufactured at least 1 year after the date*
8 *on which such rule is promulgated; and*

9 (B) *provide for the methods, materials, spec-*
10 *ifications, and equipment to be employed to com-*
11 *ply with such standards, which shall be equiva-*
12 *lent to ASABE Standard 279.14, entitled*
13 *“Lighting and Marking of Agricultural Equip-*
14 *ment on Highways”, which was published in*
15 *July 2008 by the American Society of Agricul-*
16 *tural and Biological Engineers, or any successor*
17 *standard.*

18 (c) *REVIEW.—Not less frequently than once every 5*
19 *years, the Secretary of Transportation shall—*

20 (1) *review the standards established pursuant to*
21 *subsection (b); and*

22 (2) *revise such standards to reflect the revision*
23 *of ASABE Standard 279 that is in effect at the time*
24 *of such review.*

25 (d) *LIMITATIONS.—*

1 (1) *COMPLIANCE WITH SUCCESSOR STAND-*
2 *ARDS.—Any rule promulgated pursuant to this sec-*
3 *tion may not prohibit the operation on public roads*
4 *of agricultural equipment that is equipped in accord-*
5 *ance with any adopted revision of ASABE Standard*
6 *279 that is later than the revision of such standard*
7 *that was referenced during the promulgation of the*
8 *rule.*

9 (2) *NO RETROFITTING REQUIRED.—Any rule*
10 *promulgated pursuant to this section may not require*
11 *the retrofitting of agricultural equipment that was*
12 *manufactured before the date on which the lighting*
13 *and marking standards are enforceable under sub-*
14 *section (b)(2)(A).*

15 (3) *NO EFFECT ON ADDITIONAL MATERIALS AND*
16 *EQUIPMENT.—Any rule promulgated pursuant to this*
17 *section may not prohibit the operation on public*
18 *roads of agricultural equipment that is equipped with*
19 *materials or equipment that are in addition to the*
20 *minimum materials and equipment specified in the*
21 *standard upon which such rule is based.*

1 **TITLE II—COMMERCIAL MOTOR**
2 **VEHICLE SAFETY ENHANCE-**
3 **MENT ACT OF 2012**

4 **SEC. 32001. SHORT TITLE.**

5 *This title may be cited as the “Commercial Motor Ve-*
6 *hicle Safety Enhancement Act of 2012”.*

7 **SEC. 32002. REFERENCES TO TITLE 49, UNITED STATES**
8 **CODE.**

9 *Except as otherwise expressly provided, whenever in*
10 *this title an amendment or repeal is expressed in terms of*
11 *an amendment to, or a repeal of, a section or other provi-*
12 *sion, the reference shall be considered to be made to a section*
13 *or other provision of title 49, United States Code.*

14 **Subtitle A—Commercial Motor**
15 **Vehicle Registration**

16 **SEC. 32101. REGISTRATION OF MOTOR CARRIERS.**

17 (a) **REGISTRATION REQUIREMENTS.**—*Section*
18 *13902(a)(1) is amended to read as follows:*

19 *“(1) IN GENERAL.—Except as otherwise provided*
20 *in this section, the Secretary of Transportation may*
21 *not register a person to provide transportation subject*
22 *to jurisdiction under subchapter I of chapter 135 as*
23 *a motor carrier unless the Secretary determines that*
24 *the person—*

25 *“(A) is willing and able to comply with—*

1 “(i) *this part and the applicable regu-*
2 *lations of the Secretary and the Board;*

3 “(ii) *any safety regulations imposed by*
4 *the Secretary;*

5 “(iii) *the duties of employers and em-*
6 *ployees established by the Secretary under*
7 *section 31135;*

8 “(iv) *the safety fitness requirements es-*
9 *tablished by the Secretary under section*
10 *31144;*

11 “(v) *the accessibility requirements es-*
12 *tablished by the Secretary under subpart H*
13 *of part 37 of title 49, Code of Federal Regu-*
14 *lations (or successor regulations), for trans-*
15 *portation provided by an over-the-road bus;*
16 *and*

17 “(vi) *the minimum financial responsi-*
18 *bility requirements established by the Sec-*
19 *retary under sections 13906, 31138, and*
20 *31139;*

21 “(B) *has submitted a comprehensive man-*
22 *agement plan documenting that the person has*
23 *management systems in place to ensure compli-*
24 *ance with safety regulations imposed by the Sec-*
25 *retary;*

1 “(C) has disclosed any relationship involv-
2 ing common ownership, common management,
3 common control, or common familial relation-
4 ship between that person and any other motor
5 carrier, freight forwarder, or broker, or any other
6 applicant for motor carrier, freight forwarder, or
7 broker registration, or a successor (as that term
8 is defined under section 31153), if the relation-
9 ship occurred in the 5-year period preceding the
10 date of the filing of the application for registra-
11 tion; and

12 “(D) after the Secretary establishes a writ-
13 ten proficiency examination pursuant to section
14 32101(b) of the Commercial Motor Vehicle Safety
15 Enhancement Act of 2012, has passed the written
16 proficiency examination.”.

17 (b) WRITTEN PROFICIENCY EXAMINATION.—

18 (1) ESTABLISHMENT.—Not later than 18 months
19 after the date of enactment of this Act, the Secretary
20 shall establish a written proficiency examination for
21 applicant motor carriers pursuant to section
22 13902(a)(1)(D) of title 49, United States Code. The
23 written proficiency examination shall test a person’s
24 knowledge of applicable safety regulations, standards,

1 *and orders of the Federal government and State gov-*
2 *ernment.*

3 (2) *ADDITIONAL FEE.*—*The Secretary may assess*
4 *a fee to cover the expenses incurred by the Depart-*
5 *ment of Transportation in—*

6 (A) *developing and administering the writ-*
7 *ten proficiency examination; and*

8 (B) *reviewing the comprehensive manage-*
9 *ment plan required under section 13902(a)(1)(B)*
10 *of title 49, United States Code.*

11 (c) *CONFORMING AMENDMENT.*—*Section 210(b) of the*
12 *Motor Carrier Safety Improvement Act of 1999 (49 U.S.C.*
13 *31144 note) is amended—*

14 (1) *by inserting “, commercial regulations, and*
15 *provisions of subpart H of part 37 of title 49, Code*
16 *of Federal Regulations, or successor regulations” after*
17 *“applicable safety regulations”; and*

18 (2) *by striking “consider the establishment of”*
19 *and inserting “establish”.*

20 (d) *TRANSPORTATION OF AGRICULTURAL COMMOD-*
21 *ITIES AND FARM SUPPLIES.*—*Section 229(a)(1) of the*
22 *Motor Carrier Safety Improvement Act of 1999 (49 U.S.C.*
23 *31136 note) is amended to read as follows:*

24 “(1) *TRANSPORTATION OF AGRICULTURAL COM-*
25 *MODITIES AND FARM SUPPLIES.*—*Regulations pre-*

1 *scribed by the Secretary under sections 31136 and*
2 *31502 regarding maximum driving and on-duty time*
3 *for drivers used by motor carriers shall not apply*
4 *during planting and harvest periods, as determined*
5 *by each State, to—*

6 *“(A) drivers transporting agricultural com-*
7 *modities in the State from the source of the agri-*
8 *cultural commodities to a location within a 100*
9 *air-mile radius from the source;*

10 *“(B) drivers transporting farm supplies for*
11 *agricultural purposes in the State from a whole-*
12 *sale or retail distribution point of the farm sup-*
13 *plies to a farm or other location where the farm*
14 *supplies are intended to be used within a 100*
15 *air-mile radius from the distribution point; or*

16 *“(C) drivers transporting farm supplies for*
17 *agricultural purposes in the State from a whole-*
18 *sale distribution point of the farm supplies to a*
19 *retail distribution point of the farm supplies*
20 *within a 100 air-mile radius from the wholesale*
21 *distribution point.”.*

22 **SEC. 32102. SAFETY FITNESS OF NEW OPERATORS.**

23 *(a) SAFETY REVIEWS OF NEW OPERATORS.—Section*
24 *31144(g)(1) is amended to read as follows:*

25 *“(1) SAFETY REVIEW.—*

1 “(A) *IN GENERAL.*—*The Secretary shall re-*
2 *quire, by regulation, each owner and each oper-*
3 *ator granted new registration under section*
4 *13902 or 31134 to undergo a safety review not*
5 *later than 12 months after the owner or operator,*
6 *as the case may be, begins operations under such*
7 *registration.*

8 “(B) *PROVIDERS OF MOTORCOACH SERV-*
9 *ICES.*—*The Secretary may register a person to*
10 *provide motorcoach services under section 13902*
11 *or 31134 after the person undergoes a pre-au-*
12 *thorization safety audit, including verification,*
13 *in a manner sufficient to demonstrate the ability*
14 *to comply with Federal rules and regulations, as*
15 *described in section 13902. The Secretary shall*
16 *continue to monitor the safety performance of*
17 *each owner and each operator subject to this sec-*
18 *tion for 12 months after the owner or operator*
19 *is granted registration under section 13902 or*
20 *31134. The registration of each owner and each*
21 *operator subject to this section shall become per-*
22 *manent after the motorcoach service provider is*
23 *granted registration following a pre-authoriza-*
24 *tion safety audit and the expiration of the 12*
25 *month monitoring period.*

1 “(C) *PRE-AUTHORIZATION SAFETY*
 2 *AUDIT.—The Secretary may require, by regula-*
 3 *tion, that the pre-authorization safety audit*
 4 *under subparagraph (B) be completed on-site not*
 5 *later than 90 days after the submission of an ap-*
 6 *plication for operating authority.”.*

7 *(b) EFFECTIVE DATE.—The amendments made by sub-*
 8 *section (a) shall take effect 1 year after the date of enact-*
 9 *ment of this Act.*

10 **SEC. 32103. REINCARNATED CARRIERS.**

11 *(a) EFFECTIVE PERIODS OF REGISTRATION.—*

12 *(1) SUSPENSIONS, AMENDMENTS, AND REVOCA-*
 13 *TIONS.—Section 13905(d) is amended—*

14 *(A) by redesignating paragraph (2) as*
 15 *paragraph (4);*

16 *(B) by striking paragraph (1) and inserting*
 17 *the following:*

18 “*(1) APPLICATIONS.—On application of the reg-*
 19 *istrant, the Secretary may amend or revoke a reg-*
 20 *istration.*”

21 “*(2) COMPLAINTS AND ACTIONS ON SECRETARY’S*
 22 *OWN INITIATIVE.—On complaint or on the Secretary’s*
 23 *own initiative and after notice and an opportunity*
 24 *for a proceeding, the Secretary may—*

1 “(A) suspend, amend, or revoke any part of
2 the registration of a motor carrier, broker, or
3 freight forwarder for willful failure to comply
4 with—

5 “(i) this part;

6 “(ii) an applicable regulation or order
7 of the Secretary or the Board, including the
8 accessibility requirements established by the
9 Secretary under subpart H of part 37 of
10 title 49, Code of Federal Regulations (or
11 successor regulations), for transportation
12 provided by an over-the-road bus; or

13 “(iii) a condition of its registration;

14 “(B) withhold, suspend, amend, or revoke
15 any part of the registration of a motor carrier,
16 broker, or freight forwarder for failure—

17 “(i) to pay a civil penalty imposed
18 under chapter 5, 51, 149, or 311;

19 “(ii) to arrange and abide by an ac-
20 ceptable payment plan for such civil pen-
21 alty, not later than 90 days after the date
22 specified by order of the Secretary for the
23 payment of such penalty; or

24 “(iii) for failure to obey a subpoena
25 issued by the Secretary;

1 “(C) *withhold, suspend, amend, or revoke*
2 *any part of a registration of a motor carrier,*
3 *broker, or freight forwarder following a deter-*
4 *mination by the Secretary that the motor car-*
5 *rier, broker, or freight forwarder failed to dis-*
6 *close, in its application for registration, a mate-*
7 *rial fact relevant to its willingness and ability to*
8 *comply with—*

9 “(i) *this part;*

10 “(ii) *an applicable regulation or order*
11 *of the Secretary or the Board; or*

12 “(iii) *a condition of its registration; or*

13 “(D) *withhold, suspend, amend, or revoke*
14 *any part of a registration of a motor carrier,*
15 *broker, or freight forwarder if the Secretary finds*
16 *that—*

17 “(i) *the motor carrier, broker, or*
18 *freight forwarder is or was related through*
19 *common ownership, common management,*
20 *common control, or common familial rela-*
21 *tionship to any other motor carrier, broker,*
22 *or freight forwarder, or any other applicant*
23 *for motor carrier, broker, or freight for-*
24 *warder registration that the Secretary de-*
25 *termines is or was unwilling or unable to*

1 *comply with the relevant requirements listed*
2 *in section 13902, 13903, or 13904; or*

3 “(ii) *the person is the successor, as de-*
4 *defined in section 31153, to a person who is*
5 *or was unwilling or unable to comply with*
6 *the relevant requirements of section 13902,*
7 *13903, or 13904.*

8 “(3) *LIMITATION.—Paragraph (2)(B) shall not*
9 *apply to a person who is unable to pay a civil pen-*
10 *alty because the person is a debtor in a case under*
11 *chapter 11 of title 11.”; and*

12 *(C) in paragraph (4), as redesignated by*
13 *section 32103(a)(1)(A) of this Act, by striking*
14 *“paragraph (1)(B)” and inserting “paragraph*
15 *(2)(B)”.*

16 “(2) *PROCEDURE.—Section 13905(e) is amended*
17 *by inserting “or if the Secretary determines that the*
18 *registrant failed to disclose a material fact in an ap-*
19 *plication for registration in accordance with sub-*
20 *section (d)(2)(C),” after “registrant,”.*

21 “(b) *INFORMATION SYSTEMS.—Section 31106(a)(3) is*
22 *amended—*

23 *(1) in subparagraph (F), by striking “and” at*
24 *the end;*

1 (2) *in subparagraph (G), by striking the period*
2 *at the end and inserting “; and”;* and

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

4 “(H) *determine whether a person or em-*
5 *ployer is or was related, through common owner-*
6 *ship, common management, common control, or*
7 *common familial relationship, to any other per-*
8 *son, employer, or any other applicant for reg-*
9 *istration under section 13902 or 31134.”.*

10 **SEC. 32104. FINANCIAL RESPONSIBILITY REQUIREMENTS.**

11 (a) *REPORT.*—*Not later than 6 months after the date*
12 *of enactment of this Act, the Secretary shall—*

13 (1) *issue a report on the appropriateness of—*

14 (A) *the current minimum financial respon-*
15 *sibility requirements under sections 31138 and*
16 *31139 of title 49, United States Code; and*

17 (B) *the current bond and insurance require-*
18 *ments under section 13904(f) of title 49, United*
19 *States Code; and*

20 (2) *submit the report issued under paragraph (1)*
21 *to the Committee on Commerce, Science, and Trans-*
22 *portation of the Senate and the Committee on Trans-*
23 *portation and Infrastructure of the House of Rep-*
24 *resentatives.*

1 **(b) RULEMAKING.**—Not later than 6 months after the
2 publication of the report under subsection (a), the Secretary
3 shall initiate a rulemaking—

4 (1) to revise the minimum financial responsi-
5 bility requirements under sections 31138 and 31139
6 of title 49, United States Code and

7 (2) to revise the bond and insurance require-
8 ments under section 13904(f) of such title, as appro-
9 priate, based on the findings of the report submitted
10 under subsection (a).

11 **(c) DEADLINE.**—Not later than 1 year after the start
12 of the rulemaking under subsection (b), the Secretary
13 shall—

14 (1) issue a final rule; or

15 (2) if the Secretary determines that a rule-
16 making is not required following the Secretary's anal-
17 ysis, submit a report stating the reason for not in-
18 creasing the minimum financial responsibility re-
19 quirements to the Committee on Commerce, Science,
20 and Transportation of the Senate and the Committee
21 on Transportation and Infrastructure of the House of
22 Representatives.

23 **(d) BIENNIAL REVIEWS.**—Not less than once every 2
24 years, the Secretary shall review the requirements pre-

1 *scribed under subsection (b) and revise the requirements,*
2 *as appropriate.*

3 **SEC. 32105. USDOT NUMBER REGISTRATION REQUIREMENT.**

4 *(a) IN GENERAL.—Chapter 311 is amended by insert-*
5 *ing after section 31133 the following:*

6 **“§31134. Requirement for registration and USDOT**
7 **number**

8 *“(a) IN GENERAL.—Upon application, and subject to*
9 *subsections (b) and (c), the Secretary shall register an em-*
10 *ployer or person subject to the safety jurisdiction of this*
11 *subchapter. An employer or person may operate a commer-*
12 *cial motor vehicle in interstate commerce only if the em-*
13 *ployer or person is registered by the Secretary under this*
14 *section and receives a USDOT number. Nothing in this sec-*
15 *tion shall preclude registration by the Secretary of an em-*
16 *ployer or person not engaged in interstate commerce. An*
17 *employer or person subject to jurisdiction under subchapter*
18 *I of chapter 135 of this title shall apply for commercial*
19 *registration under section 13902 of this title.*

20 *“(b) WITHHOLDING REGISTRATION.—The Secretary*
21 *may withhold registration under subsection (a), after notice*
22 *and an opportunity for a proceeding, if the Secretary deter-*
23 *mines that—*

24 *“(1) the employer or person seeking registration*
25 *is unwilling or unable to comply with the require-*

1 *ments of this subchapter and the regulations pre-*
2 *scribed thereunder and chapter 51 and the regulations*
3 *prescribed thereunder;*

4 “(2) *the employer or person is or was related*
5 *through common ownership, common management,*
6 *common control, or common familial relationship to*
7 *any other person or applicant for registration subject*
8 *to this subchapter who is or was unfit, unwilling, or*
9 *unable to comply with the requirements listed in sub-*
10 *section (b)(1); or*

11 “(3) *the person is the successor, as defined in sec-*
12 *tion 31153, to a person who is or was unfit, unwill-*
13 *ing, or unable to comply with the requirements listed*
14 *in subsection (b)(1).*

15 “(c) *REVOCATION OR SUSPENSION OF REGISTRA-*
16 *TION.—The Secretary shall revoke the registration of an em-*
17 *ployer or person under subsection (a) after notice and an*
18 *opportunity for a proceeding, or suspend the registration*
19 *after giving notice of the suspension to the employer or per-*
20 *son, if the Secretary determines that—*

21 “(1) *the employer’s or person’s authority to oper-*
22 *ate pursuant to chapter 139 of this title would be sub-*
23 *ject to revocation or suspension under sections*
24 *13905(d)(1) or 13905(f) of this title;*

1 “(2) *the employer or person is or was related*
2 *through common ownership, common management,*
3 *common control, or common familial relationship to*
4 *any other person or applicant for registration subject*
5 *to this subchapter that the Secretary determines is or*
6 *was unfit, unwilling, or unable to comply with the re-*
7 *quirements listed in subsection (b)(1);*

8 “(3) *the person is the successor, as defined in sec-*
9 *tion 31153, to a person the Secretary determines is or*
10 *was unfit, unwilling, or unable to comply with the re-*
11 *quirements listed in subsection (b)(1); or*

12 “(4) *the employer or person failed or refused to*
13 *submit to the safety review required by section*
14 *31144(g) of this title.*

15 “(d) *PERIODIC REGISTRATION UPDATE.—The Sec-*
16 *retary may require an employer to update a registration*
17 *under this section periodically or not later than 30 days*
18 *after a change in the employer’s address, other contact in-*
19 *formation, officers, process agent, or other essential infor-*
20 *mation, as determined by the Secretary.”.*

21 “(b) *CONFORMING AMENDMENT.—The analysis of chap-*
22 *ter 311 is amended by inserting after the item relating to*
23 *section 31133 the following:*

“31134. Requirement for registration and USDOT number.”.

1 **SEC. 32106. REGISTRATION FEE SYSTEM.**

2 *Section 13908(d)(1) is amended by striking “but shall*
3 *not exceed \$300”.*

4 **SEC. 32107. REGISTRATION UPDATE.**

5 *(a) PERIODIC MOTOR CARRIER UPDATE.—Section*
6 *13902 is amended by adding at the end the following:*

7 *“(h) UPDATE OF REGISTRATION.—The Secretary may*
8 *require a registrant to update its registration under this*
9 *section periodically or not later than 30 days after a change*
10 *in the registrant’s address, other contact information, offi-*
11 *cers, process agent, or other essential information, as deter-*
12 *mined by the Secretary.”.*

13 *(b) PERIODIC FREIGHT FORWARDER UPDATE.—Sec-*
14 *tion 13903 is amended by adding at the end the following:*

15 *“(c) UPDATE OF REGISTRATION.—The Secretary may*
16 *require a freight forwarder to update its registration under*
17 *this section periodically or not later than 30 days after a*
18 *change in the freight forwarder’s address, other contact in-*
19 *formation, officers, process agent, or other essential infor-*
20 *mation, as determined by the Secretary.”.*

21 *(c) PERIODIC BROKER UPDATE.—Section 13904 is*
22 *amended by adding at the end the following:*

23 *“(e) UPDATE OF REGISTRATION.—The Secretary may*
24 *require a broker to update its registration under this section*
25 *periodically or not later than 30 days after a change in*
26 *the broker’s address, other contact information, officers,*

1 *process agent, or other essential information, as determined*
2 *by the Secretary.”.*

3 **SEC. 32108. INCREASED PENALTIES FOR OPERATING WITH-**
4 **OUT REGISTRATION.**

5 *(a) PENALTIES.—Section 14901(a) is amended—*

6 *(1) by striking “\$500” and inserting “\$1,000”;*

7 *(2) by striking “who is not registered under this*
8 *part to provide transportation of passengers,”;*

9 *(3) by striking “with respect to providing trans-*
10 *portation of passengers,” and inserting “or section*
11 *13902(c) of this title,”; and*

12 *(4) by striking “\$2,000 for each violation and*
13 *each additional day the violation continues” and in-*
14 *serting “\$10,000 for each violation, or \$25,000 for*
15 *each violation relating to providing transportation of*
16 *passengers”.*

17 *(b) TRANSPORTATION OF HAZARDOUS WASTES.—Sec-*
18 *tion 14901(b) is amended by striking “not to exceed*
19 *\$20,000” and inserting “not less than \$25,000”.*

20 **SEC. 32109. REVOCATION OF REGISTRATION FOR IMMINENT**
21 **HAZARD.**

22 *Section 13905(f)(2) is amended to read as follows:*

23 *“(2) IMMINENT HAZARD TO PUBLIC HEALTH.—*

24 *Notwithstanding subchapter II of chapter 5 of title 5,*
25 *the Secretary shall revoke the registration of a motor*

1 (1) by striking “motor vehicle” and inserting
2 “motor carrier” after “the Secretary determines that
3 a”; and

4 (2) by striking “order the vehicle” and inserting
5 “order the motor carrier operations” after “the Sec-
6 retary may”.

7 **SEC. 32112. MOTOR CARRIER AND OFFICER PATTERNS OF**
8 **SAFETY VIOLATIONS.**

9 Section 31135 is amended—

10 (1) by striking subsection (b) and inserting the
11 following:

12 “(b) **NONCOMPLIANCE.**—

13 “(1) **MOTOR CARRIERS.**—Two or more motor
14 carriers, employers, or persons shall not use common
15 ownership, common management, common control, or
16 common familial relationship to enable any or all
17 such motor carriers, employers, or persons to avoid
18 compliance, or mask or otherwise conceal non-compli-
19 ance, or a history of non-compliance, with regulations
20 prescribed under this subchapter or an order of the
21 Secretary issued under this subchapter.

22 “(2) **PATTERN.**—If the Secretary finds that a
23 motor carrier, employer, or person engaged in a pat-
24 tern or practice of avoiding compliance, or masking
25 or otherwise concealing noncompliance, with regula-

1 *tions prescribed under this subchapter, the Sec-*
2 *retary—*

3 *“(A) may withhold, suspend, amend, or re-*
4 *voke any part of the motor carrier’s, employer’s,*
5 *or person’s registration in accordance with sec-*
6 *tion 13905 or 31134; and*

7 *“(B) shall take into account such non-com-*
8 *pliance for purposes of determining civil penalty*
9 *amounts under section 521(b)(2)(D).*

10 *“(3) OFFICERS.—If the Secretary finds, after no-*
11 *tice and an opportunity for proceeding, that an offi-*
12 *cer of a motor carrier, employer, or owner or operator*
13 *engaged in a pattern or practice of violating regula-*
14 *tions prescribed under this subchapter, or assisted a*
15 *motor carrier, employer, or owner or operator in*
16 *avoiding compliance, or masking or otherwise con-*
17 *cealing noncompliance, the Secretary may impose ap-*
18 *propriate sanctions, subject to the limitations in*
19 *paragraph (4), including—*

20 *“(A) suspension or revocation of registra-*
21 *tion granted to the officer individually under*
22 *section 13902 or 31134;*

23 *“(B) temporary or permanent suspension or*
24 *bar from association with any motor carrier,*

1 *employer, or owner or operator registered under*
2 *section 13902 or 31134; or*

3 “(C) *any appropriate sanction approved by*
4 *the Secretary.*

5 “(4) *LIMITATIONS.—The sanctions described in*
6 *subparagraphs (A) through (C) of subsection (b)(3)*
7 *shall apply to—*

8 “(A) *intentional or knowing conduct, in-*
9 *cluding reckless conduct that violates applicable*
10 *laws (including regulations); and*

11 “(B) *repeated instances of negligent conduct*
12 *that violates applicable laws (including regula-*
13 *tions).”;* and

14 (2) *by striking subsection (c) and inserting the*
15 *following:*

16 “(c) *AVOIDING COMPLIANCE.—For purposes of this sec-*
17 *tion, ‘avoiding compliance’ or ‘masking or otherwise con-*
18 *cealing noncompliance’ includes serving as an officer or*
19 *otherwise exercising controlling influence over 2 or more*
20 *motor carriers where—*

21 “(1) *one of the carriers was placed out of service,*
22 *or received notice from the Secretary that it will be*
23 *placed out of service, following—*

24 “(A) *a determination of unfitness under sec-*
25 *tion 31144(b);*

1 “(B) a suspension or revocation of registra-
2 tion under section 13902, 13905, or 31144(g);

3 “(C) issuance of an imminent hazard out of
4 service order under section 521(b)(5) or section
5 5121(d); or

6 “(D) notice of failure to pay a civil penalty
7 or abide by a penalty payment plan; and

8 “(2) one or more of the carriers is the ‘successor,’
9 as that term is defined in section 31153, to the car-
10 rier that is the subject of the action in paragraph
11 (1).”.

12 **SEC. 32113. FEDERAL SUCCESSOR STANDARD.**

13 (a) *IN GENERAL.*—Chapter 311 is amended by adding
14 after section 31152, as added by section 32508 of this Act,
15 the following:

16 **“§ 31153. Federal successor standard**

17 “(a) *FEDERAL SUCCESSOR STANDARD.*—Notwith-
18 standing any other provision of Federal or State law, the
19 Secretary may take an action authorized under chapters
20 5, 51, 131 through 149, subchapter III of chapter 311 (ex-
21 cept sections 31138 and 31139), or sections 31302, 31303,
22 31304, 31305(b), 31310(g)(1)(A), or 31502 of this title, or
23 a regulation issued under any of those provisions, against
24 a successor of a motor carrier (as defined in section 13102),
25 a successor of an employer (as defined in section 31132),

1 *or a successor of an owner or operator (as that term is used*
2 *in subchapter III of chapter 311), to the same extent and*
3 *on the same basis as the Secretary may take the action*
4 *against the motor carrier, employer, or owner or operator.*

5 “(b) *SUCCESSOR DEFINED.*—*For purposes of this sec-*
6 *tion, the term ‘successor’ means a motor carrier, employer,*
7 *or owner or operator that the Secretary determines, after*
8 *notice and an opportunity for a proceeding, has 1 or more*
9 *features that correspond closely with the features of another*
10 *existing or former motor carrier, employer, or owner or op-*
11 *erator, such as—*

12 “(1) *consideration paid for assets purchased or*
13 *transferred;*

14 “(2) *dates of corporate creation and dissolution*
15 *or termination of operations;*

16 “(3) *commonality of ownership;*

17 “(4) *commonality of officers and management*
18 *personnel and their functions;*

19 “(5) *commonality of drivers and other employ-*
20 *ees;*

21 “(6) *identity of physical or mailing addresses,*
22 *telephone, fax numbers, or e-mail addresses;*

23 “(7) *identity of motor vehicle equipment;*

24 “(8) *continuity of liability insurance policies;*

1 “(9) *commonality of coverage under liability in-*
2 *surance policies;*

3 “(10) *continuation of carrier facilities and other*
4 *physical assets;*

5 “(11) *continuity of the nature and scope of oper-*
6 *ations, including customers;*

7 “(12) *commonality of the nature and scope of*
8 *operations, including customers;*

9 “(13) *advertising, corporate name, or other acts*
10 *through which the motor carrier, employer, or owner*
11 *or operator holds itself out to the public;*

12 “(14) *history of safety violations and pending*
13 *orders or enforcement actions of the Secretary; and*

14 “(15) *additional factors that the Secretary con-*
15 *siders appropriate.*

16 “(c) *EFFECTIVE DATE.*—*Notwithstanding any other*
17 *provision of law, this section shall apply to any action com-*
18 *menced on or after the date of enactment of the Commercial*
19 *Motor Vehicle Safety Enhancement Act of 2012 without re-*
20 *gard to whether the violation that is the subject of the ac-*
21 *tion, or the conduct that caused the violation, occurred be-*
22 *fore the date of enactment.*

23 “(d) *RIGHTS NOT AFFECTED.*—*Nothing in this section*
24 *shall affect the rights, functions, or responsibilities under*
25 *law of any other Department, Agency, or instrumentality*

1 *of the United States, the laws of any State, or any rights*
 2 *between a private party and a motor carrier, employer, or*
 3 *owner or operator.”.*

4 (b) *CONFORMING AMENDMENT.—The analysis of chap-*
 5 *ter 311 is amended by inserting after the item related to*
 6 *section 31152, as added by section 32508 of this Act, the*
 7 *following:*

“31153. Federal successor standard.”.

8 ***Subtitle B—Commercial Motor***
 9 ***Vehicle Safety***

10 ***SEC. 32201. REPEAL OF COMMERCIAL JURISDICTION EX-***
 11 ***CEPTION FOR BROKERS OF MOTOR CARRIERS***
 12 ***OF PASSENGERS.***

13 (a) *IN GENERAL.—Section 13506(a) is amended—*

14 (1) *by inserting “or” at the end of paragraph*
 15 *(13);*

16 (2) *by striking paragraph (14); and*

17 (3) *by redesignating paragraph (15) as para-*
 18 *graph (14).*

19 (b) *CONFORMING AMENDMENT.—Section 13904(a) is*
 20 *amended by striking “of property” in the first sentence.*

21 ***SEC. 32202. BUS RENTALS AND DEFINITION OF EMPLOYER.***

22 *Paragraph (3) of section 31132 is amended to read as*
 23 *follows:*

24 (3) *‘employer’—*

1 “(A) means a person engaged in a business
2 affecting interstate commerce that—

3 “(i) owns or leases a commercial motor
4 vehicle in connection with that business, or
5 assigns an employee to operate the commer-
6 cial motor vehicle; or

7 “(ii) offers for rent or lease a motor ve-
8 hicle designed or used to transport more
9 than 8 passengers, including the driver, and
10 from the same location or as part of the
11 same business provides names or contact in-
12 formation of drivers, or holds itself out to
13 the public as a charter bus company; but

14 “(B) does not include the Government, a
15 State, or a political subdivision of a State.”.

16 **SEC. 32203. CRASHWORTHINESS STANDARDS.**

17 (a) *IN GENERAL.*—Not later than 18 months after the
18 date of enactment of this Act, the Secretary shall conduct
19 a comprehensive analysis on the need for crashworthiness
20 standards on property-carrying commercial motor vehicles
21 with a gross vehicle weight rating or gross vehicle weight
22 of at least 26,001 pounds involved in interstate commerce,
23 including an evaluation of the need for roof strength, pillar
24 strength, air bags, and frontal and back wall standards.

1 **(b) REPORT.**—*Not later than 90 days after completing*
2 *the comprehensive analysis under subsection (a), the Sec-*
3 *retary shall report the results of the analysis and any rec-*
4 *ommendations to the Committee on Commerce, Science, and*
5 *Transportation of the Senate and the Committee on Trans-*
6 *portation and Infrastructure of the House of Representa-*
7 *tives.*

8 **SEC. 32204. CANADIAN SAFETY RATING RECIPROCITY.**

9 *Section 31144 is amended by adding at the end the*
10 *following:*

11 **“(h) RECOGNITION OF CANADIAN MOTOR CARRIER**
12 **SAFETY FITNESS DETERMINATIONS.**—

13 **“(1) If an authorized agency of the Canadian**
14 *federal government or a Canadian Territorial or Pro-*
15 *vincial government determines, by applying the pro-*
16 *cedure and standards prescribed by the Secretary*
17 *under subsection (b) or pursuant to an agreement*
18 *under paragraph (2), that a Canadian employer is*
19 *unfit and prohibits the employer from operating a*
20 *commercial motor vehicle in Canada or any Cana-*
21 *dian Province, the Secretary may prohibit the em-*
22 *ployer from operating such vehicle in interstate and*
23 *foreign commerce until the authorized Canadian*
24 *agency determines that the employer is fit.*

1 “(2) *The Secretary may consult and participate*
2 *in negotiations with authorized officials of the Cana-*
3 *dian federal government or a Canadian Territorial or*
4 *Provincial government, as necessary, to provide recip-*
5 *rocal recognition of each country’s motor carrier safe-*
6 *ty fitness determinations. An agreement shall provide,*
7 *to the maximum extent practicable, that each country*
8 *will follow the procedure and standards prescribed by*
9 *the Secretary under subsection (b) in making motor*
10 *carrier safety fitness determinations.”.*

11 **SEC. 32205. STATE REPORTING OF FOREIGN COMMERCIAL**
12 **DRIVER CONVICTIONS.**

13 *(a) DEFINITION OF FOREIGN COMMERCIAL DRIVER.—*
14 *Section 31301 is amended—*

15 *(1) by redesignating paragraphs (10) through*
16 *(14) as paragraphs (11) through (15), respectively;*
17 *and*

18 *(2) by inserting after paragraph (9) the fol-*
19 *lowing:*

20 *“(10) ‘foreign commercial driver’ means an indi-*
21 *vidual licensed to operate a commercial motor vehicle*
22 *by an authority outside the United States, or a cit-*
23 *izen of a foreign country who operates a commercial*
24 *motor vehicle in the United States.”.*

1 **(b) STATE REPORTING OF CONVICTIONS.**—Section
 2 31311(a) is amended by adding after paragraph (21) the
 3 following:

4 “(22) The State shall report a conviction of a
 5 foreign commercial driver by that State to the Federal
 6 Convictions and Withdrawal Database, or another in-
 7 formation system designated by the Secretary to
 8 record the convictions. A report shall include—

9 “(A) for a driver holding a foreign commer-
 10 cial driver’s license—

11 “(i) each conviction relating to the op-
 12 eration of a commercial motor vehicle; and

13 “(ii) a non-commercial motor vehicle;

14 and

15 “(B) for an unlicensed driver or a driver
 16 holding a foreign non-commercial driver’s li-
 17 cense, each conviction for operating a commer-
 18 cial motor vehicle.”.

19 **SEC. 32206. AUTHORITY TO DISQUALIFY FOREIGN COMMER-**
 20 **CIAL DRIVERS.**

21 Section 31310 is amended by adding at the end the
 22 following:

23 “(k) **FOREIGN COMMERCIAL DRIVERS.**—A foreign
 24 commercial driver shall be subject to disqualification under
 25 this section.”.

1 **SEC. 32207. REVOCATION OF FOREIGN MOTOR CARRIER OP-**
2 **ERATING AUTHORITY FOR FAILURE TO PAY**
3 **CIVIL PENALTIES.**

4 *Section 13905(d)(2), as amended by section 32103(a)*
5 *of this Act, is amended by inserting “foreign motor carrier,*
6 *foreign motor private carrier,” after “registration of a*
7 *motor carrier,” each place it appears.*

8 **SEC. 32208. RENTAL TRUCK ACCIDENT STUDY.**

9 *(a) DEFINITIONS.—In this section:*

10 *(1) RENTAL TRUCK.—The term “rental truck”*
11 *means a motor vehicle with a gross vehicle weight rat-*
12 *ing of between 10,000 and 26,000 pounds that is*
13 *made available for rental by a rental truck company.*

14 *(2) RENTAL TRUCK COMPANY.—The term “rental*
15 *truck company” means a person or company that is*
16 *in the business of renting or leasing rental trucks to*
17 *the public or for private use.*

18 *(b) STUDY.—*

19 *(1) IN GENERAL.—The Secretary shall conduct a*
20 *study of the safety of rental trucks during the 7-year*
21 *period ending on December 31, 2011.*

22 *(2) REQUIREMENTS.—The study conducted*
23 *under paragraph (1) shall—*

24 *(A) evaluate available data on the number*
25 *of crashes, fatalities, and injuries involving rent-*

1 *al trucks and the cause of such crashes, utilizing*
2 *police accident reports and other sources;*

3 *(B) estimate the property damage and costs*
4 *resulting from a subset of crashes involving rent-*
5 *al truck operations, which the Secretary believes*
6 *adequately reflect all crashes involving rental*
7 *trucks;*

8 *(C) analyze State and local laws regulating*
9 *rental truck companies, including safety and in-*
10 *spection requirements;*

11 *(D) assess the rental truck maintenance*
12 *programs of a selection of small, medium, and*
13 *large rental truck companies, as selected by the*
14 *Secretary, including the frequency of rental truck*
15 *maintenance inspections, and compare such pro-*
16 *grams with inspection requirements for pas-*
17 *senger vehicles and commercial motor vehicles;*

18 *(E) include any other information available*
19 *regarding the safety of rental trucks; and*

20 *(F) review any other information that the*
21 *Secretary determines to be appropriate.*

22 *(c) REPORT.—Not later than 1 year after the date of*
23 *the enactment of this Act, the Secretary shall submit a re-*
24 *port to the Committee on Commerce, Science, and Trans-*
25 *portation of the Senate and the Committee on Transpor-*

1 *tation and Infrastructure of the House of Representatives*
2 *that contains—*

3 (1) *the findings of the study conducted pursuant*
4 *to subsection (b); and*

5 (2) *any recommendations for legislation that the*
6 *Secretary determines to be appropriate.*

7 ***Subtitle C—Driver Safety***

8 ***SEC. 32301. ELECTRONIC ON-BOARD RECORDING DEVICES.***

9 (a) *GENERAL AUTHORITY.—Section 31137 is amend-*
10 *ed—*

11 (1) *by amending the section heading to read as*
12 *follows:*

13 ***“§31137. Electronic on-board recording devices and***
14 ***brake maintenance regulations”;***

15 (2) *by redesignating subsection (b) as subsection*
16 *(e); and*

17 (3) *by amending (a) to read as follows:*

18 ***“(a) ELECTRONIC ON-BOARD RECORDING DEVICES.—***
19 *Not later than 1 year after the date of enactment of the*
20 *Commercial Motor Vehicle Safety Enhancement Act of*
21 *2012, the Secretary of Transportation shall prescribe regu-*
22 *lations—*

23 ***“(1) requiring a commercial motor vehicle in-***
24 *volved in interstate commerce and operated by a driv-*
25 *er subject to the hours of service and the record of*

1 *duty status requirements under part 395 of title 49,*
2 *Code of Federal Regulations, be equipped with an*
3 *electronic on-board recording device to improve com-*
4 *pliance by an operator of a vehicle with hours of serv-*
5 *ice regulations prescribed by the Secretary; and*

6 “(2) *ensuring that an electronic on-board record-*
7 *ing device is not used to harass a vehicle operator.*

8 “(b) *ELECTRONIC ON-BOARD RECORDING DEVICE RE-*
9 *QUIREMENTS.—*

10 “(1) *IN GENERAL.—The regulations prescribed*
11 *under subsection (a) shall—*

12 “(A) *require an electronic on-board record-*
13 *ing device—*

14 “(i) *to accurately record commercial*
15 *driver hours of service;*

16 “(ii) *to record the location of a com-*
17 *mercial motor vehicle;*

18 “(iii) *to be tamper resistant; and*

19 “(iv) *to be integrally synchronized*
20 *with an engine’s control module;*

21 “(B) *allow law enforcement to access the*
22 *data contained in the device during a roadside*
23 *inspection; and*

24 “(C) *apply to a commercial motor vehicle*
25 *beginning on the date that is 2 years after the*

1 *date that the regulations are published as a final*
2 *rule.*

3 “(2) *PERFORMANCE AND DESIGN STANDARDS.—*
4 *The regulations prescribed under subsection (a) shall*
5 *establish performance standards—*

6 “(A) *defining a standardized user interface*
7 *to aid vehicle operator compliance and law en-*
8 *forcement review;*

9 “(B) *establishing a secure process for stand-*
10 *ardized—*

11 “(i) *and unique vehicle operator iden-*
12 *tification;*

13 “(ii) *data access;*

14 “(iii) *data transfer for vehicle opera-*
15 *tors between motor vehicles;*

16 “(iv) *data storage for a motor carrier;*
17 *and*

18 “(v) *data transfer and transportability*
19 *for law enforcement officials;*

20 “(C) *establishing a standard security level*
21 *for an electronic on-board recording device and*
22 *related components to be tamper resistant by*
23 *using a methodology endorsed by a nationally*
24 *recognized standards organization; and*

1 “(D) identifying each driver subject to the
2 hours of service and record of duty status re-
3 quirements under part 395 of title 49, Code of
4 Federal Regulations.

5 “(c) CERTIFICATION CRITERIA.—

6 “(1) IN GENERAL.—The regulations prescribed
7 by the Secretary under this section shall establish the
8 criteria and a process for the certification of an elec-
9 tronic on-board recording device to ensure that the de-
10 vice meets the performance requirements under this
11 section.

12 “(2) EFFECT OF NONCERTIFICATION.—An elec-
13 tronic on-board recording device that is not certified
14 in accordance with the certification process referred to
15 in paragraph (1) shall not be acceptable evidence of
16 hours of service and record of duty status require-
17 ments under part 395 of title 49, Code of Federal
18 Regulations.

19 “(d) ELECTRONIC ON-BOARD RECORDING DEVICE DE-
20 FINED.—In this section, the term ‘electronic on-board re-
21 cording device’ means an electronic device that—

22 “(1) is capable of recording a driver’s hours of
23 service and duty status accurately and automatically;
24 and

1 “(2) meets the requirements established by the
2 Secretary through regulation.”.

3 (b) *CIVIL PENALTIES*.—Section 30165(a)(1) is amend-
4 ed by striking “or 30141 through 30147” and inserting
5 “30141 through 30147, or 31137”.

6 (c) *CONFORMING AMENDMENT*.—The analysis for
7 chapter 311 is amended by striking the item relating to sec-
8 tion 31137 and inserting the following:

 “31137. *Electronic on-board recording devices and brake maintenance regula-
 tions.*”.

9 **SEC. 32302. SAFETY FITNESS.**

10 (a) *SAFETY FITNESS RATING METHODOLOGY*.—The
11 Secretary shall—

12 (1) incorporate into its Compliance, Safety, Ac-
13 countability program a safety fitness rating method-
14 ology that assigns sufficient weight to adverse vehicle
15 and driver performance based-data that elevate crash
16 risks to warrant an unsatisfactory rating for a car-
17 rier; and

18 (2) ensure that the data to support such assess-
19 ments is accurate.

20 (b) *INTERIM MEASURES*.—Not later than March 31,
21 2012, the Secretary shall take interim measures to imple-
22 ment a similar safety fitness rating methodology in its cur-
23 rent safety rating system if the Compliance, Safety, Ac-
24 countability program is not fully implemented.

1 **SEC. 32303. DRIVER MEDICAL QUALIFICATIONS.**

2 (a) *DEADLINE FOR ESTABLISHMENT OF NATIONAL*
3 *REGISTRY OF MEDICAL EXAMINERS.*—Not later than 1
4 year after the date of enactment of this Act, the Secretary
5 shall establish a national registry of medical examiners in
6 accordance with section 31149(d)(1) of title 49, United
7 States Code.

8 (b) *EXAMINATION REQUIREMENT FOR NATIONAL REG-*
9 *ISTRY OF MEDICAL EXAMINERS.*—Section 31149(c)(1)(D)
10 is amended to read as follows:

11 “(D) not later than 1 year after enactment
12 of the Commercial Motor Vehicle Safety En-
13 hancement Act of 2012, develop requirements for
14 a medical examiner to be listed in the national
15 registry under this section, including—

16 “(i) the completion of specific courses
17 and materials;

18 “(ii) certification, including self-cer-
19 tification, if the Secretary determines that
20 self-certification is necessary for sufficient
21 participation in the national registry, to
22 verify that a medical examiner completed
23 specific training, including refresher
24 courses, that the Secretary determines nec-
25 essary to be listed in the national registry;

1 “(iii) an examination that requires a
2 passing grade; and

3 “(iv) demonstration of a medical ex-
4 aminer’s willingness to meet the reporting
5 requirements established by the Secretary;”.

6 (c) *ADDITIONAL OVERSIGHT OF LICENSING AUTHORI-*
7 *TIES.—*

8 (1) *IN GENERAL.—*Section 31149(c)(1) is amend-
9 ed—

10 (A) by amending subparagraph (E) to read
11 as follows:

12 “(E) require medical examiners to transmit
13 electronically, on at least a monthly basis, the
14 name of the applicant, a numerical identifier,
15 and additional information contained on the
16 medical examiner’s certificate for any completed
17 medical examination report required under sec-
18 tion 391.43 of title 49, Code of Federal Regula-
19 tions, to the chief medical examiner;”;

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

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

23 “(G) annually review the implementation of
24 commercial driver’s license requirements by not

1 *fewer than 10 States to assess the accuracy, va-*
2 *lidity, and timeliness of—*

3 “(i) *the submission of physical exam-*
4 *ination reports and medical certificates to*
5 *State licensing agencies; and*

6 “(ii) *the processing of the submissions*
7 *by State licensing agencies.”.*

8 (2) *INTERNAL OVERSIGHT POLICY.—*

9 (A) *IN GENERAL.—Not later than 2 years*
10 *after the date of enactment of this Act, the Sec-*
11 *retary shall establish an oversight policy and*
12 *procedure to carry out section 31149(c)(1)(G) of*
13 *title 49, United States Code, as added by section*
14 *32303(c)(1) of this Act.*

15 (B) *EFFECTIVE DATE.—The amendments*
16 *made by section 32303(c)(1) of this Act shall*
17 *take effect on the date the oversight policies and*
18 *procedures are established pursuant to subpara-*
19 *graph (A).*

20 (d) *ELECTRONIC FILING OF MEDICAL EXAMINATION*
21 *CERTIFICATES.—Section 31311(a), as amended by sections*
22 *32205(b) and 32306(b) of this Act, is amended by adding*
23 *at the end the following:*

24 “(24) *Not later than 1 year after the date of en-*
25 *actment of the Commercial Motor Vehicle Safety En-*

1 *hancement Act of 2012, the State shall establish and*
2 *maintain, as part of its driver information system,*
3 *the capability to receive an electronic copy of a med-*
4 *ical examiner's certificate, from a certified medical*
5 *examiner, for each holder of a commercial driver's li-*
6 *cence issued by the State who operates or intends to*
7 *operate in interstate commerce.”.*

8 *(e) FUNDING.—*

9 *(1) AUTHORIZATION OF APPROPRIATIONS.—Of*
10 *the funds provided for Data and Technology Grants*
11 *under section 31104(a) of title 49, United States*
12 *Code, there are authorized to be appropriated from*
13 *the Highway Trust Fund (other than the Mass Tran-*
14 *sit Account) for the Secretary to make grants to*
15 *States or an organization representing agencies and*
16 *officials of the States to support development costs of*
17 *the information technology needed to carry out section*
18 *31311(a)(24) of title 49, United States Code—*

19 *(A) up to \$1,000,000 for fiscal year 2012;*

20 *and*

21 *(B) up to \$1,000,000 for fiscal year 2013.*

22 *(2) PERIOD OF AVAILABILITY.—The amounts*
23 *made available under this subsection shall remain*
24 *available until expended.*

1 **SEC. 32304. COMMERCIAL DRIVER'S LICENSE NOTIFICATION**
2 **SYSTEM.**

3 *(a) IN GENERAL.—Section 31304 is amended—*

4 *(1) by striking “An employer” and inserting the*
5 *following:*

6 *“(a) IN GENERAL.—An employer”; and*

7 *(2) by adding at the end the following:*

8 *“(b) DRIVER VIOLATION RECORDS.—*

9 *“(1) PERIODIC REVIEW.—Except as provided in*
10 *paragraph (3), an employer shall ascertain the driv-*
11 *ing record of each driver it employs—*

12 *“(A) by making an inquiry at least once*
13 *every 12 months to the appropriate State agency*
14 *in which the driver held or holds a commercial*
15 *driver's license or permit during such time pe-*
16 *riod;*

17 *“(B) by receiving occurrence-based reports*
18 *of changes in the status of a driver's record from*
19 *1 or more driver record notification systems that*
20 *meet minimum standards issued by the Sec-*
21 *retary; or*

22 *“(C) by a combination of inquiries to States*
23 *and reports from driver record notification sys-*
24 *tems.*

1 “(2) *RECORD KEEPING.*—A copy of the reports
2 received under paragraph (1) shall be maintained in
3 the driver’s qualification file.

4 “(3) *EXCEPTIONS TO RECORD REVIEW REQUIRE-*
5 *MENT.*—Paragraph (1) shall not apply to a driver
6 employed by an employer who, in any 7-day period,
7 is employed or used as a driver by more than 1 em-
8 ployer—

9 “(A) if the employer obtains the driver’s
10 identification number, type, and issuing State of
11 the driver’s commercial motor vehicle license; or

12 “(B) if the information described in sub-
13 paragraph (A) is furnished by another employer
14 and the employer that regularly employs the
15 driver meets the other requirements under this
16 section.

17 “(4) *DRIVER RECORD NOTIFICATION SYSTEM DE-*
18 *FINED.*—In this section, the term ‘driver record noti-
19 fication system’ means a system that automatically
20 furnishes an employer with a report, generated by the
21 appropriate agency of a State, on the change in the
22 status of an employee’s driver’s license due to a con-
23 viction for a moving violation, a failure to appear,
24 an accident, driver’s license suspension, driver’s li-

1 *cense revocation, or any other action taken against*
2 *the driving privilege.”.*

3 *(b) STANDARDS FOR DRIVER RECORD NOTIFICATION*
4 *SYSTEMS.—Not later than 1 year after the date of enact-*
5 *ment of this Act, the Secretary shall issue minimum stand-*
6 *ards for driver notification systems, including standards for*
7 *the accuracy, consistency, and completeness of the informa-*
8 *tion provided.*

9 *(c) PLAN FOR NATIONAL NOTIFICATION SYSTEM.—*

10 *(1) DEVELOPMENT.—Not later than 2 years after*
11 *the date of enactment of this Act, the Secretary shall*
12 *develop recommendations and a plan for the develop-*
13 *ment and implementation of a national driver record*
14 *notification system, including—*

15 *(A) an assessment of the merits of achieving*
16 *a national system by expanding the Commercial*
17 *Driver’s License Information System; and*

18 *(B) an estimate of the fees that an employer*
19 *will be charged to offset the operating costs of the*
20 *national system.*

21 *(2) SUBMISSION TO CONGRESS.—Not later than*
22 *90 days after the recommendations and plan are de-*
23 *veloped under paragraph (1), the Secretary shall sub-*
24 *mit a report on the recommendations and plan to the*
25 *Committee on Commerce, Science, and Transpor-*

1 *tation of the Senate and the Committee on Transpor-*
2 *tation and Infrastructure of the House of Representa-*
3 *tives.*

4 **SEC. 32305. COMMERCIAL MOTOR VEHICLE OPERATOR**
5 **TRAINING.**

6 *(a) IN GENERAL.—Section 31305 is amended by add-*
7 *ing at the end the following:*

8 *“(c) STANDARDS FOR TRAINING.—Not later than 6*
9 *months after the date of enactment of the Commercial Motor*
10 *Vehicle Safety Enhancement Act of 2012, the Secretary*
11 *shall issue final regulations establishing minimum entry-*
12 *level training requirements for an individual operating a*
13 *commercial motor vehicle—*

14 *“(1) addressing the knowledge and skills that—*

15 *“(A) are necessary for an individual oper-*
16 *ating a commercial motor vehicle to safely oper-*
17 *ate a commercial motor vehicle; and*

18 *“(B) must be acquired before obtaining a*
19 *commercial driver’s license for the first time or*
20 *upgrading from one class of commercial driver’s*
21 *license to another class;*

22 *“(2) addressing the specific training needs of a*
23 *commercial motor vehicle operator seeking passenger*
24 *or hazardous materials endorsements, including for*

1 *an operator seeking a passenger endorsement train-*
2 *ing—*

3 *“(A) to suppress motorcoach fires; and*

4 *“(B) to evacuate passengers from*
5 *motorcoaches safely;*

6 *“(3) requiring effective instruction to acquire the*
7 *knowledge, skills, and training referred to in para-*
8 *graphs (1) and (2), including classroom and behind-*
9 *the-wheel instruction;*

10 *“(4) requiring certification that an individual*
11 *operating a commercial motor vehicle meets the re-*
12 *quirements established by the Secretary; and*

13 *“(5) requiring a training provider (including a*
14 *public or private driving school, motor carrier, or*
15 *owner or operator of a commercial motor vehicle) that*
16 *offers training that results in the issuance of a certifi-*
17 *cation to an individual under paragraph (4) to dem-*
18 *onstrate that the training meets the requirements of*
19 *the regulations, through a process established by the*
20 *Secretary.”.*

21 *(b) COMMERCIAL DRIVER’S LICENSE UNIFORM STAND-*
22 *ARDS.—Section 31308(1) is amended to read as follows:*

23 *“(1) an individual issued a commercial driver’s*
24 *license—*

1 “(A) pass written and driving tests for the
2 operation of a commercial motor vehicle that
3 comply with the minimum standards prescribed
4 by the Secretary under section 31305(a); and

5 “(B) present certification of completion of
6 driver training that meets the requirements es-
7 tablished by the Secretary under section
8 31305(c);”.

9 (c) *CONFORMING AMENDMENT.*—The section heading
10 for section 31305 is amended to read as follows:

11 “**§ 31305. General driver fitness, testing, and train-**
12 **ing**”.

13 (d) *CONFORMING AMENDMENT.*—The analysis for
14 chapter 313 is amended by striking the item relating to sec-
15 tion 31305 and inserting the following:

 “31305. General driver fitness, testing, and training.”.

16 **SEC. 32306. COMMERCIAL DRIVER’S LICENSE PROGRAM.**

17 (a) *IN GENERAL.*—Section 31309 is amended—

18 (1) in subsection (e)(4), by amending subpara-
19 graph (A) to read as follows:

20 “(A) *IN GENERAL.*—The plan shall speci-
21 fy—

22 “(i) a date by which all States shall be
23 operating commercial driver’s license infor-
24 mation systems that are compatible with the

1 *modernized information system under this*
2 *section; and*

3 “(ii) *that States must use the systems*
4 *to receive and submit conviction and dis-*
5 *qualification data.”; and*

6 (2) *in subsection (f), by striking “use” and in-*
7 *serting “use, subject to section 31313(a),”.*

8 (b) *REQUIREMENTS FOR STATE PARTICIPATION.—Sec-*
9 *tion 31311 is amended—*

10 (1) *in subsection (a), as amended by section*
11 *32205(b) of this Act—*

12 (A) *in paragraph (5), by striking “At least”*
13 *and all that follows through “regulation),” and*
14 *inserting: “Not later than the time period pre-*
15 *scribed by the Secretary by regulation,”; and*

16 (B) *by adding at the end the following:*

17 “(23) *Not later than 1 year after the date of en-*
18 *actment of the Commercial Motor Vehicle Safety En-*
19 *hancement Act of 2012, the State shall implement a*
20 *system and practices for the exclusive electronic ex-*
21 *change of driver history record information on the*
22 *system the Secretary maintains under section 31309,*
23 *including the posting of convictions, withdrawals,*
24 *and disqualifications.”; and*

25 (2) *by adding at the end the following:*

1 “(d) *CRITICAL REQUIREMENTS.*—

2 “(1) *IDENTIFICATION OF CRITICAL REQUIRE-*
3 *MENTS.*—*After reviewing the requirements under sub-*
4 *section (a), including the regulations issued pursuant*
5 *to subsection (a) and section 31309(e)(4), the Sec-*
6 *retary shall identify the requirements that are critical*
7 *to an effective State commercial driver’s license pro-*
8 *gram.*

9 “(2) *GUIDANCE.*—*Not later than 180 days after*
10 *the date of enactment of the Commercial Motor Vehi-*
11 *cle Safety Enhancement Act of 2012, the Secretary*
12 *shall issue guidance to assist States in complying*
13 *with the critical requirements identified under para-*
14 *graph (1). The guidance shall include a description of*
15 *the actions that each State must take to collect and*
16 *share accurate and complete data in a timely man-*
17 *ner.*

18 “(e) *STATE COMMERCIAL DRIVER’S LICENSE PRO-*
19 *GRAM PLAN.*—

20 “(1) *IN GENERAL.*—*Not later than 180 days*
21 *after the Secretary issues guidance under subsection*
22 *(d)(2), a State shall submit a plan to the Secretary*
23 *for complying with the requirements under this sec-*
24 *tion during the period beginning on the date the plan*
25 *is submitted and ending on September 30, 2016.*

1 “(2) *CONTENTS.*—A plan submitted by a State
2 under paragraph (1) shall identify—

3 “(A) the actions that the State will take to
4 comply with the critical requirements identified
5 under subsection (d)(1);

6 “(B) the actions that the State will take to
7 address any deficiencies in the State’s commer-
8 cial driver’s license program, as identified by the
9 Secretary in the most recent audit of the pro-
10 gram; and

11 “(C) other actions that the State will take
12 to comply with the requirements under sub-
13 section (a).

14 “(3) *PRIORITY.*—

15 “(A) *IMPLEMENTATION SCHEDULE.*—A plan
16 submitted by a State under paragraph (1) shall
17 include a schedule for the implementation of the
18 actions identified under paragraph (2). In estab-
19 lishing the schedule, the State shall prioritize the
20 actions identified under paragraphs (2)(A) and
21 (2)(B).

22 “(B) *DEADLINE FOR COMPLIANCE WITH*
23 *CRITICAL REQUIREMENTS.*—A plan submitted by
24 a State under paragraph (1) shall include assur-
25 ances that the State will take the necessary ac-

1 *tions to comply with the critical requirements*
2 *pursuant to subsection (d) not later than Sep-*
3 *tember 30, 2015.*

4 “(4) *APPROVAL AND DISAPPROVAL.—The Sec-*
5 *retary shall—*

6 “(A) *review each plan submitted under*
7 *paragraph (1);*

8 “(B) *approve a plan that the Secretary de-*
9 *termines meets the requirements under this sub-*
10 *section and promotes the goals of this chapter;*
11 *and*

12 “(C) *disapprove a plan that the Secretary*
13 *determines does not meet the requirements or*
14 *does not promote the goals.*

15 “(5) *MODIFICATION OF DISAPPROVED PLANS.—If*
16 *the Secretary disapproves a plan under paragraph*
17 *(4)(C), the Secretary shall—*

18 “(A) *provide a written explanation of the*
19 *disapproval to the State; and*

20 “(B) *allow the State to modify the plan and*
21 *resubmit it for approval.*

22 “(6) *PLAN UPDATES.—The Secretary may re-*
23 *quire a State to review and update a plan, as appro-*
24 *priate.*

1 “(f) *ANNUAL COMPARISON OF STATE LEVELS OF COM-*
2 *PLIANCE.*—*The Secretary shall annually—*

3 “(1) *compare the relative levels of compliance by*
4 *States with the requirements under subsection (a);*
5 *and*

6 “(2) *make the results of the comparison available*
7 *to the public.*”.

8 “(c) *DECERTIFICATION AUTHORITY.*—*Section 31312 is*
9 *amended—*

10 “(1) *by redesignating subsections (b) and (c) as*
11 *subsections (c) and (d), respectively; and*

12 “(2) *by inserting after subsection (a) the fol-*
13 *lowing:*

14 “(b) *DEADLINE FOR COMPLIANCE WITH CRITICAL RE-*
15 *QUIREMENTS.*—*Beginning on October 1, 2016, in making*
16 *a determination under subsection (a), the Secretary shall*
17 *consider a State to be in substantial noncompliance with*
18 *this chapter if the Secretary determines that—*

19 “(1) *the State is not complying with a critical*
20 *requirement under section 31311(d)(1); and*

21 “(2) *sufficient grant funding was made available*
22 *to the State under section 31313(a) to comply with*
23 *the requirement.*”.

1 **SEC. 32307. COMMERCIAL DRIVER'S LICENSE REQUIRE-**
2 **MENTS.**

3 (a) *LICENSING STANDARDS.*—Section 31305(a)(7) is
4 amended by inserting “would not be subject to a disquali-
5 fication under section 31310(g) of this title and” after “tak-
6 ing the tests”.

7 (b) *DISQUALIFICATIONS.*—Section 31310(g)(1) is
8 amended by deleting “who holds a commercial driver’s li-
9 cense and”.

10 **SEC. 32308. COMMERCIAL MOTOR VEHICLE DRIVER INFOR-**
11 **MATION SYSTEMS.**

12 Section 31106(c) is amended—

13 (1) by striking the subsection heading and in-
14 serting “(1) *IN GENERAL.*—”;

15 (2) by redesignating paragraphs (1) through (4)
16 as subparagraphs (A) through (D); and

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

18 “(2) *ACCESS TO RECORDS.*—The Secretary may
19 require a State, as a condition of an award of grant
20 money under this section, to provide the Secretary ac-
21 cess to all State licensing status and driver history
22 records via an electronic information system, subject
23 to section 2721 of title 18.”.

1 **SEC. 32309. DISQUALIFICATIONS BASED ON NON-COMMER-**
2 **CIAL MOTOR VEHICLE OPERATIONS.**

3 (a) *FIRST OFFENSE.*—Section 31310(b)(1)(D) is
4 amended by striking “commercial” after “revoked, sus-
5 pended, or canceled based on the individual’s operation of
6 a,” and before “motor vehicle”.

7 (b) *SECOND OFFENSE.*—Section 31310(c)(1)(D) is
8 amended by striking “commercial” after “revoked, sus-
9 pended, or canceled based on the individual’s operation of
10 a,” and before “motor vehicle”.

11 **SEC. 32310. FEDERAL DRIVER DISQUALIFICATIONS.**

12 (a) *DISQUALIFICATION DEFINED.*—Section 31301, as
13 amended by section 32205 of this Act, is amended—

14 (1) by redesignating paragraphs (6) through (15)
15 as paragraphs (7) through (16), respectively; and

16 (2) by inserting after paragraph (5) the fol-
17 lowing:

18 “(6) ‘Disqualification’ means—

19 “(A) the suspension, revocation, or cancella-
20 tion of a commercial driver’s license by the State
21 of issuance;

22 “(B) a withdrawal of an individual’s privi-
23 lege to drive a commercial motor vehicle by a
24 State or other jurisdiction as the result of a vio-
25 lation of State or local law relating to motor ve-

1 *hicle traffic control, except for a parking, vehicle*
 2 *weight, or vehicle defect violation;*

3 *“(C) a determination by the Secretary that*
 4 *an individual is not qualified to operate a com-*
 5 *mmercial motor vehicle; or*

6 *“(D) a determination by the Secretary that*
 7 *a commercial motor vehicle driver is unfit under*
 8 *section 31144(g).”.*

9 *(b) COMMERCIAL DRIVER’S LICENSE INFORMATION*
 10 *SYSTEM CONTENTS.—Section 31309(b)(1)(F) is amended*
 11 *by inserting after “disqualified” the following: “by the State*
 12 *that issued the individual a commercial driver’s license, or*
 13 *by the Secretary,”.*

14 *(c) STATE ACTION ON FEDERAL DISQUALIFICATION.—*
 15 *Section 31310(h) is amended by inserting after the first sen-*
 16 *tence the following:*

17 *“If the State has not disqualified the individual from*
 18 *operating a commercial vehicle under subsections (b)*
 19 *through (g), the State shall disqualify the individual if the*
 20 *Secretary determines under section 31144(g) that the indi-*
 21 *vidual is disqualified from operating a commercial motor*
 22 *vehicle.”.*

23 **SEC. 32311. EMPLOYER RESPONSIBILITIES.**

24 *Section 31304, as amended by section 32304 of this*
 25 *Act, is amended in subsection (a)—*

- 1 (1) *by striking “knowingly”; and*
2 (2) *by striking “in which” and inserting “that*
3 *the employer knows or should reasonably know that”.*

4 **SEC. 32312. IMPROVING AND EXPEDITING SAFETY ASSESS-**
5 **MENTS IN THE COMMERCIAL DRIVER’S LI-**
6 **CENSE APPLICATION PROCESS FOR MEM-**
7 **BERS AND FORMER MEMBERS OF THE ARMED**
8 **FORCES.**

9 (a) *STUDY.—*

10 (1) *IN GENERAL.—Not later than 90 days after*
11 *the date of the enactment of this Act, the Secretary,*
12 *in coordination with the Secretary of Defense, and in*
13 *consultation with the States and other relevant stake-*
14 *holders, shall commence a study to assess Federal and*
15 *State regulatory, economic, and administrative chal-*
16 *lenges faced by members and former members of the*
17 *Armed Forces, who received safety training and oper-*
18 *ated qualifying motor vehicles during their service, in*
19 *obtaining commercial driver’s licenses (as defined in*
20 *section 31301(3) of title 49, United States Code).*

21 (2) *REQUIREMENTS.—The study under this sub-*
22 *section shall—*

23 (A) *identify written and behind-the-wheel*
24 *safety training, qualification standards, knowl-*
25 *edge and skills tests, or other operating experi-*

1 *ence members of the Armed Forces must meet*
2 *that satisfy the minimum standards prescribed*
3 *by the Secretary of Transportation for the oper-*
4 *ation of commercial motor vehicles under section*
5 *31305 of title 49, United States Code;*

6 *(B) compare the alcohol and controlled sub-*
7 *stances testing requirements for members of the*
8 *Armed Forces with those required for holders of*
9 *a commercial driver's license;*

10 *(C) evaluate the cause of delays in review-*
11 *ing applications for commercial driver's licenses*
12 *of members and former members of the Armed*
13 *Forces;*

14 *(D) identify duplicative application costs;*

15 *(E) identify residency, domicile, training*
16 *and testing requirements, and other safety or*
17 *health assessments that affect or delay the*
18 *issuance of commercial driver's licenses to mem-*
19 *bers and former members of the Armed Forces;*
20 *and*

21 *(F) include other factors that the Secretary*
22 *determines to be appropriate to meet the require-*
23 *ments of the study.*

24 *(b) REPORT.—*

1 (1) *IN GENERAL.*—Not later than 180 days after
2 the commencement of the study under subsection (a),
3 the Secretary shall submit a report to the Committee
4 on Commerce, Science, and Transportation of the
5 Senate and the Committee on Financial Services of
6 the House of Representatives that contains the find-
7 ings and recommendations from the study.

8 (2) *ELEMENTS.*—The report under paragraph
9 (1) shall include—

10 (A) findings related to the study require-
11 ments under subsection (a)(2);

12 (B) recommendations for the Federal and
13 State legislative, regulatory, and administrative
14 actions necessary to address challenges identified
15 in subparagraph (A); and

16 (C) a plan to implement the recommenda-
17 tions for which the Secretary has authority.

18 (c) *IMPLEMENTATION.*—Upon the completion of the re-
19 port under subsection (b), the Secretary shall implement the
20 plan described in subsection (b)(2)(C).

21 ***Subtitle D—Safe Roads Act of 2012***

22 ***SEC. 32401. SHORT TITLE.***

23 This subtitle may be cited as the “Safe Roads Act of
24 2012”.

1 **SEC. 32402. NATIONAL CLEARINGHOUSE FOR CONTROLLED**
2 **SUBSTANCE AND ALCOHOL TEST RESULTS OF**
3 **COMMERCIAL MOTOR VEHICLE OPERATORS.**

4 (a) *IN GENERAL.*—Chapter 313 is amended—

5 (1) *in section 31306(a), by inserting “and sec-*
6 *tion 31306a” after “this section”; and*

7 (2) *by inserting after section 31306 the fol-*
8 *lowing:*

9 **“§ 31306a. National clearinghouse for controlled sub-**
10 **stance and alcohol test results of commer-**
11 **cial motor vehicle operators**

12 *“(a) ESTABLISHMENT.—*

13 *“(1) IN GENERAL.—Not later than 2 years after*
14 *the date of enactment of the Safe Roads Act of 2012,*
15 *the Secretary of Transportation shall establish a na-*
16 *tional clearinghouse for records relating to alcohol*
17 *and controlled substances testing of commercial motor*
18 *vehicle operators.*

19 *“(2) PURPOSES.—The purposes of the clearing-*
20 *house shall be—*

21 *“(A) to improve compliance with the De-*
22 *partment of Transportation’s alcohol and con-*
23 *trolled substances testing program applicable to*
24 *commercial motor vehicle operators;*

1 “(B) to facilitate access to information
2 about an individual before employing the indi-
3 vidual as a commercial motor vehicle operator;

4 “(C) to enhance the safety of our United
5 States roadways by reducing accident fatalities
6 involving commercial motor vehicles; and

7 “(D) to reduce the number of impaired com-
8 mercial motor vehicle operators.

9 “(3) CONTENTS.—The clearinghouse shall func-
10 tion as a repository for records relating to the positive
11 test results and test refusals of commercial motor ve-
12 hicle operators and violations by such operators of
13 prohibitions set forth in subpart B of part 382 of title
14 49, Code of Federal Regulations (or any subsequent
15 corresponding regulations).

16 “(4) ELECTRONIC EXCHANGE OF RECORDS.—The
17 Secretary shall ensure that records can be electroni-
18 cally submitted to, and requested from, the clearing-
19 house by authorized users.

20 “(5) AUTHORIZED OPERATOR.—The Secretary
21 may authorize a qualified and experienced private
22 entity to operate and maintain the clearinghouse and
23 to collect fees on behalf of the Secretary under sub-
24 section (e). The entity shall establish, operate, main-
25 tain and expand the clearinghouse and permit access

1 *to driver information and records from the clearing-*
2 *house in accordance with this section.*

3 “(b) *DESIGN OF CLEARINGHOUSE.*—

4 “(1) *USE OF FEDERAL MOTOR CARRIER SAFETY*
5 *ADMINISTRATION RECOMMENDATIONS.*—*In estab-*
6 *lishing the clearinghouse, the Secretary shall con-*
7 *sider—*

8 “(A) *the findings and recommendations*
9 *contained in the Federal Motor Carrier Safety*
10 *Administration’s March 2004 report to Congress*
11 *required under section 226 of the Motor Carrier*
12 *Safety Improvement Act of 1999 (49 U.S.C.*
13 *31306 note); and*

14 “(B) *the findings and recommendations*
15 *contained in the Government Accountability Of-*
16 *fice’s May 2008 report to Congress entitled*
17 *‘Motor Carrier Safety: Improvements to Drug*
18 *Testing Programs Could Better Identify Illegal*
19 *Drug Users and Keep Them off the Road.’.*

20 “(2) *DEVELOPMENT OF SECURE PROCESSES.*—*In*
21 *establishing the clearinghouse, the Secretary shall de-*
22 *velop a secure process for—*

23 “(A) *administering and managing the*
24 *clearinghouse in compliance with applicable*
25 *Federal security standards;*

1 “(B) registering and authenticating author-
2 ized users of the clearinghouse;

3 “(C) registering and authenticating persons
4 required to report to the clearinghouse under
5 subsection (g);

6 “(D) preventing the unauthorized access of
7 information from the clearinghouse;

8 “(E) storing and transmitting data;

9 “(F) persons required to report to the clear-
10 inghouse under subsection (g) to timely and ac-
11 curately submit electronic data to the clearing-
12 house;

13 “(G) generating timely and accurate reports
14 from the clearinghouse in response to requests for
15 information by authorized users; and

16 “(H) updating an individual’s record upon
17 completion of the return-to-duty process de-
18 scribed in title 49, Code of Federal Regulations.

19 “(3) EMPLOYER ALERT OF POSITIVE TEST RE-
20 SULT.—In establishing the clearinghouse, the Sec-
21 retary shall develop a secure method for electronically
22 notifying an employer of each additional positive test
23 result or other noncompliance—

24 “(A) for an employee, that is entered into
25 the clearinghouse during the 7-day period imme-

1 *diately following an employer’s inquiry about*
2 *the employee; and*

3 *“(B) for an employee who is listed as hav-*
4 *ing multiple employers.*

5 *“(4) ARCHIVE CAPABILITY.—In establishing the*
6 *clearinghouse, the Secretary shall develop a process*
7 *for archiving all clearinghouse records, including the*
8 *depositing of personal records, records relating to each*
9 *individual in the database, and access requests for*
10 *personal records, for the purposes of—*

11 *“(A) auditing and evaluating the timeli-*
12 *ness, accuracy, and completeness of data in the*
13 *clearinghouse; and*

14 *“(B) auditing to monitor compliance and*
15 *enforce penalties for noncompliance.*

16 *“(5) FUTURE NEEDS.—*

17 *“(A) INTEROPERABILITY WITH OTHER DATA*
18 *SYSTEMS.—In establishing the clearinghouse, the*
19 *Secretary shall consider—*

20 *“(i) the existing data systems con-*
21 *taining regulatory and safety data for com-*
22 *mercial motor vehicle operators;*

23 *“(ii) the efficacy of using or combining*
24 *clearinghouse data with 1 or more of such*
25 *systems; and*

1 “(iii) the potential interoperability of
2 the clearinghouse with such systems.

3 “(B) *SPECIFIC CONSIDERATIONS.*—In car-
4 rying out subparagraph (A), the Secretary shall
5 determine—

6 “(i) the clearinghouse’s capability for
7 interoperability with—

8 “(I) the National Driver Register
9 established under section 30302;

10 “(II) the Commercial Driver’s Li-
11 cense Information System established
12 under section 31309;

13 “(III) the Motor Carrier Manage-
14 ment Information System for pre-
15 employment screening services under
16 section 31150; and

17 “(IV) other data systems, as ap-
18 propriate; and

19 “(ii) any change to the administration
20 of the current testing program, such as
21 forms, that is necessary to collect data for
22 the clearinghouse.

23 “(c) *STANDARD FORMATS.*—The Secretary shall de-
24 velop standard formats to be used—

1 “(1) *by an authorized user of the clearinghouse*
2 *to—*

3 “(A) *request a record from the clearing-*
4 *house; and*

5 “(B) *obtain the consent of an individual*
6 *who is the subject of a request from the clearing-*
7 *house, if applicable; and*

8 “(2) *to notify an individual that a positive alco-*
9 *hol or controlled substances test result, refusing to*
10 *test, and a violation of any of the prohibitions under*
11 *subpart B of part 382 of title 49, Code of Federal*
12 *Regulations (or any subsequent corresponding regula-*
13 *tions), will be reported to the clearinghouse.*

14 “(d) *PRIVACY.—A release of information from the*
15 *clearinghouse shall—*

16 “(1) *comply with applicable Federal privacy*
17 *laws, including the fair information practices under*
18 *the Privacy Act of 1974 (5 U.S.C. 552a);*

19 “(2) *comply with applicable sections of the Fair*
20 *Credit Reporting Act (15 U.S.C. 1681 et seq.); and*

21 “(3) *not be made to any person or entity unless*
22 *expressly authorized or required by law.*

23 “(e) *FEES.—*

24 “(1) *AUTHORITY TO COLLECT FEES.—Except as*
25 *provided under paragraph (3), the Secretary may col-*

1 *lect a reasonable, customary, and nominal fee from*
2 *an authorized user of the clearinghouse for a request*
3 *for information from the clearinghouse.*

4 “(2) *USE OF FEES.*—*Fees collected under this*
5 *subsection shall be used for the operation and mainte-*
6 *nance of the clearinghouse.*

7 “(3) *LIMITATION.*—*The Secretary may not col-*
8 *lect a fee from an individual requesting information*
9 *from the clearinghouse that pertains to the record of*
10 *that individual.*

11 “(f) *EMPLOYER REQUIREMENTS.*—

12 “(1) *DETERMINATION CONCERNING USE OF*
13 *CLEARINGHOUSE.*—*The Secretary shall determine if*
14 *an employer is authorized to use the clearinghouse to*
15 *meet the alcohol and controlled substances testing re-*
16 *quirements under title 49, Code of Federal Regula-*
17 *tions.*

18 “(2) *APPLICABILITY OF EXISTING REQUIRE-*
19 *MENTS.*—*Each employer and service agent shall com-*
20 *ply with the alcohol and controlled substances testing*
21 *requirements under title 49, Code of Federal Regula-*
22 *tions.*

23 “(3) *EMPLOYMENT PROHIBITIONS.*—*Beginning*
24 *30 days after the date that the clearinghouse is estab-*
25 *lished under subsection (a), an employer shall not*

1 *hire an individual to operate a commercial motor ve-*
2 *hicle unless the employer determines that the indi-*
3 *vidual, during the preceding 3-year period—*

4 *“(A) if tested for the use of alcohol and con-*
5 *trolled substances, as required under title 49,*
6 *Code of Federal Regulations—*

7 *“(i) did not test positive for the use of*
8 *alcohol or controlled substances in violation*
9 *of the regulations; or*

10 *“(ii) tested positive for the use of alco-*
11 *hol or controlled substances and completed*
12 *the required return-to-duty process under*
13 *title 49, Code of Federal Regulations;*

14 *“(B)(i) did not refuse to take an alcohol or*
15 *controlled substance test under title 49, Code of*
16 *Federal Regulations; or*

17 *“(ii) refused to take an alcohol or con-*
18 *trolled substance test and completed the re-*
19 *quired return-to-duty process under title 49,*
20 *Code of Federal Regulations; and*

21 *“(C) did not violate any other provision of*
22 *subpart B of part 382 of title 49, Code of Fed-*
23 *eral Regulations (or any subsequent cor-*
24 *responding regulations).*

1 “(4) *ANNUAL REVIEW.*—Beginning 30 days after
2 the date that the clearinghouse is established under
3 subsection (a), an employer shall request and review
4 a commercial motor vehicle operator’s record from the
5 clearinghouse annually for as long as the commercial
6 motor vehicle operator is under the employ of the em-
7 ployer.

8 “(g) *REPORTING OF RECORDS.*—

9 “(1) *IN GENERAL.*—Beginning 30 days after the
10 date that the clearinghouse is established under sub-
11 section (a), a medical review officer, employer, service
12 agent, and other appropriate person, as determined
13 by the Secretary, shall promptly submit to the Sec-
14 retary any record generated after the clearinghouse is
15 initiated of an individual who—

16 “(A) refuses to take an alcohol or controlled
17 substances test required under title 49, Code of
18 Federal Regulations;

19 “(B) tests positive for alcohol or a controlled
20 substance in violation of the regulations; or

21 “(C) violates any other provision of subpart
22 B of part 382 of title 49, Code of Federal Regu-
23 lations (or any subsequent corresponding regula-
24 tions).

1 “(2) *INCLUSION OF RECORDS IN CLEARING-*
2 *HOUSE.—The Secretary shall include in the clearing-*
3 *house the records of positive test results and test refus-*
4 *als received under paragraph (1).*

5 “(3) *MODIFICATIONS AND DELETIONS.—If the*
6 *Secretary determines that a record contained in the*
7 *clearinghouse is not accurate, the Secretary shall*
8 *modify or delete the record, as appropriate.*

9 “(4) *NOTIFICATION.—The Secretary shall expedi-*
10 *tiously notify an individual, unless such notification*
11 *would be duplicative, when—*

12 “(A) *a record relating to the individual is*
13 *received by the clearinghouse;*

14 “(B) *a record in the clearinghouse relating*
15 *to the individual is modified or deleted, and in-*
16 *clude in the notification the reason for the modi-*
17 *fication or deletion; or*

18 “(C) *a record in the clearinghouse relating*
19 *to the individual is released to an employer and*
20 *specify the reason for the release.*

21 “(5) *DATA QUALITY AND SECURITY STANDARDS*
22 *FOR REPORTING AND RELEASING.—The Secretary*
23 *may establish additional requirements, as appro-*
24 *priate, to ensure that—*

1 “(A) *the submission of records to the clear-*
2 *inghouse is timely and accurate;*

3 “(B) *the release of data from the clearing-*
4 *house is timely, accurate, and released to the ap-*
5 *propriate authorized user under this section; and*

6 “(C) *an individual with a record in the*
7 *clearinghouse has a cause of action for any inap-*
8 *propriate use of information included in the*
9 *clearinghouse.*

10 “(6) *RETENTION OF RECORDS.—The Secretary*
11 *shall—*

12 “(A) *retain a record submitted to the clear-*
13 *inghouse for a 5-year period beginning on the*
14 *date the record is submitted;*

15 “(B) *remove the record from the clearing-*
16 *house at the end of the 5-year period, unless the*
17 *individual fails to meet a return-to-duty or fol-*
18 *low-up requirement under title 49, Code of Fed-*
19 *eral Regulations; and*

20 “(C) *retain a record after the end of the 5-*
21 *year period in a separate location for archiving*
22 *and auditing purposes.*

23 “(h) *AUTHORIZED USERS.—*

1 “(1) *EMPLOYERS.*—*The Secretary shall establish*
2 *a process for an employer to request and receive an*
3 *individual’s record from the clearinghouse.*

4 “(A) *CONSENT.*—*An employer may not ac-*
5 *cess an individual’s record from the clearing-*
6 *house unless the employer—*

7 “(i) *obtains the prior written or elec-*
8 *tronic consent of the individual for access to*
9 *the record; and*

10 “(ii) *submits proof of the individual’s*
11 *consent to the Secretary.*

12 “(B) *ACCESS TO RECORDS.*—*After receiving*
13 *a request from an employer for an individual’s*
14 *record under subparagraph (A), the Secretary*
15 *shall grant access to the individual’s record to*
16 *the employer as expeditiously as practicable.*

17 “(C) *RETENTION OF RECORD REQUESTS.*—
18 *The Secretary shall require an employer to re-*
19 *tain for a 3-year period—*

20 “(i) *a record of each request made by*
21 *the employer for records from the clearing-*
22 *house; and*

23 “(ii) *the information received pursuant*
24 *to the request.*

1 “(D) *USE OF RECORDS.*—An employer may
2 use an individual’s record received from the
3 clearinghouse only to assess and evaluate the
4 qualifications of the individual to operate a com-
5 mercial motor vehicle for the employer.

6 “(E) *PROTECTION OF PRIVACY OF INDIVID-*
7 *UALS.*—An employer that receives an individ-
8 ual’s record from the clearinghouse under sub-
9 paragraph (B) shall—

10 “(i) protect the privacy of the indi-
11 vidual and the confidentiality of the record;
12 and

13 “(ii) ensure that information con-
14 tained in the record is not divulged to a
15 person or entity that is not directly in-
16 volved in assessing and evaluating the
17 qualifications of the individual to operate a
18 commercial motor vehicle for the employer.

19 “(2) *STATE LICENSING AUTHORITIES.*—The Sec-
20 retary shall establish a process for the chief commer-
21 cial driver’s licensing official of a State to request
22 and receive an individual’s record from the clearing-
23 house if the individual is applying for a commercial
24 driver’s license from the State.

1 “(A) *CONSENT.*—*The Secretary may grant*
2 *access to an individual’s record in the clearing-*
3 *house under this paragraph without the prior*
4 *written or electronic consent of the individual.*
5 *An individual who holds a commercial driver’s*
6 *license shall be deemed to consent to such access*
7 *by obtaining a commercial driver’s license.*

8 “(B) *PROTECTION OF PRIVACY OF INDIVID-*
9 *UALS.*—*A chief commercial driver’s licensing of-*
10 *ficial of a State that receives an individual’s*
11 *record from the clearinghouse under this para-*
12 *graph shall—*

13 “(i) *protect the privacy of the indi-*
14 *vidual and the confidentiality of the record;*
15 *and*

16 “(ii) *ensure that the information in the*
17 *record is not divulged to any person that is*
18 *not directly involved in assessing and evalu-*
19 *ating the qualifications of the individual to*
20 *operate a commercial motor vehicle.*

21 “(3) *NATIONAL TRANSPORTATION SAFETY*
22 *BOARD.*—*The Secretary shall establish a process for*
23 *the National Transportation Safety Board to request*
24 *and receive an individual’s record from the clearing-*
25 *house if the individual is involved in an accident that*

1 *is under investigation by the National Transportation*
2 *Safety Board.*

3 “(A) *CONSENT.*—*The Secretary may grant*
4 *access to an individual’s record in the clearing-*
5 *house under this paragraph without the prior*
6 *written or electronic consent of the individual.*
7 *An individual who holds a commercial driver’s*
8 *license shall be deemed to consent to such access*
9 *by obtaining a commercial driver’s license.*

10 “(B) *PROTECTION OF PRIVACY OF INDIVID-*
11 *UALS.*—*An official of the National Transpor-*
12 *tation Safety Board that receives an individual’s*
13 *record from the clearinghouse under this para-*
14 *graph shall—*

15 “(i) *protect the privacy of the indi-*
16 *vidual and the confidentiality of the record;*
17 *and*

18 “(ii) *unless the official determines that*
19 *the information in the individual’s record*
20 *should be reported under section 1131(e),*
21 *ensure that the information in the record is*
22 *not divulged to any person that is not di-*
23 *rectly involved with investigating the acci-*
24 *dent.*

1 “(4) *ADDITIONAL AUTHORIZED USERS.*—*The*
2 *Secretary shall consider whether to grant access to the*
3 *clearinghouse to additional users. The Secretary may*
4 *authorize access to an individual’s record from the*
5 *clearinghouse to an additional user if the Secretary*
6 *determines that granting access will further the pur-*
7 *poses under subsection (a)(2). In determining whether*
8 *the access will further the purposes under subsection*
9 *(a)(2), the Secretary shall consider, among other*
10 *things—*

11 “(A) *what use the additional user will make*
12 *of the individual’s record;*

13 “(B) *the costs and benefits of the use; and*

14 “(C) *how to protect the privacy of the indi-*
15 *vidual and the confidentiality of the record.*

16 “(i) *ACCESS TO CLEARINGHOUSE BY INDIVIDUALS.*—

17 “(1) *IN GENERAL.*—*The Secretary shall establish*
18 *a process for an individual to request and receive in-*
19 *formation from the clearinghouse—*

20 “(A) *to determine whether the clearinghouse*
21 *contains a record pertaining to the individual;*

22 “(B) *to verify the accuracy of a record;*

23 “(C) *to update an individual’s record, in-*
24 *cluding completing the return-to-duty process de-*

1 *scribed in title 49, Code of Federal Regulations;*
2 *and*

3 *“(D) to determine whether the clearinghouse*
4 *received requests for the individual’s informa-*
5 *tion.*

6 *“(2) DISPUTE PROCEDURE.—The Secretary shall*
7 *establish a procedure, including an appeal process, for*
8 *an individual to dispute and remedy an administra-*
9 *tive error in the individual’s record.*

10 *“(j) PENALTIES.—*

11 *“(1) IN GENERAL.—An employer, employee, med-*
12 *ical review officer, or service agent who violates any*
13 *provision of this section shall be subject to civil pen-*
14 *alties under section 521(b)(2)(C) and criminal pen-*
15 *alties under section 521(b)(6)(B), and any other ap-*
16 *plicable civil and criminal penalties, as determined*
17 *by the Secretary.*

18 *“(2) VIOLATION OF PRIVACY.—The Secretary*
19 *shall establish civil and criminal penalties, consistent*
20 *with paragraph (1), for an authorized user who vio-*
21 *lates paragraph (2)(B) or (3)(B) of subsection (h).*

22 *“(k) COMPATIBILITY OF STATE AND LOCAL LAWS.—*

23 *“(1) PREEMPTION.—Except as provided under*
24 *paragraph (2), any law, regulation, order, or other*
25 *requirement of a State, political subdivision of a*

1 *State, or Indian tribe related to a commercial driver’s*
2 *license holder subject to alcohol or controlled substance*
3 *testing under title 49, Code of Federal Regulations,*
4 *that is inconsistent with this section or a regulation*
5 *issued pursuant to this section is preempted.*

6 “(2) *APPLICABILITY.—The* preemption under
7 *paragraph (1) shall include—*

8 “(A) *the reporting of valid positive results*
9 *from alcohol screening tests and drug tests;*

10 “(B) *the refusal to provide a specimen for*
11 *an alcohol screening test or drug test; and*

12 “(C) *other violations of subpart B of part*
13 *382 of title 49, Code of Federal Regulations (or*
14 *any subsequent corresponding regulations).*

15 “(3) *EXCEPTION.—A law, regulation, order, or*
16 *other requirement of a State, political subdivision of*
17 *a State, or Indian tribe shall not be preempted under*
18 *this subsection to the extent it relates to an action*
19 *taken with respect to a commercial motor vehicle op-*
20 *erator’s commercial driver’s license or driving record*
21 *as a result of the driver’s—*

22 “(A) *verified positive alcohol or drug test*
23 *result;*

24 “(B) *refusal to provide a specimen for the*
25 *test; or*

1 “(C) other violations of subpart B of part
2 382 of title 49, Code of Federal Regulations (or
3 any subsequent corresponding regulations).

4 “(l) DEFINITIONS.—In this section—

5 “(1) AUTHORIZED USER.—The term ‘authorized
6 user’ means an employer, State licensing authority,
7 National Transportation Safety Board, or other per-
8 son granted access to the clearinghouse under sub-
9 section (h).

10 “(2) CHIEF COMMERCIAL DRIVER’S LICENSING
11 OFFICIAL.—The term ‘chief commercial driver’s li-
12 censing official’ means the official in a State who is
13 authorized to—

14 “(A) maintain a record about commercial
15 driver’s licenses issued by the State; and

16 “(B) take action on commercial driver’s li-
17 censes issued by the State.

18 “(3) CLEARINGHOUSE.—The term ‘clearinghouse’
19 means the clearinghouse established under subsection
20 (a).

21 “(4) COMMERCIAL MOTOR VEHICLE OPERATOR.—
22 The term ‘commercial motor vehicle operator’ means
23 an individual who—

1 “(A) possesses a valid commercial driver’s
2 license issued in accordance with section 31308;
3 and

4 “(B) is subject to controlled substances and
5 alcohol testing under title 49, Code of Federal
6 Regulations.

7 “(5) *EMPLOYER*.—The term ‘employer’ means a
8 person or entity employing, or seeking to employ, 1
9 or more employees (including an individual who is
10 self-employed) to be commercial motor vehicle opera-
11 tors.

12 “(6) *MEDICAL REVIEW OFFICER*.—The term
13 ‘medical review officer’ means a licensed physician
14 who is responsible for—

15 “(A) receiving and reviewing a laboratory
16 result generated under the testing program;

17 “(B) evaluating a medical explanation for a
18 controlled substances test under title 49, Code of
19 Federal Regulations; and

20 “(C) interpreting the results of a controlled
21 substances test.

22 “(7) *SECRETARY*.—The term ‘Secretary’ means
23 the Secretary of Transportation.

24 “(8) *SERVICE AGENT*.—The term ‘service agent’
25 means a person or entity, other than an employee of

1 *the employer, who provides services to employers or*
 2 *employees under the testing program.*

3 “(9) *TESTING PROGRAM.*—*The term ‘testing pro-*
 4 *gram’ means the alcohol and controlled substances*
 5 *testing program required under title 49, Code of Fed-*
 6 *eral Regulations.’”.*

7 (b) *CONFORMING AMENDMENT.*—*The analysis for*
 8 *chapter 313 is amended by inserting after the item relating*
 9 *to section 31306 the following:*

“31306a. National clearinghouse for positive controlled substance and alcohol test
results of commercial motor vehicle operators.”.

10 **SEC. 32403. DRUG AND ALCOHOL VIOLATION SANCTIONS.**

11 *Chapter 313 is amended—*

12 (1) *by redesignating section 31306(f) as*
 13 *31306(f)(1); and*

14 (2) *by inserting after section 31306(f)(1) the fol-*
 15 *lowing:*

16 “(2) *ADDITIONAL SANCTIONS.*—*The Secretary*
 17 *may require a State to revoke, suspend, or cancel the*
 18 *commercial driver’s license of a commercial motor ve-*
 19 *hicle operator who is found, based on a test conducted*
 20 *and confirmed under this section, to have used alcohol*
 21 *or a controlled substance in violation of law until the*
 22 *commercial motor vehicle operator completes the reha-*
 23 *ilitation process under subsection (e).”;* *and*

1 (3) by amending section 31310(d) to read as fol-
2 lows:

3 “(d) *CONTROLLED SUBSTANCE VIOLATIONS.*—The
4 Secretary may permanently disqualify an individual from
5 operating a commercial vehicle if the individual—

6 “(1) uses a commercial motor vehicle in the com-
7 mission of a felony involving manufacturing, distrib-
8 uting, or dispensing a controlled substance, or posses-
9 sion with intent to manufacture, distribute, or dis-
10 pense a controlled substance; or

11 “(2) uses alcohol or a controlled substance, in
12 violation of section 31306, 3 or more times.”.

13 **SEC. 32404. AUTHORIZATION OF APPROPRIATIONS.**

14 From the funds authorized to be appropriated under
15 section 31104(h) of title 49, United States Code, up to
16 \$5,000,000 is authorized to be appropriated from the High-
17 way Trust Fund (other than the Mass Transit Account) for
18 the Secretary of Transportation to develop, design, and im-
19 plement the national clearinghouse required by section
20 32402 of this Act.

21 **Subtitle E—Enforcement**

22 **SEC. 32501. INSPECTION DEMAND AND DISPLAY OF CRE-**
23 **DENTIALS.**

24 (a) *SAFETY INVESTIGATIONS.*—Section 504(c) is
25 amended—

1 (1) by inserting “, or an employee of the recipi-
2 ent of a grant issued under section 31102 of this title”
3 after “a contractor”; and

4 (2) by inserting “, in person or in writing” after
5 “proper credentials”.

6 (b) *CIVIL PENALTY.*—Section 521(b)(2)(E) is amend-
7 ed—

8 (1) by redesignating subparagraph (E) as sub-
9 paragraph (E)(i); and

10 (2) by adding at the end the following:

11 “(ii) *PLACE OUT OF SERVICE.*—The
12 Secretary may by regulation adopt proce-
13 dures for placing out of service the commer-
14 cial motor vehicle of a foreign-domiciled
15 motor carrier that fails to promptly allow
16 the Secretary to inspect and copy a record
17 or inspect equipment, land, buildings, or
18 other property.”.

19 (c) *HAZARDOUS MATERIALS INVESTIGATIONS.*—Sec-
20 tion 5121(c)(2) is amended by inserting “, in person or in
21 writing,” after “proper credentials”.

22 (d) *COMMERCIAL INVESTIGATIONS.*—Section 14122(b)
23 is amended by inserting “, in person or in writing” after
24 “proper credentials”.

1 **SEC. 32502. OUT OF SERVICE PENALTY FOR DENIAL OF AC-**
2 **CESS TO RECORDS.**

3 *Section 521(b)(2)(E) is amended—*

4 *(1) by inserting after “\$10,000.” the following:*
5 *“In the case of a motor carrier, the Secretary may*
6 *also place the violator’s motor carrier operations out*
7 *of service.”; and*

8 *(2) by striking “such penalty” after “It shall be*
9 *a defense to” and inserting “a penalty”.*

10 **SEC. 32503. PENALTIES FOR VIOLATION OF OPERATION OUT**
11 **OF SERVICE ORDERS.**

12 *Section 521(b)(2) is amended by adding at the end the*
13 *following:*

14 *“(F) PENALTY FOR VIOLATIONS RELATING*
15 *TO OUT OF SERVICE ORDERS.—A motor carrier*
16 *or employer (as defined in section 31132) that*
17 *operates a commercial motor vehicle in commerce*
18 *in violation of a prohibition on transportation*
19 *under section 31144(c) of this title or an immi-*
20 *nent hazard out of service order issued under*
21 *subsection (b)(5) of this section or section*
22 *5121(d) of this title shall be liable for a civil*
23 *penalty not to exceed \$25,000.”.*

1 **SEC. 32504. MINIMUM PROHIBITION ON OPERATION FOR**
 2 **UNFIT CARRIERS.**

3 (a) *IN GENERAL.*—Section 31144(c)(1) is amended by
 4 inserting “, and such period shall be for not less than 10
 5 days” after “operator is fit”.

6 (b) *OWNERS OR OPERATORS TRANSPORTING PAS-*
 7 *SENGERS.*—Section 31144(c)(2) is amended by inserting “,
 8 and such period shall be for not less than 10 days” after
 9 “operator is fit”.

10 (c) *OWNERS OR OPERATORS TRANSPORTING HAZ-*
 11 *ARDOUS MATERIAL.*—Section 31144(c)(3) is amended by
 12 inserting before the period at the end of the first sentence
 13 the following: “, and such period shall be for not less than
 14 10 days”.

15 **SEC. 32505. MINIMUM OUT OF SERVICE PENALTIES.**

16 Section 521(b)(7) is amended by adding at the end the
 17 following:

18 “The penalties may include a minimum duration for
 19 any out of service period, not to exceed 90 days.”.

20 **SEC. 32506. IMPOUNDMENT AND IMMOBILIZATION OF COM-**
 21 **MERCIAL MOTOR VEHICLES FOR IMMINENT**
 22 **HAZARD.**

23 Section 521(b) is amended by adding at the end the
 24 following:

25 “(15) *IMPOUNDMENT OF COMMERCIAL MOTOR*
 26 *VEHICLES.*—

1 “(A) *ENFORCEMENT OF IMMINENT HAZARD*
2 *OUT-OF-SERVICE ORDERS.*—

3 “(i) *The Secretary, or an authorized*
4 *State official carrying out motor carrier*
5 *safety enforcement activities under section*
6 *31102, may enforce an imminent hazard*
7 *out-of-service order issued under chapters 5,*
8 *51, 131 through 149, 311, 313, or 315 of*
9 *this title, or a regulation promulgated there-*
10 *under, by towing and impounding a com-*
11 *mercial motor vehicle until the order is re-*
12 *scinded.*

13 “(ii) *Enforcement shall not unreason-*
14 *ably interfere with the ability of a shipper,*
15 *carrier, broker, or other party to arrange*
16 *for the alternative transportation of any*
17 *cargo or passenger being transported at the*
18 *time the commercial motor vehicle is immo-*
19 *bilized. In the case of a commercial motor*
20 *vehicle transporting passengers, the Sec-*
21 *retary or authorized State official shall pro-*
22 *vide reasonable, temporary, and secure shel-*
23 *ter and accommodations for passengers in*
24 *transit.*

1 “(iii) *The Secretary’s designee or an*
2 *authorized State official carrying out motor*
3 *carrier safety enforcement activities under*
4 *section 31102, shall immediately notify the*
5 *owner of a commercial motor vehicle of the*
6 *impoundment and the opportunity for re-*
7 *view of the impoundment. A review shall be*
8 *provided in accordance with section 554 of*
9 *title 5, except that the review shall occur not*
10 *later than 10 days after the impoundment.*

11 “(B) *ISSUANCE OF REGULATIONS.—The*
12 *Secretary shall promulgate regulations on the*
13 *use of impoundment or immobilization of com-*
14 *mercial motor vehicles as a means of enforcing*
15 *additional out-of-service orders issued under*
16 *chapters 5, 51, 131 through 149, 311, 313, or*
17 *315 of this title, or a regulation promulgated*
18 *thereunder. Regulations promulgated under this*
19 *subparagraph shall include consideration of pub-*
20 *lic safety, the protection of passengers and cargo,*
21 *inconvenience to passengers, and the security of*
22 *the commercial motor vehicle.*

23 “(C) *DEFINITION.—In this paragraph, the*
24 *term ‘impoundment’ or ‘impounding’ means the*
25 *seizing and taking into custody of a commercial*

1 *motor vehicle or the immobilizing of a commer-*
2 *cial motor vehicle through the attachment of a*
3 *locking device or other mechanical or electronic*
4 *means.”.*

5 **SEC. 32507. INCREASED PENALTIES FOR EVASION OF REGU-**
6 **LATIONS.**

7 (a) *PENALTIES.*—*Section 524 is amended—*

8 (1) *by striking “knowingly and willfully”;*

9 (2) *by inserting after “this chapter” the fol-*
10 *lowing: “, chapter 51, subchapter III of chapter 311*
11 *(except sections 31138 and 31139) or section 31302,*
12 *31303, 31304, 31305(b), 31310(g)(1)(A), or 31502 of*
13 *this title, or a regulation issued under any of those*
14 *provisions,”;*

15 (3) *by striking “\$200 but not more than \$500”*
16 *and inserting “\$2,000 but not more than \$5,000”;*
17 *and*

18 (4) *by striking “\$250 but not more than \$2,000”*
19 *and inserting “\$2,500 but not more than \$7,500”.*

20 (b) *EVASION OF REGULATION.*—*Section 14906 is*
21 *amended—*

22 (1) *by striking “\$200” and inserting “at least*
23 *\$2,000”;*

24 (2) *by striking “\$250” and inserting “\$5,000”;*
25 *and*

1 (2) *by inserting after subsection (g) the fol-*
 2 *lowing:*

3 “(h) *DISQUALIFICATION FOR FAILURE TO PAY.—The*
 4 *Secretary shall disqualify from operating a commercial*
 5 *motor vehicle any individual who fails to pay a civil pen-*
 6 *alty within the prescribed period, or fails to conform to the*
 7 *terms of a settlement with the Secretary. A disqualification*
 8 *shall continue until the penalty is paid, or the individual*
 9 *conforms to the terms of the settlement, unless the non-*
 10 *payment is because the individual is a debtor in a case*
 11 *under chapter 11 of title 11, United States Code.”; and*

12 (3) *in subsection (i), as redesignated, by striking*
 13 *“Notwithstanding subsections (b) through (g)” and*
 14 *inserting “Notwithstanding subsections (b) through*
 15 *(h)”.*

16 (c) *CONFORMING AMENDMENT.—The analysis of chap-*
 17 *ter 311 is amended by inserting after the item relating to*
 18 *section 31151 the following:*

 “31152. *Disqualification for failure to pay.*”.

19 **SEC. 32509. VIOLATIONS RELATING TO COMMERCIAL**
 20 **MOTOR VEHICLE SAFETY REGULATION AND**
 21 **OPERATORS.**

22 Section 521(b)(2)(D) *is amended by striking “ability*
 23 *to pay,”.*

1 **SEC. 32510. EMERGENCY DISQUALIFICATION FOR IMMI-**
 2 **NENT HAZARD.**

3 *Section 31310(f) is amended—*

4 *(1) in paragraph (1) by inserting “section 521*
 5 *or” before “section 5102”; and*

6 *(2) in paragraph (2) by inserting “section 521*
 7 *or” before “section 5102”.*

8 **SEC. 32511. INTRASTATE OPERATIONS OF INTERSTATE**
 9 **MOTOR CARRIERS.**

10 *(a) PROHIBITED TRANSPORTATION.—Section*
 11 *521(b)(5) is amended by inserting after subparagraph (B)*
 12 *the following:*

13 *“(C) If an employee, vehicle, or all or part*
 14 *of an employer’s commercial motor vehicle oper-*
 15 *ations is ordered out of service under paragraph*
 16 *(5)(A), the commercial motor vehicle operations*
 17 *of the employee, vehicle, or employer that affect*
 18 *interstate commerce are also prohibited.”.*

19 *(b) PROHIBITION ON OPERATION IN INTERSTATE COM-*
 20 *MERCE AFTER NONPAYMENT OF PENALTIES.—Section*
 21 *521(b)(8) is amended—*

22 *(1) by redesignating subparagraph (B) as sub-*
 23 *paragraph (C); and*

24 *(2) by inserting after subparagraph (A) the fol-*
 25 *lowing:*

1 “(B) *ADDITIONAL PROHIBITION.*—A person
2 *prohibited from operating in interstate commerce*
3 *under paragraph (8)(A) may not operate any*
4 *commercial motor vehicle where the operation af-*
5 *fects interstate commerce.”.*

6 **SEC. 32512. ENFORCEMENT OF SAFETY LAWS AND REGULA-**
7 **TIONS.**

8 (a) *ENFORCEMENT OF SAFETY LAWS AND REGULA-*
9 *TIONS.*—Chapter 311, as amended by sections 32113 and
10 32508 of this Act, is amended by adding after section 31153
11 the following:

12 **“§31154. Enforcement of safety laws and regulations**

13 “(a) *IN GENERAL.*—The Secretary may bring a civil
14 action to enforce this part, or a regulation or order of the
15 Secretary under this part, when violated by an employer,
16 employee, or other person providing transportation or serv-
17 ice under this subchapter or subchapter I.

18 “(b) *VENUE.*—In a civil action under subsection (a)—

19 “(1) trial shall be in the judicial district in
20 which the employer, employee, or other person oper-
21 ates;

22 “(2) process may be served without regard to the
23 territorial limits of the district or of the State in
24 which the action is instituted; and

1 “(3) a person participating with a carrier or
2 broker in a violation may be joined in the civil action
3 without regard to the residence of the person.”.

4 (b) *CONFORMING AMENDMENT.*—*The analysis of chap-*
5 *ter 311 is amended by inserting after the item relating to*
6 *section 31153 the following:*

“31154. Enforcement of safety laws and regulations.”.

7 **SEC. 32513. DISCLOSURE TO STATE AND LOCAL LAW EN-**
8 **FORCEMENT AGENCIES.**

9 Section 31106(e) is amended—

10 (1) by redesignating subsection (e) as subsection
11 (e)(1); and

12 (2) by inserting at the end the following:

13 “(2) *IN GENERAL.*—*Notwithstanding any prohi-*
14 *bition on disclosure of information in section*
15 *31105(h) or 31143(b) of this title or section 552a of*
16 *title 5, the Secretary may disclose information main-*
17 *tained by the Secretary pursuant to chapters 51, 135,*
18 *311, or 313 of this title to appropriate personnel of*
19 *a State agency or instrumentality authorized to carry*
20 *out State commercial motor vehicle safety activities*
21 *and commercial driver’s license laws, or appropriate*
22 *personnel of a local law enforcement agency, in ac-*
23 *cordance with standards, conditions, and procedures*
24 *as determined by the Secretary. Disclosure under this*
25 *section shall not operate as a waiver by the Secretary*

1 of any applicable privilege against disclosure under
2 common law or as a basis for compelling disclosure
3 under section 552 of title 5.”.

4 **SEC. 32514. GRADE CROSSING SAFETY REGULATIONS.**

5 Section 112(2) of the Hazardous Materials Transpor-
6 tation Authorization Act of 1994 (Public Law 103–311) is
7 amended by striking “315 of such title (relating to motor
8 carrier safety)” and inserting “311 of such title (relating
9 to commercial motor vehicle safety)”.

10 **Subtitle F—Compliance, Safety,**
11 **Accountability**

12 **SEC. 32601. COMPLIANCE, SAFETY, ACCOUNTABILITY.**

13 (a) *IN GENERAL.*—Section 31102 is amended—

14 (1) by amending the section heading to read:

15 “§31102. **Compliance, safety, and accountability**
16 **grants”;**

17 (2) by amending subsection (a) to read as fol-
18 lows:

19 “(a) *GENERAL AUTHORITY.*—Subject to this section,
20 the Secretary of Transportation shall make and administer
21 a compliance, safety, and accountability grant program to
22 assist States, local governments, and other entities and per-
23 sons with motor carrier safety and enforcement on high-
24 ways and other public roads, new entrant safety audits,
25 border enforcement, hazardous materials safety and secu-

1 *riety, consumer protection and household goods enforcement,*
2 *and other programs and activities required to improve the*
3 *safety of motor carriers as determined by the Secretary. The*
4 *Secretary shall allocate funding in accordance with section*
5 *31104 of this title.”;*

6 *(3) in subsection (b)—*

7 *(A) by amending the heading to read as fol-*
8 *lows:*

9 *“(b) MOTOR CARRIER SAFETY ASSISTANCE PRO-*
10 *GRAM.—”;*

11 *(B) by redesignating paragraphs (1)*
12 *through (3) as (2) through (4), respectively;*

13 *(C) by inserting before paragraph (2), as*
14 *redesignated, the following:*

15 *“(1) PROGRAM GOAL.—The goal of the Motor*
16 *Carrier Safety Assistance Program is to ensure that*
17 *the Secretary, States, local government agencies, and*
18 *other political jurisdictions work in partnership to es-*
19 *tablish programs to improve motor carrier, commer-*
20 *cial motor vehicle, and driver safety to support a safe*
21 *and efficient surface transportation system by—*

22 *“(A) making targeted investments to pro-*
23 *mote safe commercial motor vehicle transpor-*
24 *tation, including transportation of passengers*
25 *and hazardous materials;*

1 “(B) investing in activities likely to gen-
2 erate maximum reductions in the number and
3 severity of commercial motor vehicle crashes and
4 fatalities resulting from such crashes;

5 “(C) adopting and enforcing effective motor
6 carrier, commercial motor vehicle, and driver
7 safety regulations and practices consistent with
8 Federal requirements; and

9 “(D) assessing and improving statewide
10 performance by setting program goals and meet-
11 ing performance standards, measures, and bench-
12 marks.”;

13 (D) in paragraph (2), as redesignated—

14 (i) by striking “make a declaration of”
15 in subparagraph (I) and inserting “dem-
16 onstrate”;

17 (ii) by amending subparagraph (M) to
18 read as follows:

19 “(M) ensures participation in appropriate
20 Federal Motor Carrier Safety Administration
21 systems and other information systems by all ap-
22 propriate jurisdictions receiving Motor Carrier
23 Safety Assistance Program funding.”;

1 (iii) in subparagraph (Q), by inserting
2 “and dedicated sufficient resources to” be-
3 tween “established” and “a program”;

4 (iv) in subparagraph (W), by striking
5 “and” after the semicolon;

6 (v) by amending subparagraph (X) to
7 read as follows:

8 “(X) except in the case of an imminent or
9 obvious safety hazard, ensures that an inspection
10 of a vehicle transporting passengers for a motor
11 carrier of passengers is conducted at a station,
12 terminal, border crossing, maintenance facility,
13 destination, weigh station, rest stop, turnpike
14 service area, or a location where adequate food,
15 shelter, and sanitation facilities are available for
16 passengers, and reasonable accommodation is
17 available for passengers with disabilities; and”;
18 and

19 (vi) by adding after subparagraph (X)
20 the following:

21 “(Y) ensures that the State will transmit to
22 its roadside inspectors the notice of each Federal
23 exemption granted pursuant to section 31315(b)
24 and provided to the State by the Secretary, in-
25 cluding the name of the person granted the ex-

1 *exemption and any terms and conditions that*
2 *apply to the exemption.”; and*

3 *(E) by amending paragraph (4), as redesign-*
4 *ated, to read as follows:*

5 “(4) *MAINTENANCE OF EFFORT.*—

6 “(A) *IN GENERAL.*—*A plan submitted by a*
7 *State under paragraph (2) shall provide that the*
8 *total expenditure of amounts of the lead State*
9 *agency responsible for implementing the plan*
10 *will be maintained at a level at least equal to the*
11 *average level of that expenditure for fiscal years*
12 *2004 and 2005.*

13 “(B) *AVERAGE LEVEL OF STATE EXPENDI-*
14 *TURES.*—*In estimating the average level of State*
15 *expenditure under subparagraph (A), the Sec-*
16 *retary—*

17 “(i) *may allow the State to exclude*
18 *State expenditures for Government-spon-*
19 *sored demonstration or pilot programs; and*

20 “(ii) *shall require the State to exclude*
21 *State matching amounts used to receive*
22 *Government financing under this sub-*
23 *section.*

24 “(C) *WAIVER.*—*Upon the request of a State,*
25 *the Secretary may waive or modify the require-*

1 *ments of this paragraph for 1 fiscal year, if the*
2 *Secretary determines that a waiver is equitable*
3 *due to exceptional or uncontrollable cir-*
4 *cumstances, such as a natural disaster or a seri-*
5 *ous decline in the financial resources of the State*
6 *motor carrier safety assistance program agen-*
7 *cy.”;*

8 *(4) by redesignating subsection (e) as subsection*
9 *(h); and*

10 *(5) by inserting after subsection (d) the fol-*
11 *lowing:*

12 *“(e) NEW ENTRANT SAFETY ASSURANCE PROGRAM.—*

13 *“(1) PROGRAM GOAL.—The Secretary may make*
14 *grants to States and local governments for pre-author-*
15 *ization safety audits and new entrant motor carrier*
16 *audits as described in section 31144(g).*

17 *“(2) RECIPIENTS.—Grants made in support of*
18 *this program may be provided to States and local*
19 *governments.*

20 *“(3) FEDERAL SHARE.—The Federal share of a*
21 *grant made under this program is 100 percent.*

22 *“(4) ELIGIBLE ACTIVITIES.—Eligible activities*
23 *will be in accordance with criteria developed by the*
24 *Secretary and posted in the Federal Register in ad-*
25 *vance of the grant application period.*

1 “(5) *DETERMINATION.*—*If the Secretary deter-*
2 *mines that a State or local government is unable to*
3 *conduct a new entrant motor carrier audit, the Sec-*
4 *retary may use the funds to conduct the audit.*

5 “(f) *BORDER ENFORCEMENT.*—

6 “(1) *PROGRAM GOAL.*—*The Secretary of Trans-*
7 *portation may make a grant for carrying out border*
8 *commercial motor vehicle safety programs and related*
9 *enforcement activities and projects.*

10 “(2) *RECIPIENTS.*—*The Secretary of Transpor-*
11 *tation may make a grant to an entity, State, or other*
12 *person for carrying out border commercial motor ve-*
13 *hicle safety programs and related enforcement activi-*
14 *ties and projects.*

15 “(3) *FEDERAL SHARE.*—*The Secretary shall re-*
16 *imburse a grantee at least 100 percent of the costs in-*
17 *curring in a fiscal year for carrying out border com-*
18 *mercial motor vehicle safety programs and related en-*
19 *forcement activities and projects.*

20 “(4) *ELIGIBLE ACTIVITIES.*—*An eligible activity*
21 *will be in accordance with criteria developed by the*
22 *Secretary and posted in the Federal Register in ad-*
23 *vance of the grant application period.*

24 “(g) *HIGH PRIORITY INITIATIVES.*—

1 “(1) *PROGRAM GOAL.*—*The Secretary may make*
2 *grants to carry out high priority activities and*
3 *projects that improve commercial motor vehicle safety*
4 *and compliance with commercial motor vehicle safety*
5 *regulations, including activities and projects that—*

6 “(A) *are national in scope;*

7 “(B) *increase public awareness and edu-*
8 *cation;*

9 “(C) *target unsafe driving of commercial*
10 *motor vehicles and non-commercial motor vehi-*
11 *cles in areas identified as high risk crash cor-*
12 *ridors;*

13 “(D) *improve consumer protection and en-*
14 *forcement of household goods regulations;*

15 “(E) *improve the movement of hazardous*
16 *materials safely and securely, including activi-*
17 *ties related to the establishment of uniform forms*
18 *and application procedures that improve the ac-*
19 *curacy, timeliness, and completeness of commer-*
20 *cial motor vehicle safety data reported to the*
21 *Secretary; or*

22 “(F) *demonstrate new technologies to im-*
23 *prove commercial motor vehicle safety.*

24 “(2) *RECIPIENTS.*—*The Secretary may allocate*
25 *amounts to award grants to State agencies, local gov-*

1 *ernments, and other persons for carrying out high*
 2 *priority activities and projects that improve commer-*
 3 *cial motor vehicle safety and compliance with com-*
 4 *mercial motor vehicle safety regulations in accordance*
 5 *with the program goals specified in paragraph (1).*

6 “(3) *FEDERAL SHARE.*—*The Secretary shall re-*
 7 *imburse a grantee at least 80 percent of the costs in-*
 8 *curring in a fiscal year for carrying out the high pri-*
 9 *ority activities or projects.*

10 “(4) *ELIGIBLE ACTIVITIES.*—*An eligible activity*
 11 *will be in accordance with criteria that is—*

12 “(A) *developed by the Secretary; and*

13 “(B) *posted in the Federal Register in ad-*
 14 *vance of the grant application period.”.*

15 (b) *CONFORMING AMENDMENT.*—*The analysis of chap-*
 16 *ter 311 is amended by striking the item relating to section*
 17 *31102 and inserting the following:*

“31102. *Compliance, safety, and accountability grants.*”.

18 **SEC. 32602. PERFORMANCE AND REGISTRATION INFORMA-**
 19 **TION SYSTEMS MANAGEMENT PROGRAM.**

20 *Section 31106(b) is amended—*

21 (1) *by amending paragraph (3)(C) to read as*
 22 *follows—*

23 “(C) *establish and implement a process—*

24 “(i) *to cancel the motor vehicle reg-*
 25 *istration and seize the registration plates of*

1 *a vehicle when an employer is found liable*
2 *under section 31310(j)(2)(C) for knowingly*
3 *allowing or requiring an employee to oper-*
4 *ate such a commercial motor vehicle in vio-*
5 *lation of an out-of-service order; and*

6 *“(ii) to reinstate the vehicle registra-*
7 *tion or return the registration plates of the*
8 *commercial motor vehicle, subject to sanc-*
9 *tions under clause (i), if the Secretary per-*
10 *mits such carrier to resume operations after*
11 *the date of issuance of such order.”; and*

12 *(2) by striking paragraph (4).*

13 **SEC. 32603. COMMERCIAL MOTOR VEHICLE DEFINED.**

14 *Section 31101(1) is amended to read as follows:*

15 *“(1) ‘commercial motor vehicle’ means (except*
16 *under section 31106) a self-propelled or towed vehicle*
17 *used on the highways in commerce to transport pas-*
18 *sengers or property, if the vehicle—*

19 *“(A) has a gross vehicle weight rating or*
20 *gross vehicle weight of at least 10,001 pounds,*
21 *whichever is greater;*

22 *“(B) is designed or used to transport more*
23 *than 8 passengers, including the driver, for com-*
24 *ensation;*

1 “(C) is designed or used to transport more
2 than 15 passengers, including the driver, and is
3 not used to transport passengers for compensa-
4 tion; or

5 “(D) is used in transporting material found
6 by the Secretary of Transportation to be haz-
7 ardous under section 5103 and transported in a
8 quantity requiring placarding under regulations
9 prescribed by the Secretary under section 5103.”.

10 **SEC. 32604. DRIVER SAFETY FITNESS RATINGS.**

11 Section 31144, as amended by section 32204 of this
12 Act, is amended by adding at the end the following:

13 “(i) **COMMERCIAL MOTOR VEHICLE DRIVERS.**—The
14 Secretary may maintain by regulation a procedure for de-
15 termining the safety fitness of a commercial motor vehicle
16 driver and for prohibiting the driver from operating in
17 interstate commerce. The procedure and prohibition shall
18 include the following:

19 “(1) Specific initial and continuing require-
20 ments that a driver must comply with to demonstrate
21 safety fitness.

22 “(2) The methodology and continually updated
23 safety performance data that the Secretary will use to
24 determine whether a driver is fit, including inspec-

1 *tion results, serious traffic offenses, and crash involve-*
2 *ment data.*

3 *“(3) Specific time frames within which the Sec-*
4 *retary will determine whether a driver is fit.*

5 *“(4) A prohibition period or periods, not to ex-*
6 *ceed 1 year, that a driver that the Secretary deter-*
7 *mines is not fit will be prohibited from operating a*
8 *commercial motor vehicle in interstate commerce. The*
9 *period or periods shall begin on the 46th day after the*
10 *date of the fitness determination and continue until*
11 *the Secretary determines the driver is fit or until the*
12 *prohibition period expires.*

13 *“(5) A review by the Secretary, not later than 30*
14 *days after an unfit driver requests a review, of the*
15 *driver’s compliance with the requirements the driver*
16 *failed to comply with and that resulted in the Sec-*
17 *retary determining that the driver was not fit. The*
18 *burden of proof shall be on the driver to demonstrate*
19 *fitness.*

20 *“(6) The eligibility criteria for reinstatement, in-*
21 *cluding the remedial measures the unfit driver must*
22 *take for reinstatement.”.*

1 **SEC. 32605. UNIFORM ELECTRONIC CLEARANCE FOR COM-**
2 **MERCIAL MOTOR VEHICLE INSPECTIONS.**

3 (a) *IN GENERAL.*—Chapter 311 is amended by adding
4 after section 31109 the following:

5 **“§31110. Withholding amounts for State noncompli-**
6 **ance**

7 “(a) *FIRST FISCAL YEAR.*—Subject to criteria estab-
8 lished by the Secretary of Transportation, the Secretary
9 may withhold up to 50 percent of the amount a State is
10 otherwise eligible to receive under section 31102(b) on the
11 first day of the fiscal year after the first fiscal year fol-
12 lowing the date of enactment of the Commercial Motor Vehi-
13 cle Safety Enhancement Act of 2012 in which the State uses
14 for at least 180 days an electronic commercial motor vehicle
15 inspection selection system that does not employ a selection
16 methodology approved by the Secretary.

17 “(b) *SECOND FISCAL YEAR.*—The Secretary shall
18 withhold up to 75 percent of the amount a State is other-
19 wise eligible to receive under section 31102(b) on the first
20 day of the fiscal year after the second fiscal year following
21 the date of enactment of the Commercial Motor Vehicle Safe-
22 ty Enhancement Act of 2012 in which the State uses for
23 at least 180 days an electronic commercial motor vehicle
24 inspection selection system that does not employ a selection
25 methodology approved by the Secretary.

1 “(c) *SUBSEQUENT AVAILABILITY OF WITHHELD*
 2 *FUNDS.*—*The Secretary may make the amounts withheld*
 3 *under subsection (a) or subsection (b) available to the State*
 4 *if the Secretary determines that the State has substantially*
 5 *complied with the requirement described under subsection*
 6 *(a) or subsection (b) not later than 180 days after the begin-*
 7 *ning of the fiscal year in which amounts were withheld.”.*

8 (b) *CONFORMING AMENDMENT.*—*The analysis of chap-*
 9 *ter 311 is amended by inserting after the item relating to*
 10 *section 31109 the following:*

“31110. Withholding amounts for State noncompliance.”.

11 **SEC. 32606. AUTHORIZATION OF APPROPRIATIONS.**

12 *Section 31104 is amended to read as follows:*

13 **“§ 31104. Availability of amounts**

14 “(a) *IN GENERAL.*—*There are authorized to be appro-*
 15 *priated from Highway Trust Fund (other than the Mass*
 16 *Transit Account) for Federal Motor Carrier Safety Admin-*
 17 *istration programs the following:*

18 “(1) *COMPLIANCE, SAFETY, AND ACCOUNTABILITY*
 19 *GRANTS UNDER SECTION 31102.*—

20 “(A) \$249,717,000 for fiscal year 2012, pro-
 21 *vided that the Secretary shall set aside not less*
 22 *than \$168,388,000 to carry out the motor carrier*
 23 *safety assistance program under section*
 24 *31102(b); and*

1 “(B) \$253,814,000 for fiscal year 2013, pro-
2 vided that the Secretary shall set aside not less
3 than \$171,813,000 to carry out the motor carrier
4 safety assistance program under section
5 31102(b).

6 “(2) DATA AND TECHNOLOGY GRANTS UNDER
7 SECTION 31109.—

8 “(A) \$30,000,000 for fiscal year 2012; and

9 “(B) \$30,000,000 for fiscal year 2013.

10 “(3) DRIVER SAFETY GRANTS UNDER SECTION
11 31313.—

12 “(A) \$31,000,000 for fiscal year 2012; and

13 “(B) \$31,000,000 for fiscal year 2013.

14 “(4) CRITERIA.—The Secretary shall develop cri-
15 teria to allocate the remaining funds under para-
16 graphs (1), (2), and (3) for fiscal year 2013 and for
17 each fiscal year thereafter not later than April 1 of
18 the prior fiscal year.

19 “(b) AVAILABILITY AND REALLOCATION OF
20 AMOUNTS.—

21 “(1) ALLOCATIONS AND REALLOCATIONS.—
22 Amounts made available under subsection (a)(1) re-
23 main available until expended. Allocations to a State
24 remain available for expenditure in the State for the
25 fiscal year in which they are allocated and for the

1 *next fiscal year. Amounts not expended by a State*
2 *during those 2 fiscal years are released to the Sec-*
3 *retary for reallocation.*

4 “(2) *REDISTRIBUTION OF AMOUNTS.—The Sec-*
5 *retary may, after August 1 of each fiscal year, upon*
6 *a determination that a State does not qualify for*
7 *funding under section 31102(b) or that the State will*
8 *not expend all of its existing funding, reallocate the*
9 *State’s funding. In revising the allocation and redis-*
10 *tributing the amounts, the Secretary shall give pref-*
11 *erence to those States that require additional funding*
12 *to meet program goals under section 31102(b).*

13 “(3) *PERIOD OF AVAILABILITY FOR DATA AND*
14 *TECHNOLOGY GRANTS.—Amounts made available*
15 *under subsection (a)(2) remain available for obliga-*
16 *tion for the fiscal year and the next 2 years in which*
17 *they are appropriated. Allocations remain available*
18 *for expenditure in the State for 5 fiscal years after*
19 *they were obligated. Amounts not expended by a State*
20 *during those 3 fiscal years are released to the Sec-*
21 *retary for reallocation.*

22 “(4) *PERIOD OF AVAILABILITY FOR DRIVER*
23 *SAFETY GRANTS.—Amounts made available under*
24 *subsection (a)(3) of this section remain available for*
25 *obligation for the fiscal year and the next fiscal year*

1 *in which they are appropriated. Allocations to a*
2 *State remain available for expenditure in the State*
3 *for the fiscal year in which they are allocated and for*
4 *the following 2 fiscal years. Amounts not expended by*
5 *a State during those 3 fiscal years are released to the*
6 *Secretary for reallocation.*

7 “(5) *REALLOCATION.*—*The Secretary, upon a re-*
8 *quest by a State, may reallocate grant funds pre-*
9 *viously awarded to the State under a grant program*
10 *authorized by section 31102, 31109, or 31313 to an-*
11 *other grant program authorized by those sections*
12 *upon a showing by the State that it is unable to ex-*
13 *pend the funds within the 12 months prior to their*
14 *expiration provided that the State agrees to expend*
15 *the funds within the remaining period of expenditure.*

16 “(c) *GRANTS AS CONTRACTUAL OBLIGATIONS.*—*Ap-*
17 *proval by the Secretary of a grant under sections 31102,*
18 *31109, and 31313 is a contractual obligation of the Govern-*
19 *ment for payment of the Government’s share of costs in-*
20 *curred in developing and implementing programs to im-*
21 *prove commercial motor vehicle safety and enforce commer-*
22 *cial driver’s license regulations, standards, and orders.*

23 “(d) *DEDUCTION FOR ADMINISTRATIVE EXPENSES.*—

24 “(1) *IN GENERAL.*—*On October 1 of each fiscal*
25 *year or as soon after that as practicable, the Sec-*

1 *retary may deduct, from amounts made available*
2 *under—*

3 *“(A) subsection (a)(1) for that fiscal year,*
4 *not more than 1.5 percent of those amounts for*
5 *administrative expenses incurred in carrying out*
6 *section 31102 in that fiscal year;*

7 *“(B) subsection (a)(2) for that fiscal year,*
8 *not more than 1.4 percent of those amounts for*
9 *administrative expenses incurred in carrying out*
10 *section 31109 in that fiscal year; and*

11 *“(C) subsection (a)(3) for that fiscal year,*
12 *not more than 1.4 percent of those amounts for*
13 *administrative expenses incurred in carrying out*
14 *section 31313 in that fiscal year.*

15 *“(2) TRAINING.—The Secretary may use at least*
16 *50 percent of the amounts deducted from the amounts*
17 *made available under sections (a)(1) and (a)(3) to*
18 *train non-Government employees and to develop re-*
19 *lated training materials to carry out sections 31102,*
20 *31311, and 31313 of this title.*

21 *“(3) CONTRACTS.—The Secretary may use*
22 *amounts deducted under paragraph (1) to enter into*
23 *contracts and cooperative agreements with States,*
24 *local governments, associations, institutions, corpora-*
25 *tions, and other persons, if the Secretary determines*

1 *the contracts and cooperative agreements are cost-ef-*
2 *fective, benefit multiple jurisdictions of the United*
3 *States, and enhance safety programs and related en-*
4 *forcement activities.*

5 “(e) *ALLOCATION CRITERIA AND ELIGIBILITY.*—

6 “(1) *On October 1 of each fiscal year or as soon*
7 *as practicable after that date after making the deduc-*
8 *tion under subsection (d)(1)(A), the Secretary shall*
9 *allocate amounts made available to carry out section*
10 *31102(b) for such fiscal year among the States with*
11 *plans approved under that section. Allocation shall be*
12 *made under the criteria prescribed by the Secretary.*

13 “(2) *On October 1 of each fiscal year or as soon*
14 *as practicable after that date and after making the*
15 *deduction under subsection (d)(1)(B) or (d)(1)(C), the*
16 *Secretary shall allocate amounts made available to*
17 *carry out sections 31109(a) and 31313(b)(1).*

18 “(f) *INTRASTATE COMPATIBILITY.*—*The Secretary*
19 *shall prescribe regulations specifying tolerance guidelines*
20 *and standards for ensuring compatibility of intrastate com-*
21 *mercial motor vehicle safety laws and regulations with Gov-*
22 *ernment motor carrier safety regulations to be enforced*
23 *under section 31102(b). To the extent practicable, the guide-*
24 *lines and standards shall allow for maximum flexibility*
25 *while ensuring a degree of uniformity that will not dimin-*

1 *ish transportation safety. In reviewing State plans and al-*
2 *locating amounts or making grants under section 153 of*
3 *title 23, United States Code, the Secretary shall ensure that*
4 *the guidelines and standards are applied uniformly.*

5 “(g) *WITHHOLDING AMOUNTS FOR STATE NONCOMPLI-*
6 *ANCE.—*

7 “(1) *IN GENERAL.—Subject to criteria estab-*
8 *lished by the Secretary, the Secretary may withhold*
9 *up to 100 percent of the amounts a State is otherwise*
10 *eligible to receive under section 31102(b) on October*
11 *1 of each fiscal year beginning after the date of enact-*
12 *ment of the Commercial Motor Vehicle Safety En-*
13 *hancement Act of 2012 and continuing for the period*
14 *that the State does not comply substantially with a*
15 *requirement under section 31109(b).*

16 “(2) *SUBSEQUENT AVAILABILITY OF WITHHELD*
17 *FUNDS.—The Secretary may make the amounts with-*
18 *held in accordance with paragraph (1) available to a*
19 *State if the Secretary determines that the State has*
20 *substantially complied with a requirement under sec-*
21 *tion 31109(b) not later than 180 days after the begin-*
22 *ning of the fiscal year in which the amounts are*
23 *withheld.*

24 “(h) *ADMINISTRATIVE EXPENSES.—*

1 “(1) *AUTHORIZATION OF APPROPRIATIONS.*—
2 *There are authorized to be appropriated from the*
3 *Highway Trust Fund (other than the Mass Transit*
4 *Account) for the Secretary to pay administrative ex-*
5 *penditures of the Federal Motor Carrier Safety Adminis-*
6 *tration—*

7 “(A) \$250,819,000 for fiscal year 2012; and

8 “(B) \$248,523,000 for fiscal year 2013.

9 “(2) *USE OF FUNDS.*—*The funds authorized by*
10 *this subsection shall be used for personnel costs, ad-*
11 *ministrative infrastructure, rent, information tech-*
12 *nology, programs for research and technology, infor-*
13 *mation management, regulatory development, the ad-*
14 *ministration of the performance and registration in-*
15 *formation system management, outreach and edu-*
16 *cation, other operating expenses, and such other ex-*
17 *penditures as may from time to time be necessary to im-*
18 *plement statutory mandates of the Administration not*
19 *funded from other sources.*

20 “(i) *AVAILABILITY OF FUNDS.*—

21 “(1) *PERIOD OF AVAILABILITY.*—*The amounts*
22 *made available under this section shall remain avail-*
23 *able until expended.*

24 “(2) *INITIAL DATE OF AVAILABILITY.*—*Author-*
25 *izations from the Highway Trust Fund (other than*

1 *the Mass Transit Account) for this section shall be*
2 *available for obligation on the date of their appor-*
3 *tionment or allocation or on October 1 of the fiscal*
4 *year for which they are authorized, whichever occurs*
5 *first.”*

6 “(j) *PAYMENT TO RECIPIENTS OF FINANCIAL ASSIST-*
7 *ANCE FOR COSTS.—Each grantee shall submit vouchers to*
8 *the Secretary for costs the grantee has incurred under sec-*
9 *tions 31102, 31109, and 31313. The Secretary shall pay*
10 *the grantee an amount equal to not more than the Govern-*
11 *ment share of costs incurred as of the date on which the*
12 *vouchers are submitted.”.*

13 **SEC. 32607. HIGH RISK CARRIER REVIEWS.**

14 (a) *HIGH RISK CARRIER REVIEWS.—Section*
15 *31104(h), as amended by section 32606 of this Act, is*
16 *amended by adding at the end of paragraph (2) the fol-*
17 *lowing:*

18 “*From the funds authorized by this subsection, the Sec-*
19 *retary shall ensure that a review is completed on each motor*
20 *carrier that demonstrates through performance data that it*
21 *poses the highest safety risk. At a minimum, a review shall*
22 *be conducted whenever a motor carrier is among the highest*
23 *risk carriers for 2 consecutive months.”.*

24 (b) *CONFORMING AMENDMENT.—Section 4138 of the*
25 *Safe, Accountable, Flexible, Efficient Transportation Eq-*

1 *uity Act: A Legacy for Users (49 U.S.C. 31144 note) is re-*
2 *pealed.*

3 **SEC. 32608. DATA AND TECHNOLOGY GRANTS.**

4 (a) *IN GENERAL.*—Section 31109 is amended to read
5 *as follows:*

6 **“§31109. Data and technology grants**

7 “(a) *GENERAL AUTHORITY.*—The Secretary of Trans-
8 *portation shall establish and administer a data and tech-*
9 *nology grant program to assist the States with the imple-*
10 *mentation and maintenance of data systems. The Secretary*
11 *shall allocate the funds in accordance with section 31104.*

12 “(b) *PERFORMANCE GOALS.*—The Secretary may
13 *make a grant to a State to implement the performance and*
14 *registration information system management requirements*
15 *of section 31106(b) to develop, implement, and maintain*
16 *commercial vehicle information systems and networks, and*
17 *other innovative technologies that the Secretary determines*
18 *improve commercial motor vehicle safety.*

19 “(c) *ELIGIBILITY.*—To be eligible for a grant to imple-
20 *ment the requirements of section 31106(b), the State shall*
21 *design a program that—*

22 “(1) *links Federal motor carrier safety informa-*
23 *tion systems with the State’s motor carrier informa-*
24 *tion systems;*

1 “(2) *determines the safety fitness of a motor car-*
2 *rier or registrant when licensing or registering the*
3 *registrant or motor carrier or while the license or reg-*
4 *istration is in effect; and*

5 “(3) *denies, suspends, or revokes the commercial*
6 *motor vehicle registrations of a motor carrier or reg-*
7 *istrant that was issued an operations out-of-service*
8 *order by the Secretary.*

9 “(d) *REQUIRED PARTICIPATION.—The Secretary shall*
10 *require States that participate in the program under sec-*
11 *tion 31106 to—*

12 “(1) *comply with the uniform policies, proce-*
13 *dures, and technical and operational standards pre-*
14 *scribed by the Secretary under section 31106(b);*

15 “(2) *possess or seek the authority to possess for*
16 *a time period not longer than determined reasonable*
17 *by the Secretary, to impose sanctions relating to com-*
18 *mercial motor vehicle registration on the basis of a*
19 *Federal safety fitness determination; and*

20 “(3) *establish and implement a process to cancel*
21 *the motor vehicle registration and seize the registra-*
22 *tion plates of a vehicle when an employer is found*
23 *liable under section 31310(j)(2)(C) for knowingly al-*
24 *lowing or requiring an employee to operate such a*

1 *commercial motor vehicle in violation of an out of*
2 *service order.*

3 “(e) *FEDERAL SHARE.*—*The total Federal share of the*
4 *cost of a project payable from all eligible Federal sources*
5 *shall be at least 80 percent.”.*

6 (b) *CONFORMING AMENDMENT.*—*The analysis of chap-*
7 *ter 311 is amended by striking the item relating to section*
8 *31109 and inserting the following:*

 “31109. *Data and technology grants.*”.

9 **SEC. 32609. DRIVER SAFETY GRANTS.**

10 (a) *DRIVER FOCUSED GRANT PROGRAM.*—*Section*
11 *31313 is amended to read as follows:*

12 **“§ 31313. Driver safety grants**

13 “(a) *GENERAL AUTHORITY.*—*The Secretary shall*
14 *make and administer a driver focused grant program to*
15 *assist the States, local governments, entities, and other per-*
16 *sons with commercial driver’s license systems, programs,*
17 *training, fraud detection, reporting of violations and other*
18 *programs required to improve the safety of drivers as the*
19 *Federal Motor Carrier Safety Administration deems crit-*
20 *ical. The Secretary shall allocate the funds for the program*
21 *in accordance with section 31104.*

22 “(b) *COMMERCIAL DRIVER’S LICENSE PROGRAM IM-*
23 *PROVEMENT GRANTS.*—

1 “(1) *PROGRAM GOAL.*—*The Secretary of Trans-*
2 *portation may make a grant to a State in a fiscal*
3 *year—*

4 “(A) *to comply with the requirements of sec-*
5 *tion 31311;*

6 “(B) *in the case of a State that is making*
7 *a good faith effort toward substantial compliance*
8 *with the requirements of this section and section*
9 *31311, to improve its implementation of its com-*
10 *mercial driver’s license program;*

11 “(C) *for research, development demonstra-*
12 *tion projects, public education, and other special*
13 *activities and projects relating to commercial*
14 *driver licensing and motor vehicle safety that are*
15 *of benefit to all jurisdictions of the United States*
16 *or are designed to address national safety con-*
17 *cerns and circumstances;*

18 “(D) *for commercial driver’s license pro-*
19 *gram coordinators;*

20 “(E) *to implement or maintain a system to*
21 *notify an employer of an operator of a commer-*
22 *cial motor vehicle of the suspension or revocation*
23 *of the operator’s commercial driver’s license con-*
24 *sistent with the standards developed under sec-*

1 *tion 32304(b) of the Commercial Motor Vehicle*
2 *Safety Enhancement Act of 2012; or*

3 *“(F) to train operators of commercial motor*
4 *vehicles, as defined under section 31301, and to*
5 *train operators and future operators in the safe*
6 *use of such vehicles. Funding priority for this*
7 *discretionary grant program shall be to regional*
8 *or multi-state educational or nonprofit associa-*
9 *tions serving economically distressed regions of*
10 *the United States.*

11 *“(2) PRIORITY.—The Secretary shall give pri-*
12 *ority, in making grants under paragraph (1)(B), to*
13 *a State that will use the grants to achieve compliance*
14 *with the requirements of the Motor Carrier Safety Im-*
15 *provement Act of 1999 (113 Stat. 1748), including*
16 *the amendments made by the Commercial Motor Vehi-*
17 *cle Safety Enhancement Act of 2012.*

18 *“(3) RECIPIENTS.—The Secretary may allocate*
19 *grants to State agencies, local governments, and other*
20 *persons for carrying out activities and projects that*
21 *improve commercial driver’s license safety and com-*
22 *pliance with commercial driver’s license and commer-*
23 *cial motor vehicle safety regulations in accordance*
24 *with the program goals under paragraph (1) and that*
25 *train operators on commercial motor vehicles. The*

1 *Secretary may make a grant to a State to comply*
2 *with section 31311 for commercial driver’s license*
3 *program coordinators and for notification systems.*

4 “(4) *FEDERAL SHARE.*—*The Federal share of a*
5 *grant made under this program shall be at least 80*
6 *percent, except that the Federal share of grants for*
7 *commercial driver license program coordinators and*
8 *training commercial motor vehicle operators shall be*
9 *100 percent.*”.

10 “(b) *CONFORMING AMENDMENT.*—*The analysis of chap-*
11 *ter 313 is amended by striking the item relating to section*
12 *31313 and inserting the following:*

 “31313. *Driver safety grants.*”.

13 **SEC. 32610. COMMERCIAL VEHICLE INFORMATION SYSTEMS**
14 **AND NETWORKS.**

15 *Not later than 6 months after the date of enactment*
16 *of this Act, the Secretary shall submit a report to the Com-*
17 *mittee on Commerce, Science, and Transportation of the*
18 *Senate and the Committee on Transportation and Infra-*
19 *structure of the House of Representatives that includes—*

20 (1) *established time frames and milestones for re-*
21 *suming the Commercial Vehicle Information Systems*
22 *and Networks Program; and*

23 (2) *a strategic workforce plan for its grants*
24 *management office to ensure that it has determined*

1 *the skills and competencies that are critical to achiev-*
2 *ing its mission goals.*

3 ***Subtitle G—Motorcoach Enhanced***
4 ***Safety Act of 2012***

5 **SEC. 32701. SHORT TITLE.**

6 *This subtitle may be cited as the “Motorcoach En-*
7 *hanced Safety Act of 2012”.*

8 **SEC. 32702. DEFINITIONS.**

9 *In this subtitle:*

10 (1) *ADVANCED GLAZING.*—*The term “advanced*
11 *glazing” means glazing installed in a portal on the*
12 *side or the roof of a motorcoach that is designed to*
13 *be highly resistant to partial or complete occupant*
14 *ejection in all types of motor vehicle crashes.*

15 (2) *BUS.*—*The term “bus” has the meaning*
16 *given the term in section 571.3(b) of title 49, Code of*
17 *Federal Regulations (as in effect on the day before the*
18 *date of enactment of this Act).*

19 (3) *COMMERCIAL MOTOR VEHICLE.*—*Except as*
20 *otherwise specified, the term “commercial motor vehi-*
21 *cle” has the meaning given the term in section*
22 *31132(1) of title 49, United States Code.*

23 (4) *DIRECT TIRE PRESSURE MONITORING SYS-*
24 *TEM.*—*The term “direct tire pressure monitoring sys-*
25 *tem” means a tire pressure monitoring system that is*

1 *capable of directly detecting when the air pressure*
2 *level in any tire is significantly under-inflated and*
3 *providing the driver a low tire pressure warning as*
4 *to which specific tire is significantly under-inflated.*

5 (5) *ELECTRONIC ON-BOARD RECORDER.*—*The*
6 *term “electronic on-board recorder” means an elec-*
7 *tronic device that acquires and stores data showing*
8 *the record of duty status of the vehicle operator and*
9 *performs the functions required of an automatic on-*
10 *board recording device in section 395.15(b) of title 49,*
11 *Code of Federal Regulations.*

12 (6) *EVENT DATA RECORDER.*—*The term “event*
13 *data recorder” has the meaning given that term in*
14 *section 563.5 of title 49, Code of Federal Regulations.*

15 (7) *MOTOR CARRIER.*—*The term “motor carrier”*
16 *means—*

17 (A) *a motor carrier (as defined in section*
18 *13102(14) of title 49, United States Code); or*

19 (B) *a motor private carrier (as defined in*
20 *section 13102(15) of that title).*

21 (8) *MOTORCOACH.*—*The term “motorcoach” has*
22 *the meaning given the term “over-the-road bus” in*
23 *section 3038(a)(3) of the Transportation Equity Act*
24 *for the 21st Century (49 U.S.C. 5310 note), but does*
25 *not include—*

1 (A) a bus used in public transportation
2 provided by, or on behalf of, a public transpor-
3 tation agency; or

4 (B) a school bus, including a multifunction
5 school activity bus.

6 (9) *MOTORCOACH SERVICES*.—The term “motor-
7 coach services” means passenger transportation by
8 motorcoach for compensation.

9 (10) *MULTIFUNCTION SCHOOL ACTIVITY BUS*.—
10 The term “multifunction school activity bus” has the
11 meaning given the term in section 571.3(b) of title 49,
12 Code of Federal Regulations (as in effect on the day
13 before the date of enactment of this Act).

14 (11) *PORTAL*.—The term “portal” means any
15 opening on the front, side, rear, or roof of a motor-
16 coach that could, in the event of a crash involving the
17 motorcoach, permit the partial or complete ejection of
18 any occupant from the motorcoach, including a young
19 child.

20 (12) *PROVIDER OF MOTORCOACH SERVICES*.—
21 The term “provider of motorcoach services” means a
22 motor carrier that provides passenger transportation
23 services with a motorcoach, including per-trip com-
24 pensation and contracted or chartered compensation.

1 (13) *PUBLIC TRANSPORTATION.*—*The term “pub-*
2 *lic transportation” has the meaning given the term in*
3 *section 5302 of title 49, United States Code.*

4 (14) *SAFETY BELT.*—*The term “safety belt” has*
5 *the meaning given the term in section 153(i)(4)(B) of*
6 *title 23, United States Code.*

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

9 **SEC. 32703. REGULATIONS FOR IMPROVED OCCUPANT PRO-**
10 **TECTION, PASSENGER EVACUATION, AND**
11 **CRASH AVOIDANCE.**

12 (a) *REGULATIONS REQUIRED WITHIN 1 YEAR.*—*Not*
13 *later than 1 year after the date of enactment of this Act,*
14 *the Secretary shall prescribe regulations requiring safety*
15 *belts to be installed in motorcoaches at each designated seat-*
16 *ing position.*

17 (b) *REGULATIONS REQUIRED WITHIN 2 YEARS.*—*Not*
18 *later than 2 years after the date of enactment of this Act,*
19 *the Secretary shall prescribe the following commercial*
20 *motor vehicle regulations:*

21 (1) *ROOF STRENGTH AND CRUSH RESISTANCE.*—
22 *The Secretary shall establish improved roof and roof*
23 *support standards for motorcoaches that substantially*
24 *improve the resistance of motorcoach roofs to deforma-*

1 *tion and intrusion to prevent serious occupant injury*
2 *in rollover crashes involving motorcoaches.*

3 (2) *ANTI-EJECTION SAFETY COUNTER-*
4 *MEASURES.—The Secretary shall require advanced*
5 *glazing to be installed in each motorcoach portal and*
6 *shall consider other portal improvements to prevent*
7 *partial and complete ejection of motorcoach pas-*
8 *sengers, including children. In prescribing such*
9 *standards, the Secretary shall consider the impact of*
10 *such standards on the use of motorcoach portals as a*
11 *means of emergency egress.*

12 (3) *ROLLOVER CRASH AVOIDANCE.—The Sec-*
13 *retary shall require motorcoaches to be equipped with*
14 *stability enhancing technology, such as electronic sta-*
15 *bility control and torque vectoring, to reduce the*
16 *number and frequency of rollover crashes among*
17 *motorcoaches.*

18 (c) *COMMERCIAL MOTOR VEHICLE TIRE PRESSURE*
19 *MONITORING SYSTEMS.—Not later than 3 years after the*
20 *date of enactment of this Act, the Secretary shall prescribe*
21 *the following commercial vehicle regulation:*

22 (1) *IN GENERAL.—The Secretary shall require*
23 *motorcoaches to be equipped with direct tire pressure*
24 *monitoring systems that warn the operator of a com-*
25 *mercial motor vehicle when any tire exhibits a level*

1 *of air pressure that is below a specified level of air*
2 *pressure established by the Secretary.*

3 (2) *PERFORMANCE REQUIREMENTS.—The regula-*
4 *tion prescribed by the Secretary under this subsection*
5 *shall include performance requirements to ensure that*
6 *direct tire pressure monitoring systems are capable*
7 *of—*

8 (A) *providing a warning to the driver when*
9 *1 or more tires are underinflated;*

10 (B) *activating in a specified time period*
11 *after the underinflation is detected; and*

12 (C) *operating at different vehicle speeds.*

13 (d) *APPLICATION OF REGULATIONS.—*

14 (1) *NEW MOTORCOACHES.—Any regulation pre-*
15 *scribed in accordance with subsection (a), (b), or (c)*
16 *shall apply to all motorcoaches manufactured more*
17 *than 2 years after the date on which the regulation*
18 *is published as a final rule.*

19 (2) *RETROFIT REQUIREMENTS FOR EXISTING*
20 *MOTORCOACHES.—*

21 (A) *IN GENERAL.—The Secretary may, by*
22 *regulation, provide for the application of any re-*
23 *quirement established under subsection (a) or*
24 *(b)(2) to motorcoaches manufactured before the*
25 *date on which the requirement applies to new*

1 *motorcoaches under paragraph (1) based on an*
2 *assessment of the feasibility, benefits, and costs of*
3 *retrofitting the older motorcoaches.*

4 (B) *ASSESSMENT.*—*The Secretary shall*
5 *complete an assessment with respect to safety belt*
6 *retrofits not later than 1 year after the date of*
7 *enactment of this Act and with respect to anti-*
8 *ejection countermeasure retrofits not later than 2*
9 *years after the date of enactment of this Act.*

10 (e) *FAILURE TO MEET DEADLINE.*—*If the Secretary*
11 *determines that a final rule cannot be issued before the*
12 *deadline established under this section, the Secretary*
13 *shall—*

14 (1) *submit a report to the Committee on Com-*
15 *merce, Science, and Transportation of the Senate and*
16 *the Committee on Energy and Commerce of the House*
17 *of Representatives that explains why the deadline*
18 *cannot be met; and*

19 (2) *establish a new deadline for the issuance of*
20 *the final rule.*

21 **SEC. 32704. STANDARDS FOR IMPROVED FIRE SAFETY.**

22 (a) *EVALUATIONS.*—*Not later than 18 months after the*
23 *date of enactment of this Act, the Secretary shall initiate*
24 *the following rulemaking proceedings:*

1 (1) *FLAMMABILITY STANDARD FOR EXTERIOR*
2 *COMPONENTS.—The Secretary shall establish require-*
3 *ments for fire hardening or fire resistance of motor-*
4 *coach exterior components to prevent fire and smoke*
5 *inhalation injuries to occupants.*

6 (2) *SMOKE SUPPRESSION.—The Secretary shall*
7 *update Federal Motor Vehicle Safety Standard Num-*
8 *ber 302 (49 C.F.R. 571.302; relating to flammability*
9 *of interior materials) to improve the resistance of mo-*
10 *torcoach interiors and components to burning and*
11 *permit sufficient time for the safe evacuation of pas-*
12 *sengers from motorcoaches.*

13 (3) *PREVENTION OF, AND RESISTANCE TO,*
14 *WHEEL WELL FIRES.—The Secretary shall establish*
15 *requirements—*

16 (A) *to prevent and mitigate the propagation*
17 *of wheel well fires into the passenger compart-*
18 *ment; and*

19 (B) *to substantially reduce occupant deaths*
20 *and injuries from such fires.*

21 (4) *AUTOMATIC FIRE SUPPRESSION.—The Sec-*
22 *retary shall establish requirements for motorcoaches to*
23 *be equipped with highly effective fire suppression sys-*
24 *tems that automatically respond to and suppress all*
25 *fires in such motorcoaches.*

1 (5) *PASSENGER EVACUATION.*—*The Secretary*
2 *shall establish requirements for motorcoaches to be*
3 *equipped with—*

4 (A) *improved emergency exit window, door,*
5 *roof hatch, and wheelchair lift door designs to ex-*
6 *pedite access and use by passengers of*
7 *motorcoaches under all emergency circumstances,*
8 *including crashes and fires; and*

9 (B) *emergency interior lighting systems, in-*
10 *cluding luminescent or retroreflectorized delinea-*
11 *tion of evacuation paths and exits, which are*
12 *triggered by a crash or other emergency incident*
13 *to accomplish more rapid and effective evacu-*
14 *ation of passengers.*

15 (6) *CAUSATION AND PREVENTION OF MOTOR-*
16 *COACH FIRES.*—*The Secretary shall examine the prin-*
17 *ciple causes of motorcoach fires and vehicle design*
18 *changes intended to reduce the number of motorcoach*
19 *fires resulting from those principle causes.*

20 (b) *DEADLINE.*—*Not later than 42 months after the*
21 *date of enactment of this Act, the Secretary shall—*

22 (1) *issue final rules in accordance with sub-*
23 *section (a); or*

24 (2) *if the Secretary determines that any stand-*
25 *ard is not warranted based on the requirements and*

1 *considerations set forth in subsection (a) and (b) of*
2 *section 30111 of title 49, United States Code, submit*
3 *a report that describes the reasons for not prescribing*
4 *such a standard to—*

5 *(A) the Committee on Commerce, Science,*
6 *and Transportation of the Senate; and*

7 *(B) the Committee on Energy and Com-*
8 *merce of the House of Representatives.*

9 *(c) TIRE PERFORMANCE STANDARD.—Not later than*
10 *3 years after the date of enactment of this Act, the Secretary*
11 *shall—*

12 *(1) issue a final rule upgrading performance*
13 *standards for tires used on motorcoaches, including*
14 *an enhanced endurance test and a new high-speed*
15 *performance test; or*

16 *(2) if the Secretary determines that a standard*
17 *is not warranted based on the requirements and con-*
18 *siderations set forth in subsections (a) and (b) of sec-*
19 *tion 30111 of title 49, United States Code, submit a*
20 *report that describes the reasons for not prescribing*
21 *such a standard to—*

22 *(A) the Committee on Commerce, Science,*
23 *and Transportation of the Senate; and*

24 *(B) the Committee on Energy and Com-*
25 *merce of the House of Representatives.*

1 **SEC. 32705. OCCUPANT PROTECTION, COLLISION AVOID-**
2 **ANCE, FIRE CAUSATION, AND FIRE EXTINGUISHER RESEARCH AND TESTING.**
3

4 (a) *SAFETY RESEARCH INITIATIVES.*—Not later than
5 2 years after the date of enactment of this Act, the Secretary
6 shall complete the following research and testing:

7 (1) *IMPROVED FIRE EXTINGUISHERS.*—The Sec-
8 retary shall research and test the need to install im-
9 proved fire extinguishers or other readily available
10 firefighting equipment in motorcoaches to effectively
11 extinguish fires in motorcoaches and prevent pas-
12 senger deaths and injuries.

13 (2) *INTERIOR IMPACT PROTECTION.*—The Sec-
14 retary shall research and test enhanced occupant im-
15 pact protection standards for motorcoach interiors to
16 reduce substantially serious injuries for all passengers
17 of motorcoaches.

18 (3) *COMPARTMENTALIZATION SAFETY COUNTER-*
19 *MEASURES.*—The Secretary shall require enhanced
20 compartmentalization safety countermeasures for
21 motorcoaches, including enhanced seating designs, to
22 substantially reduce the risk of passengers being
23 thrown from their seats and colliding with other pas-
24 sengers, interior surfaces, and components in the
25 event of a crash involving a motorcoach.

1 (4) *COLLISION AVOIDANCE SYSTEMS.*—*The Sec-*
2 *retary shall research and test forward and lateral*
3 *crash warning systems applications for motorcoaches.*

4 (b) *RULEMAKING.*—*Not later than 2 years after the*
5 *completion of each research and testing initiative required*
6 *under subsection (a), the Secretary shall issue final motor*
7 *vehicle safety standards if the Secretary determines that*
8 *such standards are warranted based on the requirements*
9 *and considerations set forth in subsections (a) and (b) of*
10 *section 30111 of title 49, United States Code.*

11 **SEC. 32706. MOTORCOACH REGISTRATION.**

12 (a) *REGISTRATION REQUIREMENTS.*—*Section*
13 *13902(b) is amended—*

14 (1) *by redesignating paragraphs (1) through (8)*
15 *as paragraphs (4) through (11), respectively; and*

16 (2) *by inserting before paragraph (4), as redesign-*
17 *ated, the following:*

18 “(1) *ADDITIONAL REGISTRATION REQUIREMENTS*
19 *FOR PROVIDERS OR MOTORCOACH SERVICES.*—*In ad-*
20 *dition to meeting the requirements under subsection*
21 *(a)(1), the Secretary may not register a person to*
22 *provide motorcoach services until after the person—*

23 “(A) *undergoes a preauthorization safety*
24 *audit, including verification, in a manner suffi-*

1 *cient to demonstrate the ability to comply with*
2 *Federal rules and regulations, of—*

3 “(i) *a drug and alcohol testing pro-*
4 *gram under part 40 of title 49, Code of Fed-*
5 *eral Regulations;*

6 “(ii) *the carrier’s system of compliance*
7 *with hours-of-service rules, including hours-*
8 *of-service records;*

9 “(iii) *the ability to obtain required in-*
10 *surance;*

11 “(iv) *driver qualifications, including*
12 *the validity of the commercial driver’s li-*
13 *cence of each driver who will be operating*
14 *under such authority;*

15 “(v) *disclosure of common ownership,*
16 *common control, common management,*
17 *common familial relationship, or other cor-*
18 *porate relationship with another motor car-*
19 *rier or applicant for motor carrier author-*
20 *ity during the past 3 years;*

21 “(vi) *records of the State inspections,*
22 *or of a Level I or V Commercial Vehicle*
23 *Safety Alliance Inspection, for all vehicles*
24 *that will be operated by the carrier;*

1 “(vii) *safety management programs,*
2 *including vehicle maintenance and repair*
3 *programs; and*

4 “(viii) *the ability to comply with the*
5 *Americans with Disabilities Act of 1990 (42*
6 *U.S.C. 12101 et seq.), and the Over-the-*
7 *Road Bus Transportation Accessibility Act*
8 *of 2007 (122 Stat. 2915);*

9 “(B) *has been interviewed to review safety*
10 *management controls and the carrier’s written*
11 *safety oversight policies and practices; and*

12 “(C) *through the successful completion of a*
13 *written examination developed by the Secretary,*
14 *has demonstrated proficiency to comply with*
15 *and carry out the requirements and regulations*
16 *described in subsection (a)(1).*

17 “(2) *PRE-AUTHORIZATION SAFETY AUDIT.—The*
18 *pre-authorization safety audit required under para-*
19 *graph (1)(A) shall be completed on-site not later than*
20 *90 days following the submission of an application*
21 *for operating authority.*

22 “(3) *FEE.—The Secretary may establish, under*
23 *section 9701 of title 31, a fee of not more than \$1,200*
24 *for new registrants that as nearly as possible covers*
25 *the costs of performing a preauthorization safety*

1 *audit. Amounts collected under this subsection shall*
 2 *be deposited in the Highway Trust Fund (other than*
 3 *the Mass Transit Account).”.*

4 (b) *SAFETY REVIEWS OF NEW OPERATORS.*—Section
 5 31144(g)(1) is amended by inserting “transporting prop-
 6 erty” after “each operator”.

7 (c) *CONFORMING AMENDMENT.*—Section
 8 24305(a)(3)(A)(i) is amended by striking “section
 9 13902(b)(8)(A)” and inserting “section 13902(b)(11)(A)”.

10 (d) *EFFECTIVE DATE.*—The amendments made by this
 11 section shall take effect 1 year after the date of enactment
 12 of this Act.

13 **SEC. 32707. IMPROVED OVERSIGHT OF MOTORCOACH SERV-**
 14 **ICE PROVIDERS.**

15 (a) *SAFETY REVIEWS.*—Section 31144, as amended by
 16 sections 32204 and 32604 of this Act, is amended by adding
 17 at the end the following:

18 “(j) *PERIODIC SAFETY REVIEWS OF PROVIDERS OF*
 19 *MOTORCOACH SERVICES.*—

20 “(1) *SAFETY REVIEW.*—

21 “(A) *IN GENERAL.*—The Secretary shall—

22 “(i) *determine the safety fitness of all*
 23 *providers of motorcoach services registered*
 24 *with the Federal Motor Carrier Safety Ad-*
 25 *ministration through a simple and under-*

1 *standable rating system that allows motor-*
2 *coach passengers to compare the safety per-*
3 *formance of motorcoach operators; and*

4 “(i) *assign a safety fitness rating to*
5 *each such provider.*

6 “(B) *APPLICABILITY.—Subparagraph (A)*
7 *shall apply—*

8 “(i) *to any provider of motorcoach*
9 *services registered with the Administration*
10 *after the date of enactment of the Motor-*
11 *coach Enhanced Safety Act of 2012 begin-*
12 *ning not later than 2 years after the date*
13 *of such registration; and*

14 “(ii) *to any provider of motorcoach*
15 *services registered with the Administration*
16 *on or before the date of enactment of that*
17 *Act beginning not later than 3 years after*
18 *the date of enactment of that Act.*

19 “(2) *PERIODIC REVIEW.—The Secretary shall es-*
20 *tablish, by regulation, a process for monitoring the*
21 *safety performance of each provider of motorcoach*
22 *services on a regular basis following the assignment*
23 *of a safety fitness rating, including progressive inter-*
24 *vention to correct unsafe practices.*

1 “(3) *ENFORCEMENT STRIKE FORCES.*—*In addi-*
 2 *tion to the enhanced monitoring and enforcement ac-*
 3 *tions required under paragraph (2), the Secretary*
 4 *may organize special enforcement strike forces tar-*
 5 *geting providers of motorcoach services.*

6 “(4) *PERIODIC UPDATE OF SAFETY FITNESS RAT-*
 7 *ING.*—*In conducting the safety reviews required under*
 8 *this subsection, the Secretary shall—*

9 “(A) *reassess the safety fitness rating of*
 10 *each provider not less frequently than once every*
 11 *3 years; and*

12 “(B) *annually assess the safety fitness of*
 13 *certain providers of motorcoach services that*
 14 *serve primarily urban areas with high passenger*
 15 *loads.*

16 “(5) *MOTORCOACH SERVICES DEFINED.*—*In this*
 17 *subsection, the term ‘provider of motorcoach services’*
 18 *has the meaning given such term in section 32702 of*
 19 *the Motorcoach Enhanced Safety Act of 2012.’.*

20 **(b) DISCLOSURE OF SAFETY PERFORMANCE RATINGS**
 21 **OF MOTORCOACH SERVICES AND OPERATIONS.**—

22 (1) *IN GENERAL.*—*Subchapter I of chapter 141*
 23 *of title 49, United States Code, is amended by adding*
 24 *at the end the following:*

1 **“§ 14105. Safety performance ratings of motorcoach**
2 **services and operations**

3 “(a) *DEFINITIONS.—In this section:*

4 “(1) *MOTORCOACH.—*

5 “(A) *IN GENERAL.—Except as provided in*
6 *subparagraph (B), the term ‘motorcoach’ has the*
7 *meaning given to the term ‘over-the-road bus’ in*
8 *section 3038(a)(3) of the Transportation Equity*
9 *Act for the 21st Century (49 U.S.C. 5310 note).*

10 “(B) *EXCLUSIONS.—The term ‘motorcoach’*
11 *does not include—*

12 “(i) *a bus used in public transpor-*
13 *tation that is provided by a State or local*
14 *government; or*

15 “(ii) *a school bus (as defined in section*
16 *30125(a)(1)), including a multifunction*
17 *school activity bus.*

18 “(2) *MOTORCOACH SERVICES AND OPER-*
19 *ATIONS.—The term ‘motorcoach services and oper-*
20 *ations’ means passenger transportation by a motor-*
21 *coach for compensation.*

22 “(b) *DISPLAY OF MOTOR CARRIER IDENTIFICATION.—*

23 “(1) *REQUIREMENT.—Beginning on the date*
24 *that is 1 year after the date of the enactment of the*
25 *Moving Ahead for Progress in the 21st Century Act,*
26 *no person may sell or offer to sell interstate motor-*

1 *coach transportation services, or provide broker serv-*
2 *ices related to such transportation, unless the person,*
3 *at the point of sale or provision of broker services,*
4 *conspicuously displays—*

5 *“(A) the legal name and USDOT number of*
6 *the single motor carrier responsible for the trans-*
7 *portation and for compliance with the Federal*
8 *Motor Carrier Safety Regulations under parts*
9 *350 through 399 of title 49, Code of Federal Reg-*
10 *ulations; and*

11 *“(B) the URL for the Federal Motor Carrier*
12 *Safety Administration’s public website where the*
13 *Administration has posted motor carrier and*
14 *commercial motor vehicle driver scores in the*
15 *Safety Measurement System.*

16 *“(2) CIVIL PENALTIES.—A person who violates*
17 *paragraph (1) shall be liable for civil penalties to the*
18 *same extent as a person who does not prepare a*
19 *record in the form and manner prescribed under sec-*
20 *tion 14901(a).*

21 *“(c) RULEMAKING.—*

22 *“(1) IN GENERAL.—Not later than 2 years after*
23 *the date on which the safety fitness determination*
24 *rule is implemented, the Secretary shall require, by*
25 *regulation—*

1 “(A) *each motor carrier that owns or leases*
2 *1 or more motorcoaches that transport pas-*
3 *sengers subject to the Secretary’s jurisdiction*
4 *under section 13501 to prominently display the*
5 *safety fitness rating assigned under section*
6 *31144(j)(1)(A)(ii)—*

7 “(i) *in each terminal of departure;*

8 “(ii) *in the motorcoach and visible*
9 *from a position exterior to the vehicle at the*
10 *point of departure, if the motorcoach does*
11 *not depart from a terminal; and*

12 “(iii) *at all points of sale for such mo-*
13 *torcoach services and operations; and*

14 “(B) *any person who sells tickets for motor-*
15 *coach services and operations to display the rat-*
16 *ing system described in subparagraph (A) at all*
17 *points of sale for such motorcoach services and*
18 *operations.*

19 “(2) *ITEMS INCLUDED IN THE RULEMAKING.—In*
20 *promulgating safety performance ratings for*
21 *motorcoaches pursuant to the rulemaking required*
22 *under paragraph (1), the Secretary shall consider—*

23 “(A) *the need and extent to which safety*
24 *performance ratings should be made available in*
25 *languages other than English; and*

1 “(B) penalties authorized under section 521.

2 “(3) *INSUFFICIENT INSPECTIONS.*—Any motor
3 carrier for which insufficient safety data is available
4 shall display a label that states that the carrier has
5 sufficiently passed the preauthorization safety audit
6 required under section 13902(b)(1)(A).

7 “(d) *EFFECT ON STATE AND LOCAL LAW.*—Nothing
8 in this section may be construed to preempt a State, or
9 a political subdivision of a State, from enforcing any re-
10 quirements concerning the manner and content of consumer
11 information provided by motor carriers that are not subject
12 to the Secretary’s jurisdiction under section 13501.”.

13 (2) *CLERICAL AMENDMENT.*—The analysis of
14 chapter 141 of title 49, United States Code, is amend-
15 ed by inserting after the item relating to section
16 14104 the following:

“14105. Safety performance ratings of motorcoach services and operations.”.

17 **SEC. 32708. REPORT ON FEASIBILITY, BENEFITS, AND**
18 **COSTS OF ESTABLISHING A SYSTEM OF CER-**
19 **TIFICATION OF TRAINING PROGRAMS.**

20 Not later than 2 years after the date of the enactment
21 of this Act, the Secretary shall submit a report to the Com-
22 mittee on Commerce, Science, and Transportation of the
23 Senate and the Committee on Transportation and Infra-
24 structure of the House of Representatives that describes the
25 feasibility, benefits, and costs of establishing a system of cer-

1 *tification of public and private schools and of motor car-*
2 *riers and motorcoach operators that provide motorcoach*
3 *driver training.*

4 **SEC. 32709. REPORT ON DRIVER'S LICENSE REQUIREMENTS**
5 **FOR 9- TO 15-PASSENGER VANS.**

6 (a) *IN GENERAL.*—Not later than 18 months after the
7 date of enactment of this Act, the Secretary shall submit
8 a report to the Committee on Commerce, Science, and
9 Transportation of the Senate and the Committee on Trans-
10 portation and Infrastructure of the House of Representa-
11 tives that examines requiring all or certain classes of driv-
12 ers operating a vehicle, which is designed or used to trans-
13 port not fewer than 9 and not more than 15 passengers
14 (including a driver) in interstate commerce, to have a com-
15 mercial driver's license passenger-carrying endorsement
16 and be tested in accordance with a drug and alcohol testing
17 program under part 40 of title 49, Code of Federal Regula-
18 tions.

19 (b) *CONSIDERATIONS.*—In developing the report under
20 subsection (a), the Secretary shall consider—

21 (1) *the safety benefits of the requirement de-*
22 *scribed in subsection (a);*

23 (2) *the scope of the population that would be im-*
24 *pacted by such requirement;*

1 (3) *the cost to the Federal Government and State*
2 *governments to meet such requirement; and*

3 (4) *the impact on safety benefits and cost from*
4 *limiting the application of such requirement to cer-*
5 *tain drivers of such vehicles, such as drivers who are*
6 *compensated for driving.*

7 **SEC. 32710. EVENT DATA RECORDERS.**

8 (a) *EVALUATION.*—*Not later than 1 year after the date*
9 *of enactment of this Act, the Secretary, after considering*
10 *the performance requirements for event data recorders for*
11 *passenger vehicles under part 563 of title 49, Code of Fed-*
12 *eral Regulations, shall complete an evaluation of event data*
13 *recorders, including requirements regarding specific types*
14 *of vehicle operations, events and incidents, and systems in-*
15 *formation to be recorded, for event data recorders to be used*
16 *on motorcoaches used by motor carriers in interstate com-*
17 *merce.*

18 (b) *STANDARDS AND REGULATIONS.*—*Not later than*
19 *2 years after completing the evaluation required under sub-*
20 *section (a), the Secretary shall issue standards and regula-*
21 *tions based on the results of that evaluation.*

22 **SEC. 32711. SAFETY INSPECTION PROGRAM FOR COMMERCIAL**
23 **MOTOR VEHICLES OF PASSENGERS.**

24 *Not later than 3 years after the date of enactment of*
25 *this Act, the Secretary shall complete a rulemaking pro-*

1 *ceeding to consider requiring States to conduct annual in-*
2 *spections of commercial motor vehicles designed or used to*
3 *transport passengers, including an assessment of—*

4 (1) *the risks associated with improperly main-*
5 *tained or inspected commercial motor vehicles de-*
6 *signed or used to transport passengers;*

7 (2) *the effectiveness of existing Federal standards*
8 *for the inspection of such vehicles in—*

9 (A) *mitigating the risks described in para-*
10 *graph (1); and*

11 (B) *ensuring the safe and proper operation*
12 *condition of such vehicles; and*

13 (3) *the costs and benefits of a mandatory State*
14 *inspection program.*

15 **SEC. 32712. DISTRACTED DRIVING.**

16 (a) *IN GENERAL.—Chapter 311, as amended by sec-*
17 *tions 32113, 32508, and 32512 of this Act, is amended by*
18 *adding after section 31154 the following:*

19 **“§ 31155. Regulation of the use of distracting devices**
20 ***in motorcoaches***

21 “(a) *IN GENERAL.—Not later than 1 year after the*
22 *date of enactment of the Motorcoach Enhanced Safety Act*
23 *of 2012, the Secretary of Transportation shall prescribe reg-*
24 *ulations on the use of electronic or wireless devices, includ-*
25 *ing cell phones and other distracting devices, by an indi-*

1 *vidual employed as the operator of a motorcoach (as defined*
2 *in section 32702 of that Act).*

3 “(b) *BASIS FOR REGULATIONS.*—*The Secretary shall*
4 *base the regulations prescribed under subsection (a) on acci-*
5 *dent data analysis, the results of ongoing research, and*
6 *other information, as appropriate.*

7 “(c) *PROHIBITED USE.*—*Except as provided under*
8 *subsection (d), the Secretary shall prohibit the use of the*
9 *devices described in subsection (a) in circumstances in*
10 *which the Secretary determines that their use interferes*
11 *with a driver’s safe operation of a motorcoach.*

12 “(d) *PERMITTED USE.*—*The Secretary may permit the*
13 *use of a device that is otherwise prohibited under subsection*
14 *(c) if the Secretary determines that such use is necessary*
15 *for the safety of the driver or the public in emergency cir-*
16 *cumstances.”.*

17 (b) *CONFORMING AMENDMENT.*—*The analysis for*
18 *chapter 311 is amended by inserting after the item relating*
19 *to section 31154 the following:*

“31155. *Regulation of the use of distracting devices in motorcoaches.*”.

20 **SEC. 32713. REGULATIONS.**

21 *Any standard or regulation prescribed or modified*
22 *pursuant to the Motorcoach Enhanced Safety Act of 2012*
23 *shall be prescribed or modified in accordance with section*
24 *553 of title 5, United States Code.*

1 ***Subtitle H—Safe Highways and***
2 ***Infrastructure Preservation***

3 ***SEC. 32801. COMPREHENSIVE TRUCK SIZE AND WEIGHT***
4 ***LIMITS STUDY.***

5 *(a) TRUCK SIZE AND WEIGHT LIMITS STUDY.—Not*
6 *later than 90 days after the date of enactment of this Act,*
7 *the Secretary, in consultation with each relevant State and*
8 *other applicable Federal agencies, shall commence a com-*
9 *prehensive truck size and weight limits study. The study*
10 *shall—*

11 *(1) provide data on accident frequency and fac-*
12 *tors related to accident risk of each route of the Na-*
13 *tional Highway System in each State that allows a*
14 *vehicle to operate with size and weight limits that are*
15 *in excess of the Federal law and regulations and its*
16 *correlation to truck size and weight limits;*

17 *(2) evaluate the impacts to the infrastructure of*
18 *each route of the National Highway System in each*
19 *State that allows a vehicle to operate with size and*
20 *weight limits that are in excess of the Federal law*
21 *and regulations, including—*

22 *(A) an analysis that quantifies the cost and*
23 *benefits of the impacts in dollars;*

1 (B) an analysis of the percentage of trucks
2 operating in excess of the Federal size and
3 weight limits; and

4 (C) an analysis that examines the ability of
5 each State to recover the cost for the impacts, or
6 the benefits incurred;

7 (3) evaluate the impacts and frequency of viola-
8 tions in excess of the Federal size and weight law and
9 regulations to determine the cost of the enforcement of
10 the law and regulations, and the effectiveness of the
11 enforcement methods;

12 (4) examine the relationship between truck per-
13 formance and crash involvement and its correlation to
14 Federal size and weight limits, including the impacts
15 on crashes;

16 (5) assess the impacts that truck size and weight
17 limits in excess of the Federal law and regulations
18 have in the risk of bridge failure contributing to the
19 structural deficiencies of bridges or in the useful life
20 of a bridge, including the impacts resulting from the
21 number of bridge loadings;

22 (6) analyze the impacts on safety and infrastruc-
23 ture in each State that allows a truck to operate in
24 excess of Federal size and weight limitations in truck-
25 only lanes;

1 (7) compare and contrast the safety and infra-
2 structure impacts of the Federal limits regarding
3 truck size and weight limits in relation to—

4 (A) six-axle and other alternative configura-
5 tions of tractor-trailers; and

6 (B) safety records of foreign nations with
7 truck size and weight limits and tractor-trailer
8 configurations that differ from the Federal law
9 and regulations; and

10 (8) estimate—

11 (A) the extent to which freight would be di-
12 verted from other surface transportation modes
13 to principal arterial routes and National High-
14 way System intermodal connectors if each cov-
15 ered truck configuration is allowed to operate
16 and the effect that any such diversion would
17 have on other modes of transportation;

18 (B) the effect that any such diversion would
19 have on public safety, infrastructure, cost respon-
20 sibilities, fuel efficiency, and the environment;

21 (C) the effect on the transportation network
22 of the United States that allowing each covered
23 truck configuration to operate would have; and

24 (D) whether allowing each covered truck
25 configuration to operate would result in an in-

1 crease or decrease in the total number of trucks
2 operating on principal arterial routes and Na-
3 tional Highway System intermodal connectors;
4 and

5 (9) identify all Federal rules and regulations im-
6 pacted by changes in truck size and weight limits.

7 (b) *REPORT.*—Not later than 2 years after the date
8 that the study is commenced under subsection (a), the Sec-
9 retary shall submit a final report on the study, including
10 all findings and recommendations, to the Committee on
11 Commerce, Science, and Transportation and the Committee
12 on Environment and Public Works of the Senate and the
13 Committee on Transportation and Infrastructure of the
14 House of Representatives.

15 **SEC. 32802. COMPILATION OF EXISTING STATE TRUCK SIZE**
16 **AND WEIGHT LIMIT LAWS.**

17 (a) *IN GENERAL.*—Not later than 90 days after the
18 date of enactment of this Act, the Secretary, in consultation
19 with the States, shall begin to compile—

20 (1) a list for each State, as applicable, that de-
21 scribes each route of the National Highway System
22 that allows a vehicle to operate in excess of the Fed-
23 eral truck size and weight limits that—

24 (A) was authorized under State law on or
25 before the date of enactment of this Act; and

1 (B) was in actual and lawful operation on
2 a regular or periodic basis (including seasonal
3 operations) on or before the date of enactment of
4 this Act;

5 (2) a list for each State, as applicable, that de-
6 scribes—

7 (A) the size and weight limitations applica-
8 ble to each segment of the National Highway
9 System in that State as listed under paragraph
10 (1);

11 (B) each combination that exceeds the Inter-
12 state weight limit, but that the Department of
13 Transportation, other Federal agency, or a State
14 agency has determined on or before the date of
15 enactment of this Act, could be or could have
16 been lawfully operated in the State; and

17 (C) each combination that exceeds the Inter-
18 state weight limit, but that the Secretary deter-
19 mines could have been lawfully operated on a
20 non-Interstate segment of the National Highway
21 System in the State on or before the date of en-
22 actment of this Act; and

23 (3) a list of each State law that designates or al-
24 lows designation of size and weight limitations in ex-
25 cess of Federal law and regulations on routes of the

1 *National Highway System, including nondivisible*
2 *loads.*

3 *(b) SPECIFICATIONS.—The Secretary, in consultation*
4 *with the States, shall specify whether the determinations*
5 *under paragraphs (1) and (2) of subsection (a) were made*
6 *by the Department of Transportation, other Federal agency,*
7 *or a State agency.*

8 *(c) REPORT.—Not later than 2 years after the date of*
9 *enactment of this Act, the Secretary shall submit a final*
10 *report of the compilation under subsection (a) to the Com-*
11 *mittee on Commerce, Science, and Transportation and the*
12 *Committee on Environment and Public Works of the Senate*
13 *and the Committee on Transportation and Infrastructure*
14 *of the House of Representatives.*

15 ***Subtitle I—Miscellaneous***

16 ***PART I—MISCELLANEOUS***

17 ***SEC. 32911. DETENTION TIME STUDY.***

18 *(a) STUDY.—Not later than 30 days after the date of*
19 *enactment of this Act, the Secretary shall task the Motor*
20 *Carrier Safety Advisory Committee to study the extent to*
21 *which detention time contributes to drivers violating hours*
22 *of service requirements and driver fatigue. In conducting*
23 *this study, the Committee shall—*

24 *(1) examine data collected from driver and vehi-*
25 *cle inspections;*

1 (2) *consult with—*

2 (A) *motor carriers and drivers, shippers,*
3 *and representatives of ports and other facilities*
4 *where goods are loaded and unloaded;*

5 (B) *government officials; and*

6 (C) *other parties as appropriate; and*

7 (3) *provide recommendations to the Secretary for*
8 *addressing issues identified in the study.*

9 (b) *REPORT.—Not later than 18 months after the date*
10 *of enactment of this Act, the Secretary shall provide a re-*
11 *port to the Committee on Commerce, Science, and Trans-*
12 *portation of the Senate and the Committee on Transpor-*
13 *tation and Infrastructure of the House of Representatives*
14 *that includes recommendations for legislation and for ad-*
15 *ressing the results of the study.*

16 **SEC. 32912. PROHIBITION OF COERCION.**

17 Section 31136(a) is amended by—

18 (1) *striking “and” at the end of paragraph (3);*

19 (2) *striking the period at the end of paragraph*

20 (4) *and inserting “; and”; and*

21 (3) *adding after subsection (4) the following:*

22 “(5) *an operator of a commercial motor vehicle*
23 *is not coerced by a motor carrier, shipper, receiver, or*
24 *transportation intermediary to operate a commercial*
25 *motor vehicle in violation of a regulation promul-*

1 gated under this section, or chapter 51 or chapter 313
2 of this title.”.

3 **SEC. 32913. MOTOR CARRIER SAFETY ADVISORY COM-**
4 **MITTEE.**

5 (a) *MEMBERSHIP.*—Section 4144(b)(1) of the Safe, Ac-
6 countable, Flexible, Efficient Transportation Equity Act: A
7 Legacy for Users (49 U.S.C. 31100 note), is amended by
8 inserting “nonprofit employee labor organizations rep-
9 resenting commercial motor vehicle drivers,” after “indus-
10 try,”.

11 (b) *TERMINATION DATE.*—Section 4144(d) of the Safe,
12 Accountable, Flexible, Efficient Transportation Equity Act:
13 A Legacy for Users (49 U.S.C. 31100 note), is amended by
14 striking “March 31, 2012” and inserting “September 30,
15 2013”.

16 **SEC. 32914. WAIVERS, EXEMPTIONS, AND PILOT PROGRAMS.**

17 (a) *WAIVER STANDARDS.*—Section 31315(a) is amend-
18 ed—

19 (1) by inserting “and” at the end of paragraph

20 (2);

21 (2) by striking paragraph (3); and

22 (3) redesignating paragraph (4) as paragraph

23 (3).

24 (b) *EXEMPTION STANDARDS.*—Section 31315(b)(4) is
25 amended—

1 (1) in subparagraph (A), by inserting “(or, in
2 the case of a request for an exemption from the phys-
3 ical qualification standards for commercial motor ve-
4 hicle drivers, post on a web site established by the
5 Secretary to implement the requirements of section
6 31149)” after “Federal Register”;

7 (2) by amending subparagraph (B) to read as
8 follows:

9 “(B) UPON GRANTING A REQUEST.—Upon
10 granting a request and before the effective date of
11 the exemption, the Secretary shall publish in the
12 Federal Register (or, in the case of an exemption
13 from the physical qualification standards for
14 commercial motor vehicle drivers, post on a web
15 site established by the Secretary to implement
16 the requirements of section 31149) the name of
17 the person granted the exemption, the provisions
18 from which the person is exempt, the effective pe-
19 riod, and the terms and conditions of the exemp-
20 tion.”; and

21 (3) in subparagraph (C), by inserting “(or, in
22 the case of a request for an exemption from the phys-
23 ical qualification standards for commercial motor ve-
24 hicle drivers, post on a web site established by the

1 *Secretary to implement the requirements of section*
2 *31149)” after “Federal Register”.*

3 *(c) PROVIDING NOTICE OF EXEMPTIONS TO STATE*
4 *PERSONNEL.—Section 31315(b)(7) is amended to read as*
5 *follows:*

6 *“(7) NOTIFICATION OF STATE COMPLIANCE AND*
7 *ENFORCEMENT PERSONNEL.—Before the effective date*
8 *of an exemption, the Secretary shall notify a State*
9 *safety compliance and enforcement agency, and re-*
10 *quire the agency pursuant to section 31102(b)(1)(Y)*
11 *to notify the State’s roadside inspectors, that a person*
12 *will be operating pursuant to an exemption and the*
13 *terms and conditions that apply to the exemption.”.*

14 *(d) PILOT PROGRAMS.—Section 31315(c)(1) is amend-*
15 *ed by striking “in the Federal Register”.*

16 *(e) REPORT TO CONGRESS.—Section 31315 is amend-*
17 *ed by adding after subsection (d) the following:*

18 *“(e) REPORT TO CONGRESS.—The Secretary shall sub-*
19 *mit an annual report to the Committee on Commerce,*
20 *Science, and Transportation of the Senate and the Com-*
21 *mittee on Transportation and Infrastructure of the House*
22 *of Representatives listing the waivers, exemptions, and pilot*
23 *programs granted under this section, and any impacts on*
24 *safety.*

1 “(f) *WEB SITE.*—*The Secretary shall ensure that the*
2 *Federal Motor Carrier Safety Administration web site in-*
3 *cludes a link to the web site established by the Secretary*
4 *to implement the requirements under sections 31149 and*
5 *31315. The link shall be in a clear and conspicuous location*
6 *on the home page of the Federal Motor Carrier Safety Ad-*
7 *ministration web site and be easily accessible to the pub-*
8 *lic.”.*

9 **SEC. 32915. REGISTRATION REQUIREMENTS.**

10 (a) *REQUIREMENTS FOR REGISTRATION.*—*Section*
11 *13901 is amended to read as follows:*

12 **“§ 13901. Requirements for registration**

13 “(a) *IN GENERAL.*—*A person may not provide trans-*
14 *portation as a motor carrier subject to jurisdiction under*
15 *subchapter I of chapter 135 or service as a freight forwarder*
16 *subject to jurisdiction under subchapter III of such chapter,*
17 *or be a broker for transportation subject to jurisdiction*
18 *under subchapter I of such chapter unless the person is reg-*
19 *istered under this chapter to provide such transportation*
20 *or service.*

21 “(b) *REGISTRATION NUMBERS.*—

22 “(1) *IN GENERAL.*—*If the Secretary registers a*
23 *person under this chapter to provide transportation*
24 *or service, including as a motor carrier, freight for-*
25 *warder, or broker, the Secretary shall issue a distinc-*

1 *tive registration number to the person for each such*
2 *authority to provide transportation or service for*
3 *which the person is registered.*

4 “(2) *TRANSPORTATION OR SERVICE TYPE INDI-*
5 *CATOR.—A number issued under paragraph (1) shall*
6 *include an indicator of the type of transportation or*
7 *service for which the registration number is issued,*
8 *including whether the registration number is issued*
9 *for registration of a motor carrier, freight forwarder,*
10 *or broker.*

11 “(c) *SPECIFICATION OF AUTHORITY.—For each agree-*
12 *ment to provide transportation or service for which reg-*
13 *istration is required under this chapter, the registrant shall*
14 *specify, in writing, the authority under which the person*
15 *is providing such transportation or service.”.*

16 (b) *AVAILABILITY OF INFORMATION.—*

17 (1) *IN GENERAL.—Chapter 139 is amended by*
18 *adding at the end the following:*

19 “§ 13909. **Availability of information**

20 “The Secretary shall make information relating to reg-
21 *istration and financial security required by this chapter*
22 *publicly available on the Internet, including—*

23 “(1) *the names and business addresses of the*
24 *principals of each entity holding such registration;*
25 *and*

1 “(2) *the electronic address of the entity’s surety*
2 *provider for the submission of claims.*”.

3 (2) *CONFORMING AMENDMENT.—The analysis for*
4 *chapter 139 is amended by adding at the end the fol-*
5 *lowing:*

“13909. Availability of information.”.

6 **SEC. 32916. ADDITIONAL MOTOR CARRIER REGISTRATION**
7 **REQUIREMENTS.**

8 *Section 13902, as amended by sections 32101 and*
9 *32107(a) of this Act, is amended—*

10 (1) *in subsection (a)—*

11 (A) *in paragraph (1), by inserting “using*
12 *self-propelled vehicles the motor carrier owns or*
13 *leases” after “motor carrier”; and*

14 (B) *by adding at the end the following:*

15 “(6) *SEPARATE REGISTRATION REQUIRED.—A*
16 *motor carrier may not broker transportation services*
17 *unless the motor carrier has registered as a broker*
18 *under this chapter.*”; and

19 (2) *by inserting after subsection (h) the fol-*
20 *lowing:*

21 “(i) *REGISTRATION AS FREIGHT FORWARDER OR*
22 *BROKER REQUIRED.—A motor carrier registered under this*
23 *chapter—*

24 (1) *may only provide transportation of prop-*
25 *erty with self-propelled motor vehicles owned or leased*

1 *by the motor carrier or interchanges under regula-*
 2 *tions issued by the Secretary if the originating car-*
 3 *rier—*

4 *“(A) physically transports the cargo at*
 5 *some point; and*

6 *“(B) retains liability for the cargo and for*
 7 *payment of interchanged carriers; and*

8 *“(2) may not arrange transportation described*
 9 *in paragraph (1) unless the motor carrier has ob-*
 10 *tained a separate registration as a freight forwarder*
 11 *or broker for transportation under section 13903 or*
 12 *13904, as applicable.”.*

13 **SEC. 32917. REGISTRATION OF FREIGHT FORWARDERS AND**
 14 **BROKERS.**

15 *(a) REGISTRATION OF FREIGHT FORWARDERS.—Sec-*
 16 *tion 13903, as amended by section 32107(b) of this Act, is*
 17 *amended—*

18 *(1) in subsection (a)—*

19 *(A) by striking “finds that the person is fit”*
 20 *and inserting the following: “determines that the*
 21 *person—*

22 *“(1) has sufficient experience to qualify the per-*
 23 *son to act as a freight forwarder; and*

24 *“(2) is fit”; and*

25 *(B) by striking “and the Board”;*

1 (2) by redesignating subsections (b) and (c) as
2 subsections (d) and (e), respectively;

3 (3) by inserting after subsection (a) the fol-
4 lowing:

5 “(b) *DURATION*.—A registration issued under sub-
6 section (a) shall only remain in effect while the freight for-
7 warder is in compliance with section 13906(c).

8 “(c) *EXPERIENCE OR TRAINING REQUIREMENT*.—
9 Each freight forwarder shall employ, as an officer, an indi-
10 vidual who—

11 “(1) has at least 3 years of relevant experience;

12 or

13 “(2) provides the Secretary with satisfactory evi-
14 dence of the individual’s knowledge of related rules,
15 regulations, and industry practices.”; and

16 (4) by amending subsection (d), as redesignated,
17 to read as follows:

18 “(d) *REGISTRATION AS MOTOR CARRIER RE-*
19 *QUIRED*.—A freight forwarder may not provide transpor-
20 tation as a motor carrier unless the freight forwarder has
21 registered separately under this chapter to provide trans-
22 portation as a motor carrier.”.

23 (b) *REGISTRATION OF BROKERS*.—Section 13904, as
24 amended by section 32107(c) of this Act, is amended—

1 (1) *in subsection (a), by striking “finds that the*
2 *person is fit” and inserting the following: “determines*
3 *that the person—*

4 *“(1) has sufficient experience to qualify the per-*
5 *son to act as a broker for transportation; and*

6 *“(2) is fit”;*

7 (2) *by redesignating subsections (b), (c), (d), and*
8 *(e) as subsections (d), (e), (f), and (g) respectively;*

9 (3) *by inserting after subsection (a) the fol-*
10 *lowing:*

11 *“(b) DURATION.—A registration issued under sub-*
12 *section (a) shall only remain in effect while the broker for*
13 *transportation is in compliance with section 13906(b).*

14 *“(c) EXPERIENCE OR TRAINING REQUIREMENTS.—*
15 *Each broker shall employ, as an officer, an individual who—*
16 *–*

17 *“(1) has at least 3 years of relevant experience;*

18 *or*

19 *“(2) provides the Secretary with satisfactory evi-*
20 *dence of the individual’s knowledge of related rules,*
21 *regulations, and industry practices.”; and*

22 (4) *by amending subsection (d), as redesignated,*
23 *to read as follows:*

24 *“(d) REGISTRATION AS MOTOR CARRIER RE-*
25 *QUIRED.—A broker for transportation may not provide*

1 *transportation as a motor carrier unless the broker has reg-*
 2 *istered separately under this chapter to provide transpor-*
 3 *tation as a motor carrier.”.*

4 **SEC. 32918. EFFECTIVE PERIODS OF REGISTRATION.**

5 *Section 13905(c) is amended to read as follows:*

6 *“(c) EFFECTIVE PERIOD.—*

7 *“(1) IN GENERAL.—Except as otherwise provided*
 8 *in this part, each registration issued under section*
 9 *13902, 13903, or 13904—*

10 *“(A) shall be effective beginning on the date*
 11 *specified by the Secretary; and*

12 *“(B) shall remain in effect for such period*
 13 *as the Secretary determines appropriate by regu-*
 14 *lation.*

15 *“(2) REISSUANCE OF REGISTRATION.—*

16 *“(A) REQUIREMENT.—Not later than 4*
 17 *years after the date of the enactment of the Com-*
 18 *mercial Motor Vehicle Safety Enhancement Act*
 19 *of 2012, the Secretary shall require a freight for-*
 20 *warder or broker to renew its registration issued*
 21 *under this chapter.*

22 *“(B) EFFECTIVE PERIOD.—Each registra-*
 23 *tion renewal under subparagraph (A)—*

24 *“(i) shall expire not later than 5 years*
 25 *after the date of such renewal; and*

1 “(ii) may be further renewed as pro-
2 vided under this chapter.

3 “(3) *REGISTRATION UPDATE.*—The Secretary
4 shall require a motor carrier, freight forwarder, or
5 broker to update its registration under this chapter
6 periodically or not later than 30 days after any
7 change in address, other contact information, officers,
8 process agent, or other essential information, as deter-
9 mined by the Secretary and published in the *Federal*
10 *Register.*”.

11 **SEC. 32919. FINANCIAL SECURITY OF BROKERS AND**
12 **FREIGHT FORWARDERS.**

13 “(a) *IN GENERAL.*—Section 13906 is amended by strik-
14 ing subsections (b) and (c) and inserting the following:

15 “(b) *BROKER FINANCIAL SECURITY REQUIRE-*
16 *MENTS.*—

17 “(1) *REQUIREMENTS.*—

18 “(A) *IN GENERAL.*—The Secretary may reg-
19 ister a person as a broker under section 13904
20 only if the person files with the Secretary a sur-
21 ety bond, proof of trust fund, or other financial
22 security, or a combination thereof, in a form and
23 amount, and from a provider, determined by the
24 Secretary to be adequate to ensure financial re-
25 sponsibility.

1 “(B) *USE OF A GROUP SURETY BOND,*
2 *TRUST FUND, OR OTHER SURETY.—In imple-*
3 *menting the standards established by subpara-*
4 *graph (A), the Secretary may authorize the use*
5 *of a group surety bond, trust fund, or other fi-*
6 *ancial security, or a combination thereof, that*
7 *meets the requirements of this subsection.*

8 “(C) *SURETY BONDS.—A surety bond ob-*
9 *tained under this section may only be obtained*
10 *from a bonding company that has been approved*
11 *by the Secretary of the Treasury.*

12 “(D) *PROOF OF TRUST OR OTHER FINAN-*
13 *CIAL SECURITY.—For purposes of subparagraph*
14 *(A), a trust fund or other financial security may*
15 *be acceptable to the Secretary only if the trust*
16 *fund or other financial security consists of assets*
17 *readily available to pay claims without resort to*
18 *personal guarantees or collection of pledged ac-*
19 *counts receivable.*

20 “(2) *SCOPE OF FINANCIAL RESPONSIBILITY.—*

21 “(A) *PAYMENT OF CLAIMS.—A surety bond,*
22 *trust fund, or other financial security obtained*
23 *under paragraph (1) shall be available to pay*
24 *any claim against a broker arising from its fail-*
25 *ure to pay freight charges under its contracts,*

1 *agreements, or arrangements for transportation*
2 *subject to jurisdiction under chapter 135 if—*

3 *“(i) subject to the review by the surety*
4 *provider, the broker consents to the pay-*
5 *ment;*

6 *“(ii) in any case in which the broker*
7 *does not respond to adequate notice to ad-*
8 *dress the validity of the claim, the surety*
9 *provider determines that the claim is valid;*
10 *or*

11 *“(iii) the claim is not resolved within*
12 *a reasonable period of time following a rea-*
13 *sonable attempt by the claimant to resolve*
14 *the claim under clauses (i) and (ii), and the*
15 *claim is reduced to a judgment against the*
16 *broker.*

17 *“(B) RESPONSE OF SURETY PROVIDERS TO*
18 *CLAIMS.—If a surety provider receives notice of*
19 *a claim described in subparagraph (A), the sur-*
20 *ety provider shall—*

21 *“(i) respond to the claim on or before*
22 *the 30th day following the date on which the*
23 *notice was received; and*

1 “(ii) *in the case of a denial, set forth*
2 *in writing for the claimant the grounds for*
3 *the denial.*

4 “(C) *COSTS AND ATTORNEY’S FEES.—In*
5 *any action against a surety provider to recover*
6 *on a claim described in subparagraph (A), the*
7 *prevailing party shall be entitled to recover its*
8 *reasonable costs and attorney’s fees.*

9 “(3) *MINIMUM FINANCIAL SECURITY.—Each*
10 *broker subject to the requirements of this section shall*
11 *provide financial security of \$100,000 for purposes of*
12 *this subsection, regardless of the number of branch of-*
13 *fices or sales agents of the broker.*

14 “(4) *CANCELLATION NOTICE.—If a financial se-*
15 *curity required under this subsection is canceled—*

16 “(A) *the holder of the financial security*
17 *shall provide electronic notification to the Sec-*
18 *retary of the cancellation not later than 30 days*
19 *before the effective date of the cancellation; and*

20 “(B) *the Secretary shall immediately post*
21 *such notification on the public Internet Website*
22 *of the Department of Transportation.*

23 “(5) *SUSPENSION.—The Secretary shall imme-*
24 *diately suspend the registration of a broker issued*
25 *under this chapter if the available financial security*

1 *of that person falls below the amount required under*
2 *this subsection.*

3 “(6) *PAYMENT OF CLAIMS IN CASES OF FINAN-*
4 *CIAL FAILURE OR INSOLVENCY.—If a broker registered*
5 *under this chapter experiences financial failure or in-*
6 *solvency, the surety provider of the broker shall—*

7 “(A) *submit a notice to cancel the financial*
8 *security to the Administrator in accordance with*
9 *paragraph (4);*

10 “(B) *publicly advertise for claims for 60*
11 *days beginning on the date of publication by the*
12 *Secretary of the notice to cancel the financial se-*
13 *curity; and*

14 “(C) *pay, not later than 30 days after the*
15 *expiration of the 60-day period for submission of*
16 *claims—*

17 “(i) *all uncontested claims received*
18 *during such period; or*

19 “(ii) *a pro rata share of such claims if*
20 *the total amount of such claims exceeds the*
21 *financial security available.*

22 “(7) *PENALTIES.—*

23 “(A) *CIVIL ACTIONS.—Either the Secretary*
24 *or the Attorney General of the United States*
25 *may bring a civil action in an appropriate dis-*

1 *strict court of the United States to enforce the re-*
2 *quirements of this subsection or a regulation pre-*
3 *scribed or order issued under this subsection. The*
4 *court may award appropriate relief, including*
5 *injunctive relief.*

6 “(B) *CIVIL PENALTIES.*—*If the Secretary*
7 *determines, after notice and opportunity for a*
8 *hearing, that a surety provider of a broker reg-*
9 *istered under this chapter has violated the re-*
10 *quirements of this subsection or a regulation pre-*
11 *scribed under this subsection, the surety provider*
12 *shall be liable to the United States for a civil*
13 *penalty in an amount not to exceed \$10,000.*

14 “(C) *ELIGIBILITY.*—*If the Secretary deter-*
15 *mines, after notice and opportunity for a hear-*
16 *ing, that a surety provider of a broker registered*
17 *under this chapter has violated the requirements*
18 *of this subsection or a regulation prescribed*
19 *under this subsection, the surety provider shall*
20 *be ineligible to provider broker financial security*
21 *for 3 years.*

22 “(8) *FINANCIAL SECURITY AMOUNT ASSESS-*
23 *MENT.*—*Every 5 years, the Secretary shall review,*
24 *with public notice and comment, the amount of the fi-*
25 *ancial security required under this subsection to de-*

1 *termine whether such amounts are sufficient to pro-*
2 *vide adequate financial security, and shall be author-*
3 *ized to increase those amounts, if necessary, based*
4 *upon that determination.*

5 “(c) *FREIGHT FORWARDER FINANCIAL SECURITY RE-*
6 *QUIREMENTS.—*

7 “(1) *REQUIREMENTS.—*

8 “(A) *IN GENERAL.—The Secretary may reg-*
9 *ister a person as a freight forwarder under sec-*
10 *tion 13903 only if the person files with the Sec-*
11 *retary a surety bond, proof of trust fund, other*
12 *financial security, or a combination of such in-*
13 *struments, in a form and amount, and from a*
14 *provider, determined by the Secretary to be ade-*
15 *quate to ensure financial responsibility.*

16 “(B) *USE OF A GROUP SURETY BOND,*
17 *TRUST FUND, OR OTHER FINANCIAL SECURITY.—*
18 *In implementing the standards established under*
19 *subparagraph (A), the Secretary may authorize*
20 *the use of a group surety bond, trust fund, other*
21 *financial security, or a combination of such in-*
22 *struments, that meets the requirements of this*
23 *subsection.*

24 “(C) *SURETY BONDS.—A surety bond ob-*
25 *tained under this section may only be obtained*

1 *from a bonding company that has been approved*
2 *by the Secretary of the Treasury.*

3 “(D) *PROOF OF TRUST OR OTHER FINAN-*
4 *CIAL SECURITY.—For purposes of subparagraph*
5 *(A), a trust fund or other financial security may*
6 *not be accepted by the Secretary unless the trust*
7 *fund or other financial security consists of assets*
8 *readily available to pay claims without resort to*
9 *personal guarantees or collection of pledged ac-*
10 *counts receivable.*

11 “(2) *SCOPE OF FINANCIAL RESPONSIBILITY.—*

12 “(A) *PAYMENT OF CLAIMS.—A surety bond,*
13 *trust fund, or other financial security obtained*
14 *under paragraph (1) shall be available to pay*
15 *any claim against a freight forwarder arising*
16 *from its failure to pay freight charges under its*
17 *contracts, agreements, or arrangements for trans-*
18 *portation subject to jurisdiction under chapter*
19 *135 if—*

20 “(i) *subject to the review by the surety*
21 *provider, the freight forwarder consents to*
22 *the payment;*

23 “(ii) *in the case the freight forwarder*
24 *does not respond to adequate notice to ad-*

1 *dress the validity of the claim, the surety*
2 *provider determines the claim is valid; or*

3 “(iii) *the claim—*

4 “(I) *is not resolved within a rea-*
5 *sonable period of time following a rea-*
6 *sonable attempt by the claimant to re-*
7 *solve the claim under clauses (i) and*
8 *(ii); and*

9 “(II) *is reduced to a judgment*
10 *against the freight forwarder.*

11 “(B) *RESPONSE OF SURETY PROVIDERS TO*
12 *CLAIMS.—If a surety provider receives notice of*
13 *a claim described in subparagraph (A), the sur-*
14 *ety provider shall—*

15 “(i) *respond to the claim on or before*
16 *the 30th day following receipt of the notice;*
17 *and*

18 “(ii) *in the case of a denial, set forth*
19 *in writing for the claimant the grounds for*
20 *the denial.*

21 “(C) *COSTS AND ATTORNEY’S FEES.—In*
22 *any action against a surety provider to recover*
23 *on a claim described in subparagraph (A), the*
24 *prevailing party shall be entitled to recover its*
25 *reasonable costs and attorney’s fees.*

1 “(3) *FREIGHT FORWARDER INSURANCE.*—

2 “(A) *IN GENERAL.*—*The Secretary may reg-*
3 *ister a person as a freight forwarder under sec-*
4 *tion 13903 only if the person files with the Sec-*
5 *retary a surety bond, insurance policy, or other*
6 *type of financial security that meets standards*
7 *prescribed by the Secretary.*

8 “(B) *LIABILITY INSURANCE.*—*A financial*
9 *security filed by a freight forwarder under sub-*
10 *paragraph (A) shall be sufficient to pay an*
11 *amount, not to exceed the amount of the finan-*
12 *cial security, for each final judgment against the*
13 *freight forwarder for bodily injury to, or death*
14 *of, an individual, or loss of, or damage to, prop-*
15 *erty (other than property referred to in subpara-*
16 *graph (C)), resulting from the negligent oper-*
17 *ation, maintenance, or use of motor vehicles by,*
18 *or under the direction and control of, the freight*
19 *forwarder while providing transfer, collection, or*
20 *delivery service under this part.*

21 “(C) *CARGO INSURANCE.*—*The Secretary*
22 *may require a registered freight forwarder to file*
23 *with the Secretary a surety bond, insurance pol-*
24 *icy, or other type of financial security approved*
25 *by the Secretary, that will pay an amount, not*

1 to exceed the amount of the financial security,
2 for loss of, or damage to, property for which the
3 freight forwarder provides service.

4 “(4) *MINIMUM FINANCIAL SECURITY.*—Each
5 freight forwarder subject to the requirements of this
6 section shall provide financial security of \$100,000,
7 regardless of the number of branch offices or sales
8 agents of the freight forwarder.

9 “(5) *CANCELLATION NOTICE.*—If a financial se-
10 curity required under this subsection is canceled—

11 “(A) the holder of the financial security
12 shall provide electronic notification to the Sec-
13 retary of the cancellation not later than 30 days
14 before the effective date of the cancellation; and

15 “(B) the Secretary shall immediately post
16 such notification on the public Internet web site
17 of the Department of Transportation.

18 “(6) *SUSPENSION.*—The Secretary shall imme-
19 diately suspend the registration of a freight forwarder
20 issued under this chapter if its available financial se-
21 curity falls below the amount required under this sub-
22 section.

23 “(7) *PAYMENT OF CLAIMS IN CASES OF FINAN-*
24 *CIAL FAILURE OR INSOLVENCY.*—If a freight for-
25 warder registered under this chapter experiences fi-

1 *nancial failure or insolvency, the surety provider of*
2 *the freight forwarder shall—*

3 “(A) *submit a notice to cancel the financial*
4 *security to the Administrator in accordance with*
5 *paragraph (5);*

6 “(B) *publicly advertise for claims for 60*
7 *days beginning on the date of publication by the*
8 *Secretary of the notice to cancel the financial se-*
9 *curity; and*

10 “(C) *pay, not later than 30 days after the*
11 *expiration of the 60-day period for submission of*
12 *claims—*

13 “(i) *all uncontested claims received*
14 *during such period; or*

15 “(ii) *a pro rata share of such claims if*
16 *the total amount of such claims exceeds the*
17 *financial security available.*

18 “(8) *PENALTIES.—*

19 “(A) *CIVIL ACTIONS.—Either the Secretary*
20 *or the Attorney General may bring a civil action*
21 *in an appropriate district court of the United*
22 *States to enforce the requirements of this sub-*
23 *section or a regulation prescribed or order issued*
24 *under this subsection. The court may award ap-*
25 *propriate relief, including injunctive relief.*

1 “(B) *CIVIL PENALTIES.*—*If the Secretary*
2 *determines, after notice and opportunity for a*
3 *hearing, that a surety provider of a freight for-*
4 *warder registered under this chapter has violated*
5 *the requirements of this subsection or a regula-*
6 *tion prescribed under this subsection, the surety*
7 *provider shall be liable to the United States for*
8 *a civil penalty in an amount not to exceed*
9 *\$10,000.*

10 “(C) *ELIGIBILITY.*—*If the Secretary deter-*
11 *mines, after notice and opportunity for a hear-*
12 *ing, that a surety provider of a freight forwarder*
13 *registered under this chapter has violated the re-*
14 *quirements of this subsection or a regulation pre-*
15 *scribed under this subsection, the surety provider*
16 *shall be ineligible to provide freight forwarder fi-*
17 *nancial security for 3 years.*

18 “(9) *FINANCIAL SECURITY AND INSURANCE*
19 *AMOUNT ASSESSMENT.*—*Not less frequently than once*
20 *every 5 years, the Secretary—*

21 *“(A) shall review, with public notice and*
22 *comment, the amount of the financial security*
23 *and insurance required under this subsection to*
24 *determine whether such amounts are sufficient to*
25 *provide adequate financial security; and*

1 “(B) may increase such amounts, if nec-
2 essary, based upon the determination under sub-
3 paragraph (A).”.

4 (b) *RULEMAKING.*—Not later than 1 year after the date
5 of enactment of this Act, the Secretary shall issue regula-
6 tions to implement and enforce the requirements under sub-
7 sections (b) and (c) of section 13906 of title 49, United
8 States Code, as amended by subsection (a).

9 (c) *EFFECTIVE DATE.*—The amendments made by sub-
10 section (a) shall take effect on the date that is 1 year after
11 the date of enactment of this Act.

12 **SEC. 32920. UNLAWFUL BROKERAGE ACTIVITIES.**

13 (a) *IN GENERAL.*—Chapter 149 is amended by adding
14 at the end the following:

15 **“§ 14916. Unlawful brokerage activities**

16 “(a) *PROHIBITED ACTIVITIES.*—Any person that acts
17 as a broker, other than a non-vessel-operating common car-
18 rier (as defined in section 40102(16) of title 46) or an ocean
19 freight forwarder providing brokerage as part of an inter-
20 national through movement involving ocean transportation
21 between the United States and a foreign port, is prohibited
22 from providing interstate brokerage services as a broker un-
23 less that person—

24 “(1) is registered under, and in compliance with,
25 section 13903; and

1 “(2) has satisfied the financial security require-
2 ments under section 13904.

3 “(b) *CIVIL PENALTIES AND PRIVATE CAUSE OF AC-*
4 *TION.*—Any person who knowingly authorizes, consents to,
5 or permits, directly or indirectly, either alone or in con-
6 junction with any other person, a violation of subsection
7 (a) is liable—

8 “(1) to the United States Government for a civil
9 penalty in an amount not to exceed \$10,000 for each
10 violation; and

11 “(2) to the injured party for all valid claims in-
12 curred without regard to amount.

13 “(c) *LIABLE PARTIES.*—The liability for civil pen-
14 *alties and for claims under this section for unauthorized*
15 *brokering shall apply, jointly and severally—*

16 “(1) to any corporate entity or partnership in-
17 volved; and

18 “(2) to the individual officers, directors, and
19 principals of such entities.”.

20 (b) *CLERICAL AMENDMENT.*—The analysis for chapter
21 149 is amended by adding at the end the following:

“14916. Unlawful brokerage activities.”.

22 **PART II—HOUSEHOLD GOODS TRANSPORTATION**

23 **SEC. 32921. ADDITIONAL REGISTRATION REQUIREMENTS**

24 **FOR HOUSEHOLD GOODS MOTOR CARRIERS.**

25 (a) Section 13902(a)(2) is amended—

1 (1) *in subparagraph (B), by striking “section*
2 *13702(c);” and inserting “section 13702(c); and”;*

3 (2) *by amending subparagraph (C) to read as*
4 *follows:*

5 *“(C) demonstrates, before being registered,*
6 *through successful completion of a proficiency ex-*
7 *amination established by the Secretary, knowl-*
8 *edge and intent to comply with applicable Fed-*
9 *eral laws relating to consumer protection, esti-*
10 *imating, consumers’ rights and responsibilities,*
11 *and options for limitations of liability for loss*
12 *and damage.”; and*

13 (3) *by striking subparagraph (D).*

14 (b) *COMPLIANCE REVIEWS OF NEW HOUSEHOLD*
15 *GOODS MOTOR CARRIERS.—Section 31144(g), as amended*
16 *by section 32102 of this Act, is amended by adding at the*
17 *end the following:*

18 *“(6) ADDITIONAL REQUIREMENTS FOR HOUSE-*
19 *HOLD GOODS MOTOR CARRIERS.—(A) In addition to*
20 *the requirements of this subsection, the Secretary shall*
21 *require, by regulation, each registered household goods*
22 *motor carrier to undergo a consumer protection*
23 *standards review not later than 18 months after the*
24 *household goods motor carrier begins operations under*
25 *such authority.*

1 *found holding a household goods shipment hostage return*
2 *the goods to an aggrieved shipper.”.*

3 **SEC. 32923. SETTLEMENT AUTHORITY.**

4 (a) *SETTLEMENT OF GENERAL CIVIL PENALTIES.—*
5 *Section 14901 is amended by adding at the end the fol-*
6 *lowing:*

7 “(h) *SETTLEMENT OF HOUSEHOLD GOODS CIVIL PEN-*
8 *ALTIES.—Nothing in this section shall be construed to pro-*
9 *hibit the Secretary from accepting partial payment of a*
10 *civil penalty as part of a settlement agreement in the public*
11 *interest, or from holding imposition of any part of a civil*
12 *penalty in abeyance.”.*

13 (b) *SETTLEMENT OF HOUSEHOLD GOODS CIVIL PEN-*
14 *ALTIES.—Section 14915(a) is amended by adding at the*
15 *end the following:*

16 “(4) *SETTLEMENT AUTHORITY.—Nothing in this*
17 *section shall be construed as prohibiting the Secretary*
18 *from accepting partial payment of a civil penalty as*
19 *part of a settlement agreement in the public interest,*
20 *or from holding imposition of any part of a civil pen-*
21 *alty in abeyance.”.*

22 **SEC. 32924. HOUSEHOLD GOODS TRANSPORTATION ASSIST-**
23 **ANCE PROGRAM.**

24 (a) *JOINT ASSISTANCE PROGRAM.—Not later than 18*
25 *months after the date of enactment of this Act, the Secretary*

1 *shall develop and implement a joint assistance program,*
2 *through the Federal Motor Carrier Safety Administra-*
3 *tion—*

4 (1) *to educate consumers about the household*
5 *goods motor carrier industry pursuant to the rec-*
6 *ommendations of the task force established under sec-*
7 *tion 32925 of this Act;*

8 (2) *to improve the Federal Motor Carrier Safety*
9 *Administration’s implementation, monitoring, and*
10 *coordination of Federal and State household goods en-*
11 *forcement activities;*

12 (3) *to assist a consumer with the timely resolu-*
13 *tion of an interstate household goods hostage situa-*
14 *tion, as appropriate; and*

15 (4) *to conduct other enforcement activities as*
16 *designated by the Secretary.*

17 (b) *JOINT ASSISTANCE PROGRAM PARTNERSHIP.—The*
18 *Secretary—*

19 (1) *may partner with 1 or more household goods*
20 *motor carrier industry groups to implement the joint*
21 *assistance program under subsection (a); and*

22 (2) *shall ensure that each participating house-*
23 *hold goods motor carrier industry group—*

24 (A) *implements the joint assistance pro-*
25 *gram in the best interest of the consumer;*

1 (B) implements the joint assistance pro-
2 gram in the public interest;

3 (C) accurately represents its financial inter-
4 ests in providing household goods mover services
5 in the normal course of business and in assisting
6 consumers resolving hostage situations;

7 (D) does not hold itself out or misrepresent
8 itself as an agent of the Federal government;

9 (E) abides by Federal regulations and
10 guidelines for the provision of assistance and re-
11 ceipt of compensation for household goods mover
12 services; and

13 (F) accurately represents the Federal and
14 State remedies that are available to consumers
15 for resolving interstate household goods hostage
16 situations.

17 (c) *REPORT.*—The Secretary shall submit a report an-
18 nually to the Committee on Commerce, Science, and Trans-
19 portation of the Senate and the Committee on Transpor-
20 tation and Infrastructure of the House of Representatives
21 providing a detailed description of the joint assistance pro-
22 gram under subsection (a).

23 (d) *PROHIBITION.*—The joint assistance program
24 under subsection (a) may not include the provision of funds

1 *by the United States to a consumer for lost, stolen, or dam-*
2 *aged items.*

3 **SEC. 32925. HOUSEHOLD GOODS CONSUMER EDUCATION**
4 **PROGRAM.**

5 (a) *TASK FORCE.*—*The Secretary of Transportation*
6 *shall establish a task force to develop recommendations to*
7 *ensure that a consumer is informed of Federal law con-*
8 *cerning the transportation of household goods by a motor*
9 *carrier, including recommendations—*

10 (1) *on how to condense publication ESA 03005*
11 *of the Federal Motor Carrier Safety Administration*
12 *into a format that can be more easily used by a con-*
13 *sumer; and*

14 (2) *on the use of state-of-the-art education tech-*
15 *niques and technologies, including the use of the*
16 *Internet as an educational tool.*

17 (b) *TASK FORCE MEMBERS.*—*The task force shall be*
18 *comprised of—*

19 (1) *individuals with expertise in consumer af-*
20 *fairs;*

21 (2) *educators with expertise in how people learn*
22 *most effectively; and*

23 (3) *representatives of the household goods moving*
24 *industry.*

1 (c) *RECOMMENDATIONS.*—Not later than 1 year after
2 the date of enactment of this Act, the task force shall com-
3 plete its recommendations under subsection (a). Not later
4 than 1 year after the task force completes its recommenda-
5 tions under subsection (a), the Secretary shall issue regula-
6 tions implementing the recommendations, as appropriate.

7 (d) *FEDERAL ADVISORY COMMITTEE ACT EXEMP-*
8 *TION.*—The Federal Advisory Committee Act (5 U.S.C.
9 App.) shall not apply to the task force.

10 (e) *TERMINATION.*—The task force shall terminate 2
11 years after the date of enactment of this Act.

12 **PART III—TECHNICAL AMENDMENTS**

13 **SEC. 32931. UPDATE OF OBSOLETE TEXT.**

14 (a) Section 31137(e), as redesignated by section 32301
15 of this Act, is amended by striking “Not later than Decem-
16 ber 1, 1990, the Secretary shall prescribe” and inserting
17 “The Secretary shall maintain”.

18 (b) Section 31151(a) is amended—

19 (1) by amending paragraph (1) to read as fol-
20 lows:

21 “(1) *IN GENERAL.*—The Secretary of Transpor-
22 tation shall maintain a program to ensure that inter-
23 modal equipment used to transport intermodal con-
24 tainers is safe and systematically maintained.”; and

25 (2) by striking paragraph (4).

1 (c) Section 31307(b) is amended by striking “Not later
2 than December 18, 1994, the Secretary shall prescribe” and
3 inserting “The Secretary shall maintain”.

4 (d) Section 31310(g)(1) is amended by striking “Not
5 later than 1 year after the date of enactment of this Act,
6 the” and inserting “The”.

7 (e) Section 4123(f) of the *Safe, Accountable, Flexible,
8 Efficient Transportation Equity Act: A Legacy for Users*
9 (119 Stat. 1736), is amended by striking “Not later than
10 1 year after the date of enactment of this Act, the” and
11 inserting “The”.

12 **SEC. 32932. CORRECTION OF INTERSTATE COMMERCE COM-**
13 **MISSION REFERENCES.**

14 (a) *SAFETY INFORMATION AND INTERVENTION IN*
15 *INTERSTATE COMMERCE COMMISSION PROCEEDINGS.—*
16 *Chapter 3 is amended—*

17 (1) *by repealing section 307;*

18 (2) *in the analysis, by striking the item relating*
19 *to section 307;*

20 (3) *in section 333(d)(1)(C), by striking “Inter-*
21 *state Commerce Commission” and inserting “Surface*
22 *Transportation Board”;* and

23 (4) *in section 333(e)—*

1 (A) by striking “Interstate Commerce Com-
2 mission” and inserting “Surface Transportation
3 Board”; and

4 (B) by striking “Commission” and insert-
5 ing “Board”.

6 (b) *FILING AND PROCEDURE FOR APPLICATION TO*
7 *ABANDON OR DISCONTINUE*.—Section 10903(b)(2) is
8 amended by striking “24706(c) of this title” and inserting
9 “24706(c) of this title before May 31, 1998”.

10 (c) *TECHNICAL AMENDMENTS TO PART C OF SUB-*
11 *TITLE V*.—

12 (1) Section 24307(b)(3) is amended by striking
13 “Interstate Commerce Commission” and inserting
14 “Surface Transportation Board”.

15 (2) Section 24311 is amended—

16 (A) by striking “Interstate Commerce Com-
17 mission” and inserting “Surface Transportation
18 Board”;

19 (B) by striking “Commission” each place it
20 appears and inserting “Board”; and

21 (C) by striking “Commission’s” and insert-
22 ing “Board’s”.

23 (3) Section 24902 is amended—

1 (A) by striking “Interstate Commerce Com-
2 mission” each place it appears and inserting
3 “Surface Transportation Board”; and

4 (B) by striking “Commission” each place it
5 appears and inserting “Board”.

6 (4) Section 24904 is amended—

7 (A) by striking “Interstate Commerce Com-
8 mission” and inserting “Surface Transportation
9 Board”; and

10 (B) by striking “Commission” each place it
11 appears and inserting “Board”.

12 **SEC. 32933. TECHNICAL AND CONFORMING AMENDMENTS.**

13 (a) Section 13905(f)(1)(A) is amended by striking
14 “section 13904(c)” and inserting “section 13904(e)”;

15 (b) Section 14504a(c)(1) is amended—

16 (1) in subparagraph (C), by striking “sections”
17 and inserting “section”; and

18 (2) in subparagraph (D)(ii)(II) by striking the
19 period at the end and inserting “; and”.

20 (c) Section 31103(a) is amended by striking “section
21 31102(b)(1)(E)” and inserting “section 31102(b)(2)(E)”.

22 (d) Section 31103(b) is amended by striking “author-
23 ized by section 31104(f)(2)”.

24 (e) Section 31309(b)(2) is amended by striking
25 “31308(2)” and inserting “31308(3)”.

1 **TITLE III—SURFACE TRANSPORTATION AND FREIGHT POLICY**
2 **ACT OF 2012**
3

4 **SEC. 33001. SHORT TITLE.**

5 *This title may be cited as the “Surface Transportation*
6 *and Freight Policy Act of 2012”.*

7 **SEC. 33002. ESTABLISHMENT OF A NATIONAL SURFACE**
8 **TRANSPORTATION AND FREIGHT POLICY.**

9 *(a) IN GENERAL.—Subchapter I of chapter 3 of title*
10 *49, United States Code, as amended by section 32932 of*
11 *the Commercial Motor Vehicle Safety Enhancement Act of*
12 *2012, is amended—*

13 *(1) by redesignating sections 304 through 306 as*
14 *sections 307 through 309, respectively;*

15 *(2) by redesignating sections 308 and 309 as sec-*
16 *tions 310 and 311, respectively;*

17 *(3) by redesignating sections 303 and 303a as*
18 *sections 305 and 306, respectively; and*

19 *(4) by inserting after section 302 the following:*

20 **“§ 303. National surface transportation policy**

21 *“(a) POLICY.—It is the policy of the United States to*
22 *develop a comprehensive national surface transportation*
23 *system that advances the national interest and defense,*
24 *interstate and foreign commerce, the efficient and safe inter-*
25 *state mobility of people and goods, and the protection of*

1 *the environment. The system shall be built, maintained,*
2 *managed, and operated as a partnership between the Fed-*
3 *eral, State, and local governments and the private sector*
4 *and shall be coordinated with the overall transportation*
5 *system of the United States, including the Nation’s air, rail,*
6 *pipeline, and water transportation systems. The Secretary*
7 *of Transportation shall be responsible for carrying out this*
8 *policy.*

9 “(b) *OBJECTIVES.—The objectives of the policy shall*
10 *be to facilitate and advance—*

11 “(1) *the improved accessibility and reduced trav-*
12 *el times for persons and goods within and between*
13 *nations, regions, States, and metropolitan areas;*

14 “(2) *the safety of the public;*

15 “(3) *the security of the Nation and the public;*

16 “(4) *environmental protection;*

17 “(5) *energy conservation and security, including*
18 *reducing transportation-related energy use;*

19 “(6) *international and interstate freight move-*
20 *ment, trade enhancement, job creation, and economic*
21 *development;*

22 “(7) *responsible planning to address population*
23 *distribution and employment and sustainable devel-*
24 *opment;*

1 “(8) *the preservation and adequate performance*
2 *of system-critical transportation assets, as defined by*
3 *the Secretary;*

4 “(9) *reasonable access to the national surface*
5 *transportation system for all system users, including*
6 *rural communities;*

7 “(10) *the sustainable and adequate financing of*
8 *the national surface transportation system; and*

9 “(11) *innovation in transportation services, in-*
10 *frastructure, and technology.*

11 “(c) *GOALS.—*

12 “(1) *SPECIFIC GOALS.—The goals of the policy*
13 *shall be—*

14 “(A) *to reduce average per capita peak pe-*
15 *riod travel times on an annual basis;*

16 “(B) *to reduce national motor vehicle-re-*
17 *lated and truck-related fatalities by 50 percent*
18 *by 2030;*

19 “(C) *to reduce national surface transpor-*
20 *tation delays per capita on an annual basis;*

21 “(D) *to improve the access to employment*
22 *opportunities and other economic activities;*

23 “(E) *to increase the percentage of system-*
24 *critical surface transportation assets, as defined*

1 *by the Secretary, that are in a state of good re-*
2 *pair by 20 percent by 2030;*

3 *“(F) to improve access to public transpor-*
4 *tation, intercity passenger rail services, and non-*
5 *motorized transportation where travel demand*
6 *warrants;*

7 *“(G) to reduce passenger and freight trans-*
8 *portation infrastructure-related delays entering*
9 *into and out of international points of entry on*
10 *an annual basis;*

11 *“(H) to increase travel time reliability on*
12 *major freight corridors that connect major popu-*
13 *lation centers to freight generators and inter-*
14 *national gateways on an annual basis;*

15 *“(I) to ensure adequate transportation of*
16 *domestic energy supplies and promote energy se-*
17 *curity;*

18 *“(J) to maintain or reduce the percentage of*
19 *gross domestic product consumed by transpor-*
20 *tation costs; and*

21 *“(K) to reduce transportation-related im-*
22 *pacts on the environment and on communities.*

23 *“(2) BASELINES.—Not later than 2 years after*
24 *the date of enactment of the Surface Transportation*
25 *and Freight Policy Act of 2012, the Secretary shall*

1 *develop baselines for the goals and shall determine ap-*
2 *propriate methods of data collection to measure the*
3 *attainment of the goals.”.*

4 ***(b) FREIGHT POLICY.***—*Subchapter I of chapter 3 of*
5 *title 49, United States Code, as amended by section*
6 *33002(a) of this Act, is amended by adding at the end the*
7 *following:*

8 **“§ 312. National freight transportation policy.**

9 ***“(a) NATIONAL FREIGHT TRANSPORTATION POLICY.***—
10 *It is the policy of the United States to improve the effi-*
11 *ciency, operation, and security of the national transpor-*
12 *tation system to move freight by leveraging investments and*
13 *promoting partnerships that advance interstate and foreign*
14 *commerce, promote economic competitiveness and job cre-*
15 *ation, improve the safe and efficient mobility of goods, and*
16 *protect the public health and the environment.*

17 ***“(b) OBJECTIVES.***—*The objectives of the policy are—*

18 ***“(1) to target investment in freight transpor-***
19 *tation projects that strengthen the economic competi-*
20 *tiveness of the United States with a focus on domestic*
21 *industries and businesses and the creation and reten-*
22 *tion of high-value jobs;*

23 ***“(2) to promote and advance energy conservation***
24 *and the environmental sustainability of freight move-*
25 *ments;*

1 “(3) to facilitate and advance the safety and
2 health of the public, including communities adjacent
3 to freight movements;

4 “(4) to provide for systematic and balanced in-
5 vestment to improve the overall performance and reli-
6 ability of the national transportation system to move
7 freight, including ensuring trade facilitation and
8 transportation system improvements are mutually
9 supportive;

10 “(5) to promote partnerships between Federal,
11 State, and local governments, the private sector, and
12 other transportation stakeholders to leverage invest-
13 ments in freight transportation projects; and

14 “(6) to encourage adoption of operational poli-
15 cies, such as intelligent transportation systems, to im-
16 prove the efficiency of freight-related transportation
17 movements and infrastructure.”.

18 (c) *CONFORMING AMENDMENTS.*—*The table of contents*
19 *for chapter 3 of title 49, United States Code, is amended—*

20 (1) *by redesignating the items relating to sec-*
21 *tions 304 through 306 as sections 307 through 309,*
22 *respectively;*

23 (2) *by redesignating the items relating to sec-*
24 *tions 308 and 309 as sections 310 and 311, respec-*
25 *tively;*

1 (3) *by redesignating the items relating to sec-*
 2 *tions 303 and 303a as sections 305 and 306, respec-*
 3 *tively;*

4 (4) *by inserting after the item relating to section*
 5 *302 the following:*

“303. National surface transportation policy.”; and

6 (5) *by inserting after the item relating to section*
 7 *311 the following:*

“312. National freight transportation policy.”.

8 **SEC. 33003. SURFACE TRANSPORTATION AND FREIGHT**
 9 **STRATEGIC PLAN.**

10 (a) *SURFACE TRANSPORTATION AND FREIGHT STRA-*
 11 *TEGIC PLAN.—Subchapter I of chapter 3 of title 49, United*
 12 *States Code, as amended by section 33002 of this Act, is*
 13 *amended by inserting after section 303 the following—*

14 **“§304. National surface transportation and freight**
 15 **strategic performance plan.**

16 “(a) *DEVELOPMENT.—Not later than 2 years after the*
 17 *date of enactment of the Surface Transportation and*
 18 *Freight Policy Act of 2012, the Secretary of Transportation*
 19 *shall develop and implement a National Surface Transpor-*
 20 *tation and Freight Performance Plan to achieve the policy,*
 21 *objectives, and goals set forth in sections 303 and 312.*

22 “(b) *CONTENTS.—The plan shall include—*

23 “(1) *an assessment of the current performance of*
 24 *the national surface transportation system and an*

1 *analysis of the system’s ability to achieve the policy,*
2 *objectives, and goals set forth in sections 303 and 312;*

3 *“(2) an analysis of emerging and long-term pro-*
4 *jected trends, including economic and national trade*
5 *policies, that will impact the performance, needs, and*
6 *uses of the national surface transportation system, in-*
7 *cluding the system to move freight;*

8 *“(3) a description of the major challenges to ef-*
9 *fectively meeting the policy, objectives, and goals set*
10 *forth in sections 303 and 312 and a plan to address*
11 *such challenges;*

12 *“(4) a comprehensive strategy and investment*
13 *plan to meet the policy, objectives, and goals set forth*
14 *in sections 303 and 312, including a strategy to de-*
15 *velop the coalitions, partnerships, and other collabo-*
16 *rative financing efforts necessary to ensure stable, re-*
17 *liable funding and completion of freight corridors and*
18 *projects;*

19 *“(5) initiatives to improve transportation mod-*
20 *eling, research, data collection, and analysis, includ-*
21 *ing those to assess impacts on public health, and envi-*
22 *ronmental conditions;*

23 *“(6) guidelines to encourage the appropriate bal-*
24 *ance of means to finance the national transportation*

1 *system to move freight to implement the plan and the*
2 *investment plan proposed under paragraph (4); and*

3 *“(7) a list of priority freight corridors and gate-*
4 *ways to be improved and developed to meet the policy,*
5 *objectives, and goals set forth in section 312.*

6 *“(c) CONSULTATION.—In developing the plan required*
7 *by subsection (a), the Secretary shall—*

8 *“(1) consult with appropriate Federal agencies,*
9 *local, State, and tribal governments, public and pri-*
10 *vate transportation stakeholders, non-profit organiza-*
11 *tions representing transportation employees, appro-*
12 *priate foreign governments, and other interested par-*
13 *ties;*

14 *“(2) consider on-going Federal, State, and cor-*
15 *ridor-wide transportation plans;*

16 *“(3) provide public notice and hearings and so-*
17 *licit public comments on the plan, and*

18 *“(4) as appropriate, establish advisory commit-*
19 *tees to assist with developing the plan.*

20 *“(d) SUBMITTAL AND PUBLICATION.—The Secretary*
21 *shall—*

22 *“(1) submit the completed plan to the Committee*
23 *on Commerce, Science, and Transportation of the*
24 *Senate and the Committee on Transportation and In-*
25 *frastructure of the House of Representatives; and*

1 “(2) *post the completed plan on the Department*
2 *of Transportation’s public web site.*

3 “(e) *PROGRESS REPORTS.—The Secretary shall sub-*
4 *mit biennial progress reports on the implementation of the*
5 *plan beginning 2 years after the date of submittal of the*
6 *plan under subsection (d)(1). Each progress report shall—*

7 “(1) *describe progress made toward fully imple-*
8 *menting the plan and achieving the policies, objec-*
9 *tives, and goals established under sections 303 and*
10 *312;*

11 “(2) *describe challenges and obstacles to full im-*
12 *plementation;*

13 “(3) *describe updates to the plan necessary to re-*
14 *fect changed circumstances or new developments; and*

15 “(4) *make policy and legislative recommenda-*
16 *tions the Secretary believes are necessary and appro-*
17 *priate to fully implement the plan.*

18 “(f) *DATA.—The Secretary shall have the authority to*
19 *conduct studies, gather information, and require the pro-*
20 *duction of data necessary to develop or update this plan,*
21 *consistent with Federal privacy standards.*

22 “(g) *IMPLEMENTATION.—The Secretary shall—*

23 “(1) *develop appropriate performance criteria*
24 *and data collections systems for each Federal surface*
25 *transportation program consistent with this chapter*

1 *and the Secretary's statutory authority within these*
2 *programs to evaluate:*

3 *“(A) whether such programs are consistent*
4 *with the policy, objectives, and goals established*
5 *by sections 303 and 312; and*

6 *“(B) how effective such programs are in*
7 *contributing to the achievement of the policy, ob-*
8 *jectives, and goals established by sections 303*
9 *and 312;*

10 *“(2) using the criteria developed under para-*
11 *graph (1), periodically evaluate each such program*
12 *and provide the results to the public;*

13 *“(3) based on the evaluation performed under*
14 *paragraph (2), make any necessary changes or im-*
15 *provements to such programs to ensure such consist-*
16 *ency and effectiveness consistent with the Secretary's*
17 *statutory authority within these programs;*

18 *“(4) implement this section in a manner that is*
19 *consistent with sections 302, 5301, 5503, 10101, and*
20 *13101 of this title and section 101 of title 23;*

21 *“(5) review all relevant surface transportation*
22 *planning requirements to determine whether such re-*
23 *gional, State, and local surface transportation plan-*
24 *ning efforts funded with Federal funds are consistent*

1 *with the policy, objectives, and goals established by*
 2 *this section; and*

3 “(6) *require States and metropolitan planning*
 4 *organizations to report on the use of Federal surface*
 5 *transportation funds, consistent with ongoing report-*
 6 *ing requirements, to provide the Secretary with suffi-*
 7 *cient information to determine—*

8 “(A) *which projects and priorities were*
 9 *funded with such funds;*

10 “(B) *the rationale and method employed for*
 11 *apportioning such funds to the projects and pri-*
 12 *orities; and*

13 “(C) *how the obligation of such funds is*
 14 *consistent with or advances the policy, objectives,*
 15 *and goals established by sections 303 and 312*
 16 *and the statutory sections referenced in para-*
 17 *graph (4).”.*

18 (b) *CONFORMING AMENDMENT.—The table of contents*
 19 *for chapter 3 of title 49, United States Code, is amended*
 20 *by inserting after the item relating to section 303 the fol-*
 21 *lowing:*

“304. *National surface transportation and freight strategic performance plan.*”.

22 **SEC. 33004. TRANSPORTATION INVESTMENT DATA AND**
 23 **PLANNING TOOLS.**

24 (a) *IN GENERAL.—Not later than 2 years after the*
 25 *date of enactment of this Act, the Secretary shall—*

1 (1) *develop new tools or improve existing tools to*
2 *support an outcome-oriented, performance-based ap-*
3 *proach to evaluate proposed freight-related and other*
4 *surface transportation projects. These new or im-*
5 *proved tools shall include—*

6 (A) *a systematic cost-benefit analysis that*
7 *supports a valuation of modal alternatives;*

8 (B) *an evaluation of external effects on con-*
9 *gestion, pollution, the environment, and the pub-*
10 *lic health; and*

11 (C) *other elements to assist in effective*
12 *transportation planning; and*

13 (2) *facilitate the collection of transportation-re-*
14 *lated data to support a broad range of evaluation*
15 *methods and techniques such as demand forecasts,*
16 *modal diversion forecasts, estimates of the effect of*
17 *proposed investments on congestion, pollution, public*
18 *health, and other factors, to assist in making trans-*
19 *portation investment decisions. At a minimum, the*
20 *Secretary, in consultation with other relevant Federal*
21 *agencies, shall consider any improvements to the*
22 *Commodity Flow Survey that reduce identified freight*
23 *data gaps and deficiencies and help evaluate forecasts*
24 *of transportation demand.*

1 **(b) CONSULTATION.**—*To the extent practicable, the*
2 *Secretary shall consult with Federal, State, and local trans-*
3 *portation planners to develop, improve, and implement the*
4 *tools and collect the data under subsection (a).*

5 **(c) ESTABLISHMENT OF PILOT PROGRAM.**—

6 **(1) ESTABLISHMENT.**—*To assist in the develop-*
7 *ment of tools under subsection (a) and to inform the*
8 *National Surface Transportation and Freight Per-*
9 *formance Plan required by section 304 of title 49,*
10 *United States Code, the Secretary shall establish a*
11 *pilot program under which the Secretary shall con-*
12 *duct case studies of States and metropolitan planning*
13 *organizations that are designed—*

14 **(A)** *to provide more detailed, in-depth anal-*
15 *ysis and data collection with respect to transpor-*
16 *tation programs; and*

17 **(B)** *to apply rigorous methods of measuring*
18 *and addressing the effectiveness of program par-*
19 *ticipants in achieving national transportation*
20 *goals.*

21 **(2) PRELIMINARY REQUIREMENTS.**—

22 **(A) SOLICITATION.**—*The Secretary shall so-*
23 *licit applications to participate in the pilot pro-*
24 *gram from States and metropolitan planning or-*
25 *ganizations.*

1 (B) *NOTIFICATION.*—*A State or metropoli-*
2 *tan planning organization that desires to par-*
3 *ticipate in the pilot program shall notify the*
4 *Secretary of such desire before a date determined*
5 *by the Secretary.*

6 (C) *SELECTION.*—

7 (i) *NUMBER OF PROGRAM PARTICI-*
8 *PANTS.*—*The Secretary shall select to par-*
9 *ticipate in the pilot program—*

10 (I) *not fewer than 3, and not*
11 *more than 5, States; and*

12 (II) *not fewer than 3, and not*
13 *more than 5, metropolitan planning*
14 *organizations.*

15 (ii) *TIMING.*—*The Secretary shall se-*
16 *lect program participants not later than 3*
17 *months after the date of enactment of this*
18 *Act.*

19 (iii) *DIVERSITY OF PROGRAM PARTICI-*
20 *PANTS.*—*The Secretary shall, to the extent*
21 *practicable, select program participants*
22 *that represent a broad range of geographic*
23 *and demographic areas (including rural*
24 *and urban areas) and types of transpor-*
25 *tation programs.*

1 (d) *CASE STUDIES.*—

2 (1) *BASELINE REPORT.*—Not later than 6
3 months after the date of enactment of this Act, each
4 program participant shall submit to the Secretary a
5 baseline report that—

6 (A) describes the reporting and data collec-
7 tion processes of the program participant for
8 transportation investments that are in effect on
9 the date of the report;

10 (B) assesses how effective the program par-
11 ticipant is in achieving the national surface
12 transportation goals in section 303 of title 49,
13 United States Code;

14 (C) describes potential improvements to the
15 methods and metrics used to measure the effec-
16 tiveness of the program participant in achieving
17 national surface transportation goals in section
18 303 of title 49, United States Code, and the chal-
19 lenges to implementing such improvements; and

20 (D) includes an assessment of whether, and
21 specific reasons why, the preparation and sub-
22 mission of the baseline report may be limited,
23 incomplete, or unduly burdensome, including
24 any recommendations for facilitating the prepa-

1 *ration and submission of similar reports in the*
2 *future.*

3 (2) *EVALUATION.*—*Each program participant*
4 *shall work cooperatively with the Secretary to evalu-*
5 *ate the methods and metrics used to measure the effec-*
6 *tiveness of the program participant in achieving na-*
7 *tional surface transportation goals in section 303 of*
8 *title 49, United States Code, including—*

9 (A) *by considering the degree to which such*
10 *methods and metrics take into account—*

11 (i) *the factors that influence the effec-*
12 *tiveness of the program participant in*
13 *achieving the national surface transpor-*
14 *tation goals;*

15 (ii) *all modes of transportation; and*

16 (iii) *the transportation program as a*
17 *whole, rather than individual projects with-*
18 *in the transportation program; and*

19 (B) *by identifying steps that could be used*
20 *to implement the potential improvements identi-*
21 *fied under paragraph (1)(C).*

22 (3) *FINAL REPORT.*—*Not later than 18 months*
23 *after the date of enactment of this section, each pro-*
24 *gram participant shall submit to the Secretary a*
25 *comprehensive final report that—*

1 **SEC. 33006. SAFETY FOR MOTORIZED AND NONMOTORIZED**
2 **USERS.**

3 (a) *IN GENERAL.*—Chapter 4 of title 23, United States
4 Code, is amended by adding at the end the following:

5 **“§ 413. Safety for motorized and nonmotorized users**

6 “(a) *IN GENERAL.*—Not later than 2 years after the
7 date of enactment of the Surface Transportation and
8 Freight Policy Act of 2012, subject to subsection (b), the
9 Secretary shall establish standards to ensure that the design
10 of Federal surface transportation projects provides for the
11 safe and adequate accommodation, in all phases of project
12 planning, development, and operation, of all users of the
13 transportation network, including motorized and non-
14 motorized users.

15 “(b) *WAIVER FOR STATE LAW OR POLICY.*—The Sec-
16 retary may waive the application of standards established
17 under subsection (a) to a State that has adopted a law or
18 policy that provides for the safe and adequate accommoda-
19 tion as certified by the State (or other grantee), in all
20 phases of project planning and development, of users of the
21 transportation network on federally funded surface trans-
22 portation projects, as determined by the Secretary.

23 “(c) *COMPLIANCE.*—

24 “(1) *IN GENERAL.*—Each State department of
25 transportation shall submit to the Secretary, at such
26 time, in such manner, and containing such informa-

1 *tion as the Secretary shall require, a report describing*
2 *the implementation by the State of measures to*
3 *achieve compliance with this section.*

4 *“(2) DETERMINATION BY SECRETARY.—On re-*
5 *ceipt of a report under paragraph (1), the Secretary*
6 *shall determine whether the applicable State has*
7 *achieved compliance with this section.”.*

8 *(b) CONFORMING AMENDMENT.—The analysis for*
9 *chapter 4 of title 23, United States Code, is amended by*
10 *adding at the end the following:*

“413. Safety for motorized and nonmotorized users.”.

11 **SEC. 33007. BUY AMERICA WAIVER REQUIREMENTS.**

12 *(a) NOTICE AND COMMENT OPPORTUNITIES.—*

13 *(1) IN GENERAL.—If the Secretary receives a re-*
14 *quest for a waiver under section 313(b) of title 23,*
15 *United States Code, or under section 24305(f)(4) or*
16 *24405(a)(2) of title 49, United States Code, the Sec-*
17 *retary shall provide notice of, and an opportunity for*
18 *public comment on, the request not later than 15 days*
19 *before making a finding based on such request.*

20 *(2) NOTICE REQUIREMENTS.—Each notice pro-*
21 *vided under paragraph (1)—*

22 *(A) shall include the information available*
23 *to the Secretary concerning the request, includ-*
24 *ing the requestor’s justification for such request;*
25 *and*

1 (B) shall be provided electronically, includ-
2 ing on the official public Internet website of the
3 Department.

4 (3) *PUBLICATION OF DETAILED JUSTIFICA-*
5 *TION.—If the Secretary issues a waiver pursuant to*
6 *the authority granted under a provision referenced in*
7 *paragraph (1), the Secretary shall publish, in the*
8 *Federal Register, a detailed justification for the wai-*
9 *ver that—*

10 (A) addresses the public comments received
11 under paragraph (1); and

12 (B) is published before the waiver takes ef-
13 fect.

14 (b) *CONSISTENCY WITH INTERNATIONAL AGREE-*
15 *MENTS.—This section shall be applied in a manner that*
16 *is consistent with United States obligations under relevant*
17 *international agreements.*

18 (c) *REVIEW OF NATIONWIDE WAIVERS.—Not later*
19 *than 1 year after the date of the enactment of the Moving*
20 *Ahead for Progress in the 21st Century Act, and at least*
21 *once every 5 years thereafter, the Secretary shall review*
22 *each standing nationwide waiver issued pursuant to the au-*
23 *thority granted under any of the provisions referenced in*
24 *paragraph (1) to determine whether continuing such waiver*
25 *is necessary.*

1 (d) *BUY AMERICA REPORTING*.—Section 308 of title
2 49, United States Code, is amended by inserting after sub-
3 section (c) the following:

4 “(d) Not later than February 1, 2013, and annually
5 thereafter, the Secretary shall submit a report to Congress
6 that—

7 “(1) specifies each highway, public transpor-
8 tation, or railroad project for which the Secretary
9 issued a waiver from a Buy America requirement
10 pursuant to the authority granted under section
11 313(b) of title 23, United States Code, or under sec-
12 tion 24305(f)(4) or 24405(a)(2) of title 49, United
13 States Code, during the preceding calendar year;

14 “(2) identifies the country of origin and product
15 specifications for the steel, iron, or manufactured
16 goods acquired pursuant to each of the waivers speci-
17 fied under paragraph (1); and

18 “(3) summarizes the monetary value of contracts
19 awarded pursuant to each such waiver.”.

20 **SEC. 33008. MAKE IT IN AMERICA INITIATIVE.**

21 (a) *MEMORANDUM OF AGREEMENT*.—The term
22 “Memorandum of Agreement” means the August 2011
23 Memorandum of Agreement between the Department of
24 Transportation and the Department of Commerce entitled

1 *“Development of a Domestic Supply Base for Intermodal*
2 *Transportation in the U.S.”.*

3 (b) *SENSE OF CONGRESS.—It is the sense of Congress*
4 *that collaboration between the Department of Transpor-*
5 *tation and the Department of Commerce can significantly*
6 *improve the scope and depth of the domestic supply base*
7 *for transportation infrastructure, particularly for small*
8 *businesses in the United States.*

9 (c) *IMPLEMENTATION.—*

10 (1) *IN GENERAL.—The Secretary of Transpor-*
11 *tation and the Secretary of Commerce shall prioritize*
12 *the implementation of the Memorandum of Agree-*
13 *ment.*

14 (2) *SAVINGS PROVISION.—The requirement under*
15 *paragraph (1) may not be construed to require the ex-*
16 *penditure of additional funds.*

17 **SEC. 33009. CAPACITY-BUILDING FOR NATURAL DISASTERS**
18 **AND EXTREME WEATHER.**

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

21 (1) *EXTREME WEATHER.—The term “extreme*
22 *weather” includes severe or unseasonable weather,*
23 *heavy precipitation, a storm surge, flooding, drought,*
24 *windstorms (including hurricanes, tornadoes, and as-*

1 *sociated storm surges), extreme heat, and extreme*
2 *cold.*

3 (2) *SECRETARY.*—*The term “Secretary” means*
4 *the Secretary of Transportation, in consultation*
5 *with—*

6 (A) *the Director of the National Institute of*
7 *Standards and Technology;*

8 (B) *the Administrator of the Federal Emer-*
9 *gency Management Agency; and*

10 (C) *as appropriate—*

11 (i) *the Administrator of the National*
12 *Oceanic and Atmospheric Administration;*

13 (ii) *the Director of the United States*
14 *Geological Survey;*

15 (iii) *the Administrator of the National*
16 *Aeronautics and Space Administration;*

17 (iv) *the Administrator of the Environ-*
18 *mental Protection Agency; and*

19 (v) *the heads of other Federal agencies.*

20 (b) *DATA.*—*The Secretary shall determine and provide*
21 *to transportation planners appropriate data on the impact*
22 *on infrastructure of natural disasters and a higher fre-*
23 *quency of extreme weather.*

24 (c) *TRANSPORTATION INFRASTRUCTURE.*—

1 (1) *IN GENERAL.*—*The Secretary shall issue*
2 *guidance and establish design standards for transpor-*
3 *tation infrastructure to help States, metropolitan*
4 *planning organizations, and local governments plan*
5 *for natural disasters and a greater frequency of ex-*
6 *treme weather events in the process of planning,*
7 *siting, designing, and developing transportation in-*
8 *frastructure by assessing vulnerabilities to a changing*
9 *climate and the costs and benefits of adaptation*
10 *measures (including economic, social, and environ-*
11 *mental costs and benefits).*

12 (2) *COORDINATION.*—*If appropriate, guidance*
13 *and design standards under paragraph (1) shall, to*
14 *the maximum extent practicable, be carried out*
15 *through the coordination mechanism provided*
16 *under—*

17 (A) *the National Windstorm Impact Reduc-*
18 *tion Program established under section 204 of*
19 *the National Windstorm Impact Reduction Act*
20 *of 2004 (42 U.S.C. 15703); and*

21 (B) *the National Earthquake Hazard Re-*
22 *duction Program established under section 5 of*
23 *the Earthquake Hazards Reduction Act of 1977*
24 *(42 U.S.C. 7704).*

1 **SEC. 33010. TOLL FAIRNESS STUDY.**

2 (a) *REVIEW.*—As soon as practicable after the date of
3 the enactment of this Act, the Comptroller General of the
4 United States shall conduct a review of toll rate setting
5 practices by selected interstate tolling authorities—

6 (1) over any bridge constructed under the Act of
7 March 23, 1906 (33 U.S.C. 491 et seq.) (commonly
8 known as the Bridge Act of 1906), the General Bridge
9 Act of 1946 (33 U.S.C. 525 et seq.), or the Inter-
10 national Bridge Act of 1972 (33 U.S.C. 535 et seq.);
11 and

12 (2) over or through any bridge or tunnel con-
13 structed on a Federal-aid highway (as defined in sec-
14 tion 101(a) of title 23, United States Code).

15 (b) *EVALUATION.*—The review under subsection (a)
16 shall include an evaluation of—

17 (1) the extent to which the use of tolling revenue
18 by interstate authorities is consistent with their man-
19 dates; and

20 (2) the transparency and accountability of the
21 funding and management decisions by those authori-
22 ties.

23 (c) *REPORT TO CONGRESS.*—The Comptroller General
24 of the United States shall submit a report to the Committee
25 on Commerce, Science, and Transportation of the Senate

1 *and the Committee on Transportation and Infrastructure*
2 *of the House of Representatives that contains—*

3 *(1) the results of the review conducted under this*
4 *section; and*

5 *(2) any appropriate recommendations.*

6 **TITLE IV—HAZARDOUS MATE-**
7 **RIALS TRANSPORTATION**
8 **SAFETY IMPROVEMENT ACT**
9 **OF 2012**

10 **SEC. 34001. SHORT TITLE.**

11 *This title may be cited as the “Hazardous Materials*
12 *Transportation Safety Improvement Act of 2012”.*

13 **SEC. 34002. DEFINITION.**

14 *In this title, the term “Secretary” means the Secretary*
15 *of Transportation.*

16 **SEC. 34003. REFERENCES TO TITLE 49, UNITED STATES**
17 **CODE.**

18 *Except as otherwise expressly provided, whenever in*
19 *this title an amendment or repeal is expressed in terms of*
20 *an amendment to, or repeal of, a section or other provision,*
21 *the reference shall be considered to be made to a section or*
22 *other provision of title 49, United States Code.*

23 **SEC. 34004. TRAINING FOR EMERGENCY RESPONDERS.**

24 *(a) TRAINING CURRICULUM.—Section 5115 is amend-*
25 *ed—*

- 1 (1) in subsection (b)(1)(B), by striking “basic”;
2 (2) in subsection (b)(2), by striking “basic”; and
3 (3) in subsection (c), by striking “basic”.

4 (b) OPERATIONS LEVEL TRAINING.—Section 5116 is
5 amended—

6 (1) in subsection (b)(1), by adding at the end the
7 following: “To the extent that a grant is used to train
8 emergency responders, the State or Indian tribe shall
9 provide written certification to the Secretary that the
10 emergency responders who receive training under the
11 grant will have the ability to protect nearby persons,
12 property, and the environment from the effects of ac-
13 cidents or incidents involving the transportation of
14 hazardous material in accordance with existing regu-
15 lations or National Fire Protection Association stand-
16 ards for competence of responders to hazardous mate-
17 rials.”;

18 (2) in subsection (j)—

19 (A) by redesignating paragraph (5) as
20 paragraph (7); and

21 (B) by inserting after paragraph (4) the fol-
22 lowing:

23 “(5) The Secretary may not award a grant to an
24 organization under this subsection unless the organi-
25 zation ensures that emergency responders who receive

1 *training under the grant will have the ability to pro-*
2 *tect nearby persons, property, and the environment*
3 *from the effects of accidents or incidents involving the*
4 *transportation of hazardous material in accordance*
5 *with existing regulations or National Fire Protection*
6 *Association standards for competence of responders to*
7 *hazardous materials.*

8 *“(6) Notwithstanding paragraphs (1) and (3), to*
9 *the extent determined appropriate by the Secretary, a*
10 *grant awarded by the Secretary to an organization*
11 *under this subsection to conduct hazardous material*
12 *response training programs may be used to train in-*
13 *dividuals with responsibility to respond to accidents*
14 *and incidents involving hazardous material.”; and*

15 *(3) in subsection (k)—*

16 *(A) by striking “annually” and inserting*
17 *“an annual report”;*

18 *(B) by inserting “the report” after “make*
19 *available”;*

20 *(C) by striking “information” and inserting*
21 *“. The report submitted under this subsection*
22 *shall include information”;* and

23 *(D) by striking “The report shall identify”*
24 *and all that follows and inserting the following:*

25 *“The report submitted under this subsection shall*

1 *identify the ultimate recipients of such grants*
2 *and include—*

3 “(A) *a detailed accounting and description*
4 *of each grant expenditure by each grant recipi-*
5 *ent, including the amount of, and purpose for,*
6 *each expenditure;*

7 “(B) *the number of persons trained under*
8 *the grant program, by training level;*

9 “(C) *an evaluation of the efficacy of such*
10 *planning and training programs; and*

11 “(D) *any recommendations the Secretary*
12 *may have for improving such grant programs.”.*

13 **SEC. 34005. PAPERLESS HAZARD COMMUNICATIONS PILOT**
14 **PROGRAM.**

15 (a) *IN GENERAL.—The Secretary may conduct pilot*
16 *projects to evaluate the feasibility and effectiveness of using*
17 *paperless hazard communications systems. At least 1 of the*
18 *pilot projects under this section shall take place in a rural*
19 *area.*

20 (b) *REQUIREMENTS.—In conducting pilot projects*
21 *under this section, the Secretary—*

22 (1) *may not waive the requirements under sec-*
23 *tion 5110 of title 49, United States Code; and*

24 (2) *shall consult with organizations rep-*
25 *resenting—*

1 (A) *fire services personnel;*

2 (B) *law enforcement and other appropriate*
3 *enforcement personnel;*

4 (C) *other emergency response providers;*

5 (D) *persons who offer hazardous material*
6 *for transportation;*

7 (E) *persons who transport hazardous mate-*
8 *rial by air, highway, rail, and water; and*

9 (F) *employees of persons who transport or*
10 *offer for transportation hazardous material by*
11 *air, highway, rail, and water.*

12 (c) *REPORT.—Not later than 2 years after the date of*
13 *the enactment of this Act, the Secretary shall—*

14 (1) *prepare a report on the results of the pilot*
15 *projects carried out under this section, including—*

16 (A) *a detailed description of the pilot*
17 *projects;*

18 (B) *an evaluation of each pilot project, in-*
19 *cluding an evaluation of the performance of each*
20 *paperless hazard communications system in such*
21 *project;*

22 (C) *an assessment of the safety and security*
23 *impact of using paperless hazard communica-*
24 *tions systems, including any impact on the pub-*

1 *lic, emergency response, law enforcement, and the*
2 *conduct of inspections and investigations; and*

3 *(D) a recommendation on whether paperless*
4 *hazard communications systems should be per-*
5 *manently incorporated into the Federal haz-*
6 *ardous material transportation safety program*
7 *under chapter 51 of title 49, United States Code;*
8 *and*

9 *(2) submit a final report to the Committee on*
10 *Commerce, Science, and Transportation of the Senate*
11 *and the Committee on Transportation and Infrastruc-*
12 *ture of the House of Representatives that contains the*
13 *results of the pilot projects carried out under this sec-*
14 *tion, including the matters described in paragraph*
15 *(1).*

16 *(d) PAPERLESS HAZARD COMMUNICATIONS SYSTEM*
17 *DEFINED.—In this section, the term “paperless hazard com-*
18 *munications system” means the use of advanced commu-*
19 *nications methods, such as wireless communications devices,*
20 *to convey hazard information between all parties in the*
21 *transportation chain, including emergency responders and*
22 *law enforcement personnel. The format of communication*
23 *may be equivalent to that used by the carrier.*

1 **SEC. 34006. IMPROVING DATA COLLECTION, ANALYSIS, AND**
2 **REPORTING.**

3 (a) *ASSESSMENT.*—

4 (1) *IN GENERAL.*—*Not later than 6 months after*
5 *the date of the enactment of this Act, the Secretary,*
6 *in coordination with the Secretary of Homeland Se-*
7 *curity, as appropriate, shall conduct an assessment to*
8 *improve the collection, analysis, reporting, and use of*
9 *data related to accidents and incidents involving the*
10 *transportation of hazardous material.*

11 (2) *REVIEW.*—*The assessment conducted under*
12 *this subsection shall review the methods used by the*
13 *Pipeline and Hazardous Materials Safety Adminis-*
14 *tration (referred to in this section as the “Adminis-*
15 *tration”)* *for collecting, analyzing, and reporting ac-*
16 *cidents and incidents involving the transportation of*
17 *hazardous material, including the adequacy of—*

18 (A) *information requested on the accident*
19 *and incident reporting forms required to be sub-*
20 *mitted to the Administration;*

21 (B) *methods used by the Administration to*
22 *verify that the information provided on such*
23 *forms is accurate and complete;*

24 (C) *accident and incident reporting require-*
25 *ments, including whether such requirements*

1 *should be expanded to include shippers and con-*
2 *signees of hazardous materials;*

3 *(D) resources of the Administration related*
4 *to data collection, analysis, and reporting, in-*
5 *cluding staff and information technology; and*

6 *(E) the database used by the Administra-*
7 *tion for recording and reporting such accidents*
8 *and incidents, including the ability of users to*
9 *adequately search the database and find infor-*
10 *mation.*

11 *(b) DEVELOPMENT OF ACTION PLAN.—Not later than*
12 *9 months after the date of the enactment of this Act, the*
13 *Secretary shall develop an action plan and timeline for im-*
14 *proving the collection, analysis, reporting, and use of data*
15 *by the Administration, including revising the database of*
16 *the Administration, as appropriate.*

17 *(c) SUBMISSION TO CONGRESS.—Not later than 15*
18 *days after the completion of the action plan and timeline*
19 *under subsection (c), the Secretary shall submit the action*
20 *plan and timeline to the Committee on Commerce, Science,*
21 *and Transportation of the Senate and the Committee on*
22 *Transportation and Infrastructure of the House of Rep-*
23 *resentatives.*

24 *(d) REPORTING REQUIREMENTS.—Section*
25 *5125(b)(1)(D) is amended by inserting “and other haz-*

1 *ardous materials transportation incident reporting to the*
2 *9–1–1 emergency system or involving State or local emer-*
3 *gency responders in the initial response to the incident”*
4 *before the period at the end.*

5 **SEC. 34007. LOADING AND UNLOADING OF HAZARDOUS MA-**
6 **TERIALS.**

7 (a) *RULEMAKING.*—*Not later than 2 years after date*
8 *of the enactment of this Act, the Secretary, after consulta-*
9 *tion with the Department of Labor and the Environmental*
10 *Protection Agency, as appropriate, and after providing no-*
11 *tice and an opportunity for public comment shall prescribe*
12 *regulations establishing uniform procedures among facili-*
13 *ties for the safe loading and unloading of hazardous mate-*
14 *rials on and off tank cars and cargo tank trucks.*

15 (b) *INCLUSION.*—*The regulations prescribed under sub-*
16 *section (a) may include procedures for equipment inspec-*
17 *tion, personnel protection, and necessary safeguards.*

18 (c) *CONSIDERATION.*—*In prescribing regulations*
19 *under subsection (a), the Secretary shall give due consider-*
20 *ation to carrier rules and procedures that produce an equiv-*
21 *alent level of safety.*

1 **SEC. 34008. HAZARDOUS MATERIAL TECHNICAL ASSESS-**
2 **MENT, RESEARCH AND DEVELOPMENT, AND**
3 **ANALYSIS PROGRAM.**

4 (a) *IN GENERAL.*—Chapter 51 is amended by insert-
5 *ing after section 5117 the following:*

6 **“§ 5118. Hazardous material technical assessment, re-**
7 **search and development, and analysis**
8 **program**

9 “(a) *RISK REDUCTION.*—

10 “(1) *PROGRAM AUTHORIZED.*—*The Secretary of*
11 *Transportation may develop and implement a haz-*
12 *ardous material technical assessment, research and*
13 *development, and analysis program for the purpose*
14 *of—*

15 “(A) *reducing the risks associated with the*
16 *transportation of hazardous material; and*

17 “(B) *identifying and evaluating new tech-*
18 *nologies to facilitate the safe, secure, and efficient*
19 *transportation of hazardous material.*

20 “(2) *COORDINATION.*—*In developing the program*
21 *under paragraph (1), the Secretary shall—*

22 “(A) *utilize information gathered from*
23 *other modal administrations with similar pro-*
24 *grams; and*

25 “(B) *coordinate with other modal adminis-*
26 *trations, as appropriate.*

1 “(b) *COOPERATION.*—*In carrying out subsection (a),*
2 *the Secretary may work cooperatively with regulated and*
3 *other entities, including shippers, carriers, emergency re-*
4 *sponders, State and local officials, and academic institu-*
5 *tions.*”.

6 (b) *CONFORMING AMENDMENT.*—*The chapter analysis*
7 *for chapter 51 is amended by inserting after the item relat-*
8 *ing to section 5117 the following:*

 “5118. *Hazardous material technical assessment, research and development, and*
 analysis program.”.

9 **SEC. 34009. HAZARDOUS MATERIAL ENFORCEMENT TRAIN-**
10 **ING PROGRAM.**

11 (a) *IN GENERAL.*—*The Secretary shall establish a*
12 *multimodal hazardous material enforcement training pro-*
13 *gram for government hazardous materials inspectors and*
14 *investigators—*

15 (1) *to develop uniform performance standards*
16 *for training hazardous material inspectors and inves-*
17 *tigators; and*

18 (2) *to train hazardous material inspectors and*
19 *investigators on—*

20 (A) *how to collect, analyze, and publish*
21 *findings from inspections and investigations of*
22 *accidents or incidents involving the transpor-*
23 *tation of hazardous material; and*

1 (B) *how to identify noncompliance with*
2 *regulations issued under chapter 51 of title 49,*
3 *United States Code, and take appropriate en-*
4 *forcement action.*

5 (b) *STANDARDS AND GUIDELINES.—Under the pro-*
6 *gram established under this section, the Secretary may de-*
7 *velop—*

8 (1) *guidelines for hazardous material inspector*
9 *and investigator qualifications;*

10 (2) *best practices and standards for hazardous*
11 *material inspector and investigator training pro-*
12 *grams; and*

13 (3) *standard protocols to coordinate investiga-*
14 *tion efforts among Federal, State, and local jurisdic-*
15 *tions on accidents or incidents involving the transpor-*
16 *tation of hazardous material.*

17 (c) *AVAILABILITY.—The standards, protocols, and*
18 *findings of the program established under this section—*

19 (1) *shall be mandatory for—*

20 (A) *the Department of Transportation’s*
21 *multimodal personnel conducting hazardous ma-*
22 *terial enforcement inspections or investigations;*
23 *and*

1 (B) *State employees who conduct federally*
2 *funded compliance reviews, inspections, or inves-*
3 *tigations; and*

4 (2) *shall be made available to Federal, State,*
5 *and local hazardous materials safety enforcement per-*
6 *sonnel.*

7 **SEC. 34010. INSPECTIONS.**

8 (a) *NOTICE OF ENFORCEMENT MEASURES.*—Section
9 *5121(c)(1) is amended—*

10 (1) *in subparagraph (E), by striking “and” at*
11 *the end;*

12 (2) *in subparagraph (F), by striking the period*
13 *at the end and inserting “; and”; and*

14 (3) *by adding at the end the following:*

15 “(G) *shall provide to the affected offeror,*
16 *carrier, packaging manufacturer or tester, or*
17 *other person responsible for the package reason-*
18 *able notice of—*

19 “(i) *his or her decision to exercise his*
20 *or her authority under paragraph (1);*

21 “(ii) *any findings made; and*

22 “(iii) *any actions being taken as a re-*
23 *sult of a finding of noncompliance.”.*

24 (b) *REGULATIONS.*—Section *5121(e) is amended by*
25 *adding at the end the following:*

1 “(3) *MATTERS TO BE ADDRESSED.*—*The regula-*
2 *tions issued under this subsection shall address—*

3 “(A) *the safe and expeditious resumption of*
4 *transportation of perishable hazardous material,*
5 *including radiopharmaceuticals and other med-*
6 *ical products, that may require timely delivery*
7 *due to life-threatening situations;*

8 “(B) *the means by which—*

9 “(i) *noncompliant packages that*
10 *present an imminent hazard are placed out-*
11 *of-service until the condition is corrected;*
12 *and*

13 “(ii) *noncompliant packages that do*
14 *not present a hazard are moved to their*
15 *final destination;*

16 “(C) *appropriate training and equipment*
17 *for inspectors; and*

18 “(D) *the proper closure of packaging in ac-*
19 *cordance with the hazardous material regula-*
20 *tions.”.*

21 (c) *GRANTS AND COOPERATIVE AGREEMENTS.*—*Sec-*
22 *tion 5121(g)(1) is amended by inserting “safety and” before*
23 *“security”.*

24 **SEC. 34011. CIVIL PENALTIES.**

25 *Section 5123 is amended—*

1 (1) *in subsection (a)—*

2 (A) *in paragraph (1), by striking “\$50,000”*
3 *and inserting “\$75,000”; and*

4 (B) *in paragraph (2), by striking*
5 *“\$100,000” and inserting “\$175,000”; and*

6 (2) *by adding at the end the following:*

7 “(h) *PENALTY FOR OBSTRUCTION OF INSPECTIONS*
8 *AND INVESTIGATIONS.—The Secretary may impose a pen-*
9 *alty on a person who obstructs or prevents the Secretary*
10 *from carrying out inspections or investigations under sub-*
11 *section (c) or (i) of section 5121.*

12 “(i) *PROHIBITION ON HAZARDOUS MATERIAL OPER-*
13 *ATIONS AFTER NONPAYMENT OF PENALTIES.—*

14 “(1) *IN GENERAL.—Except as provided under*
15 *paragraph (2), a person subject to the jurisdiction of*
16 *the Secretary under this chapter who fails to pay a*
17 *civil penalty assessed under this chapter, or fails to*
18 *arrange and abide by an acceptable payment plan for*
19 *such civil penalty, may not conduct any activity reg-*
20 *ulated under this chapter beginning on the 91st day*
21 *after the date specified by order of the Secretary for*
22 *payment of such penalty unless the person has filed*
23 *a formal administrative or judicial appeal of the pen-*
24 *alty.*

1 “(2) *EXCEPTION.*—Paragraph (1) shall not
2 *apply to any person who is unable to pay a civil pen-*
3 *alty because such person is a debtor in a case under*
4 *chapter 11 of title 11.*

5 “(3) *RULEMAKING.*—Not later than 2 years after
6 *the date of the enactment of this subsection, the Sec-*
7 *retary, after providing notice and an opportunity for*
8 *public comment, shall issue regulations that—*

9 “(A) *set forth procedures to require a person*
10 *who is delinquent in paying civil penalties to*
11 *cease any activity regulated under this chapter*
12 *until payment has been made or an acceptable*
13 *payment plan has been arranged; and*

14 “(B) *ensures that the person described in*
15 *subparagraph (A)—*

16 “(i) *is notified in writing; and*

17 “(ii) *is given an opportunity to re-*
18 *spond before the person is required to cease*
19 *the activity.”.*

20 **SEC. 34012. REPORTING OF FEES.**

21 *Section 5125(f)(2) is amended by striking “, upon the*
22 *Secretary’s request,” and inserting “biennially”.*

1 **SEC. 34013. SPECIAL PERMITS, APPROVALS, AND EXCLU-**
2 **SIONS.**

3 (a) *IN GENERAL.*—Section 5117 is amended to read
4 as follows:

5 **“§5117. Special permits, approvals, and exclusions**

6 *“(a) AUTHORITY TO ISSUE SPECIAL PERMITS.—*

7 *“(1) CONDITIONS.—The Secretary of Transpor-*
8 *tation may issue, modify, or terminate a special per-*
9 *mit implementing new technologies or authorizing a*
10 *variance from a provision under this chapter or a*
11 *regulation prescribed under section 5103(b), 5104,*
12 *5110, or 5112 to a person performing a function reg-*
13 *ulated by the Secretary under section 5103(b)(1) to*
14 *achieve—*

15 *“(A) a safety level at least equal to the safe-*
16 *ty level required under this chapter; or*

17 *“(B) a safety level consistent with the pub-*
18 *lic interest and this chapter, if a required safety*
19 *level does not exist.*

20 *“(2) FINDINGS REQUIRED.—*

21 *“(A) IN GENERAL.—Before issuing, renew-*
22 *ing, or modifying a special permit or granting*
23 *party status to a special permit, the Secretary*
24 *shall determine that the person is fit to conduct*
25 *the activity authorized by such permit in a man-*

1 *ner that achieves the level of safety required*
2 *under paragraph (1).*

3 “(B) *CONSIDERATIONS.—In making the de-*
4 *termination under subparagraph (A), the Sec-*
5 *retary shall consider—*

6 “(i) *the person’s safety history (includ-*
7 *ing prior compliance history);*

8 “(ii) *the person’s accident and incident*
9 *history; and*

10 “(iii) *any other information the Sec-*
11 *retary considers appropriate to make such a*
12 *determination.*

13 “(3) *EFFECTIVE PERIOD.—A special permit*
14 *issued under this section—*

15 “(A) *shall be for an initial period of not*
16 *more than 2 years;*

17 “(B) *may be renewed by the Secretary upon*
18 *application—*

19 “(i) *for successive periods of not more*
20 *than 4 years each; or*

21 “(ii) *in the case of a special permit re-*
22 *lating to section 5112, for an additional pe-*
23 *riod of not more than 2 years.*

24 “(b) *APPLICATIONS.—*

1 “(1) *REQUIRED DOCUMENTATION.*—When apply-
2 ing for a special permit or the renewal or modifica-
3 tion of a special permit or requesting party status to
4 a special permit under this section, the Secretary
5 shall require the person to submit an application that
6 contains—

7 “(A) a detailed description of the person’s
8 request;

9 “(B) a listing of the person’s current facili-
10 ties and addresses where the special permit will
11 be utilized;

12 “(C) a safety analysis prescribed by the
13 Secretary that justifies the special permit;

14 “(D) documentation to support the safety
15 analysis;

16 “(E) a certification of safety fitness; and

17 “(F) proof of registration, as required under
18 section 5108.

19 “(2) *PUBLIC NOTICE.*—The Secretary shall—

20 “(A) publish notice in the *Federal Register*
21 that an application for a special permit has been
22 filed; and

23 “(B) provide the public an opportunity to
24 inspect and comment on the application.

1 “(3) SAVINGS CLAUSE.—*This subsection does not*
2 *require the release of information protected by law*
3 *from public disclosure.*

4 “(c) COORDINATE AND COMMUNICATE WITH MODAL
5 CONTACT OFFICIALS.—

6 “(1) IN GENERAL.—*In evaluating applications*
7 *under subsection (b), and making the findings and*
8 *determinations under subsections (a), (e), and (h), the*
9 *Administrator of the Pipeline and Hazardous Mate-*
10 *rials Safety Administration shall consult, coordinate,*
11 *or notify the modal contact official responsible for the*
12 *specified mode of transportation that will be utilized*
13 *under a special permit or approval before—*

14 “(A) *issuing, modifying, or renewing the*
15 *special permit;*

16 “(B) *granting party status to the special*
17 *permit; or*

18 “(C) *issuing or renewing the special permit*
19 *or approval.*

20 “(2) MODAL CONTACT OFFICIAL DEFINED.—*In*
21 *this section, the term ‘modal contact official’ means—*

22 “(A) *the Administrator of the Federal Avia-*
23 *tion Administration;*

24 “(B) *the Administrator of the Federal*
25 *Motor Carrier Safety;*

1 “(C) *the Administrator of the Federal Rail-*
2 *road Administration; and*

3 “(D) *the Commandant of the Coast Guard.*

4 “(d) *APPLICATIONS TO BE DEALT WITH PROMPT-*
5 *LY.—The Secretary shall—*

6 “(1) *issue, modify, renew, or grant party status*
7 *to a special permit or approval for which a request*
8 *was filed under this section, or deny the issuance,*
9 *modification, renewal, or grant, on or before the last*
10 *day of the 180-day period beginning on the first day*
11 *of the month following the date of the filing of the re-*
12 *quest; or*

13 “(2) *publish a statement in the Federal Register*
14 *that—*

15 “(A) *describes the reason for the delay of the*
16 *Secretary’s decision on the special permit or ap-*
17 *proval; and*

18 “(B) *includes an estimate of the additional*
19 *time necessary before the decision is made.*

20 “(e) *EMERGENCY PROCESSING OF SPECIAL PER-*
21 *MITS.—*

22 “(1) *FINDINGS REQUIRED.—The Secretary may*
23 *not grant a request for emergency processing of a spe-*
24 *cial permit unless the Secretary determines that—*

1 “(A) a special permit is necessary for na-
2 tional security purposes;

3 “(B) processing on a routine basis under
4 this section would result in significant injury to
5 persons or property; or

6 “(C) a special permit is necessary to pre-
7 vent significant economic loss or damage to the
8 environment that could not be prevented if the
9 application were processed on a routine basis.

10 “(2) *WAIVER OF FITNESS TEST.*—*The Secretary*
11 *may waive the requirement under subsection (a)(2)*
12 *for a request for which the Secretary makes a deter-*
13 *mination under subparagraph (A) or (B) of para-*
14 *graph (1).*

15 “(3) *NOTIFICATION.*—*Not later than 90 days*
16 *after the date of issuance of a special permit under*
17 *this subsection, the Secretary shall publish a notice in*
18 *the Federal Register of the issuance that includes—*

19 “(A) a statement of the basis for the finding
20 of emergency; and

21 “(B) the scope and duration of the special
22 permit.

23 “(4) *EFFECTIVE PERIOD.*—*A special permit*
24 *issued under this subsection shall be effective for a pe-*
25 *riod not to exceed 180 days.*

1 “(f) *EXCLUSIONS.*—

2 “(1) *IN GENERAL.*—*The Secretary shall exclude,*
3 *in any part, from this chapter and regulations pre-*
4 *scribed under this chapter—*

5 “(A) *a public vessel (as defined in section*
6 *2101 of title 46);*

7 “(B) *a vessel exempted under section 3702*
8 *of title 46 or from chapter 37 of title 46; and*

9 “(C) *a vessel to the extent it is regulated*
10 *under the Ports and Waterways Safety Act of*
11 *1972 (33 U.S.C. 1221, et seq.).*

12 “(2) *FIREARMS.*—*This chapter and regulations*
13 *prescribed under this chapter do not prohibit—*

14 “(A) *or regulate transportation of a firearm*
15 *(as defined in section 232 of title 18), or ammu-*
16 *nition for a firearm, by an individual for per-*
17 *sonal use; or*

18 “(B) *transportation of a firearm or ammu-*
19 *nition in commerce.*

20 “(g) *LIMITATION ON AUTHORITY.*—*Unless the Sec-*
21 *retary decides that an emergency exists, a person subject*
22 *to this chapter may only be granted a variance from this*
23 *chapter through a special permit or renewal granted under*
24 *this section.*

25 “(h) *APPROVALS.*—

1 “(1) *FINDINGS REQUIRED.*—

2 “(A) *IN GENERAL.*—*The Secretary may not*
3 *issue an approval or grant the renewal of an ap-*
4 *proval pursuant to part 107 of title 49, Code of*
5 *Federal Regulations until the Secretary has de-*
6 *termined that the person is fit, willing, and able*
7 *to conduct the activity authorized by the ap-*
8 *proval in a manner that achieves the level of*
9 *safety required under subsection (a)(1).*

10 “(B) *CONSIDERATIONS.*—*In making a de-*
11 *termination under subparagraph (A), the Sec-*
12 *retary shall consider—*

13 “(i) *the person’s safety history (includ-*
14 *ing prior compliance history);*

15 “(ii) *the person’s accident and incident*
16 *history; and*

17 “(iii) *any other information the Sec-*
18 *retary considers appropriate to make such a*
19 *determination.*

20 “(2) *REQUIRED DOCUMENTATION.*—*When apply-*
21 *ing for an approval or renewal or modification of an*
22 *approval under this section, the Secretary shall re-*
23 *quire the person to submit an application that con-*
24 *tains—*

1 “(A) a detailed description of the person’s
2 request;

3 “(B) a listing of the persons current facili-
4 ties and addresses where the approval will be
5 utilized;

6 “(C) a safety analysis prescribed by the
7 Secretary that justifies the approval;

8 “(D) documentation to support the safety
9 analysis;

10 “(E) a certification of safety fitness; and

11 “(F) the verification of registration required
12 under section 5108.

13 “(3) SAVINGS PROVISION.—Nothing in this sub-
14 section may be construed to require the release of in-
15 formation protected by law from public disclosure.

16 “(i) NONCOMPLIANCE.—The Secretary may modify,
17 suspend, or terminate a special permit or approval if the
18 Secretary determines that—

19 “(1) the person who was granted the special per-
20 mit or approval has violated the special permit or ap-
21 proval or the regulations issued under this chapter in
22 a manner that demonstrates that the person is not fit
23 to conduct the activity authorized by the special per-
24 mit or approval; or

25 “(2) the special permit or approval is unsafe.

1 “(j) *RULEMAKING.*—Not later than 2 years after the
2 date of the enactment of the Hazardous Materials Transpor-
3 tation Safety Improvement Act of 2012, the Secretary, after
4 providing notice and an opportunity for public comment,
5 shall issue regulations that establish—

6 “(1) standard operating procedures to support
7 administration of the special permit and approval
8 programs; and

9 “(2) objective criteria to support the evaluation
10 of special permit and approval applications.

11 “(k) *ANNUAL REVIEW OF CERTAIN SPECIAL PER-*
12 *MITTS.*—

13 “(1) *REVIEW.*—The Secretary shall conduct an
14 annual review and analysis of special permits—

15 “(A) to identify consistently used and long-
16 standing special permits with an established
17 safety record; and

18 “(B) to determine whether such permits
19 may be converted into the hazardous materials
20 regulations.

21 “(2) *FACTORS.*—In conducting the review and
22 analysis under paragraph (1), the Secretary may
23 consider—

24 “(A) the safety record for hazardous mate-
25 rials transported under the special permit;

1 “(B) the application of a special permit;

2 “(C) the suitability of provisions in the spe-
3 cial permit for incorporation into the hazardous
4 materials regulations; and

5 “(D) rulemaking activity in related areas.

6 “(3) RULEMAKING.—After completing the review
7 and analysis under paragraph (1) and providing no-
8 tice and opportunity for public comment, the Sec-
9 retary shall issue regulations, as needed.”.

10 (b) CONFORMING AMENDMENT.—The analysis for
11 chapter 51 is amended by striking the item relating to sec-
12 tion 5117 and inserting the following:

 “5117. Special permits, approvals, and exclusions.”.

13 **SEC. 34014. HIGHWAY ROUTING DISCLOSURES.**

14 (a) LIST OF ROUTE DESIGNATIONS.—Section 5112(c)
15 is amended—

16 (1) by striking “In coordination” and inserting
17 the following:

18 “(1) IN GENERAL.—In coordination”; and

19 (2) by adding at the end the following:

20 “(2) STATE RESPONSIBILITIES.—

21 “(A) IN GENERAL.—Each State shall sub-
22 mit to the Secretary, in a form and manner to
23 be determined by the Secretary and in accord-
24 ance with subparagraph (B)—

1 “(i) the name of the State agency re-
2 sponsible for hazardous material highway
3 route designations; and

4 “(ii) a list of the State’s currently ef-
5 fective hazardous material highway route
6 designations.

7 “(B) FREQUENCY.—Each State shall submit
8 the information described in subparagraph
9 (A)(ii)—

10 “(i) at least once every 2 years; and

11 “(ii) not later than 60 days after a
12 hazardous material highway route designa-
13 tion is established, amended, or discon-
14 tinued.”.

15 (b) COMPLIANCE WITH SECTION 5112.—Section
16 5125(c)(1) is amended by inserting “, and is published in
17 the Department’s hazardous materials route registry under
18 section 5112(c)” before the period at the end.

19 **SEC. 34015. AUTHORIZATION OF APPROPRIATIONS.**

20 Section 5128 is amended to read as follows:

21 **“§ 5128. Authorization of appropriations**

22 “(a) IN GENERAL.—There are authorized to be appro-
23 priated to the Secretary to carry out this chapter (except
24 sections 5107(e), 5108(g)(2), 5113, 5115, 5116, and 5119)—

25 “(1) \$42,338,000 for fiscal year 2012; and

1 “(2) \$42,762,000 for fiscal year 2013.

2 “(b) *HAZARDOUS MATERIALS EMERGENCY PRE-*
3 *PAREDNESS FUND.*—*From the Hazardous Materials Emer-*
4 *gency Preparedness Fund established under section 5116(i),*
5 *the Secretary may expend, during each of fiscal years 2012*
6 *and 2013—*

7 “(1) \$188,000 to carry out section 5115;

8 “(2) \$21,800,000 to carry out subsections (a)
9 and (b) of section 5116, of which not less than
10 \$13,650,000 shall be available to carry out section
11 5116(b);

12 “(3) \$150,000 to carry out section 5116(f);

13 “(4) \$625,000 to publish and distribute the
14 *Emergency Response Guidebook* under section
15 5116(i)(3); and

16 “(5) \$1,000,000 to carry out section 5116(j).

17 “(c) *HAZARDOUS MATERIALS TRAINING GRANTS.*—
18 *From the Hazardous Materials Emergency Preparedness*
19 *Fund established pursuant to section 5116(i), the Secretary*
20 *may expend \$4,000,000 for each of the fiscal years 2012*
21 *and 2013 to carry out section 5107(e).*

22 “(d) *CREDITS TO APPROPRIATIONS.*—

23 “(1) *EXPENSES.*—*In addition to amounts other-*
24 *wise made available to carry out this chapter, the*
25 *Secretary may credit amounts received from a State,*

1 *Indian tribe, or other public authority or private en-*
2 *tity for expenses the Secretary incurs in providing*
3 *training to the State, authority, or entity.*

4 “(2) *AVAILABILITY OF AMOUNTS.—Amounts*
5 *made available under this section shall remain avail-*
6 *able until expended.”.*

7 **TITLE V—NATIONAL RAIL SYS-**
8 **TEM PRESERVATION, EXPAN-**
9 **SION, AND DEVELOPMENT**
10 **ACT OF 2012**

11 **SEC. 35001. SHORT TITLE.**

12 *This title may be cited as the “National Rail System*
13 *Preservation, Expansion, and Development Act of 2012”.*

14 **SEC. 35002. REFERENCES TO TITLE 49, UNITED STATES**
15 **CODE.**

16 *Except as otherwise expressly provided, whenever in*
17 *this title an amendment or repeal is expressed in terms of*
18 *an amendment to, or a repeal of, a section or other provi-*
19 *sion, the reference shall be considered to be made to a section*
20 *or other provision of title 49, United States Code.*

1 ***Subtitle A—Federal and State Roles***
 2 ***in Rail Planning and Develop-***
 3 ***ment Tools***

4 **SEC. 35101. RAIL PLANS.**

5 (a) *LONG-RANGE NATIONAL RAIL PLAN.*—Section 103
 6 is amended by amending subsection (j)(2) to read as follows:

7 “(2) in coordination with the Secretary of
 8 Transportation, develop and routinely update a long-
 9 range national rail plan pursuant to chapter 227;”.

10 (b) *NATIONAL RAIL PLAN.*—Chapter 227 is amended
 11 to read as follows:

12 **“§ 22701. National Rail Plan**

13 “(a) *IN GENERAL.*—The Secretary of Transportation
 14 shall—

15 “(1) not later than 1 year after the date of enact-
 16 ment of the National Rail System Preservation, Ex-
 17 pansion, and Development Act of 2012—

18 “(A) develop a long-range national rail
 19 plan—

20 “(i) in coordination with the Adminis-
 21 trator of the Federal Railroad Administra-
 22 tion and the Surface Transportation Board;
 23 and

24 “(ii) in consultation with Amtrak,
 25 freight railroads, nonprofit employee labor

1 *organizations, and other rail industry*
2 *stakeholders; and*

3 “(B) *submit the national rail plan under*
4 *subparagraph (A) to the Committee on Com-*
5 *merce, Science, and Transportation of the Senate*
6 *and the Committee on Transportation and Infra-*
7 *structure of the House of Representatives;*

8 “(2) *routinely update the national rail plan—*

9 “(A) *in coordination with the Adminis-*
10 *trator of the Federal Railroad Administration*
11 *and the Surface Transportation Board; and*

12 “(B) *in consultation with Amtrak, freight*
13 *railroads, nonprofit employee labor organiza-*
14 *tions, and other rail industry stakeholders; and*

15 “(3) *submit the updated national rail plan*
16 *under paragraph (2) at the same time as the Presi-*
17 *dent’s budget submission.*

18 “(b) *NATIONAL RAIL PLAN.—The national rail plan*
19 *shall—*

20 “(1) *be subject to refinement by regional and*
21 *State rail plans;*

22 “(2) *be consistent with the rail needs of the Na-*
23 *tion and Federal surface transportation or multi-*
24 *modal policies and plans, as determined by the Sec-*
25 *retary;*

1 “(3) *promote an integrated, cohesive, safe, effi-*
2 *cient, and optimized national rail system for the*
3 *movement of goods and people and to support the na-*
4 *tional economy and other national needs; and*

5 “(4) *contain a specific national intercity pas-*
6 *senger rail development plan and a freight rail plan*
7 *that are consistent with other Federal strategy, plan-*
8 *ning, and investment efforts.*

9 “(c) *OBJECTIVES.—The objectives of the national rail*
10 *plan are—*

11 “(1) *to implement a national policy and strategy*
12 *to support, preserve, improve, and further develop ex-*
13 *isting and future high-speed and intercity passenger*
14 *rail transportation and freight rail transportation;*
15 *and*

16 “(2) *to provide a national framework to be re-*
17 *fined and implemented by regional rail plans under*
18 *section 22702 and State rail plans under 22703.*

19 “(d) *CONTENTS.—The national rail plan shall in-*
20 *clude—*

21 “(1) *the conditions under which Federal invest-*
22 *ments in intercity passenger rail and freight rail are*
23 *justified, including consideration of—*

24 “(A) *population size and density;*

1 “(B) projected population and economic
2 growth and changing demographic characteris-
3 tics;

4 “(C) connections to local rail and bus tran-
5 sit, alternative transportation options, and
6 multi-modal freight transportation nodes;

7 “(D) economic profile of specific markets;

8 “(E) congestion on existing transportation
9 facilities and constraints on future capacity en-
10 hancements, in relation to efficient movement of
11 both goods and people;

12 “(F) distances between markets;

13 “(G) geographic characteristics;

14 “(H) demand for present and future freight
15 rail transportation services;

16 “(I) ability to serve underserved commu-
17 nities and enhance intra-and inter-regional
18 connectivity of mega-regions;

19 “(J) transportation safety data and anal-
20 yses;

21 “(K) travel market size; and

22 “(L) availability and quality of service
23 from other transportation modes within a mar-
24 ket;

1 “(2) a national map with a prioritized designa-
2 tion of existing and developing markets to be served
3 by specific rail routes and services that meet the cri-
4 teria described in paragraph (1);

5 “(3) defined corridor and service categories, in-
6 cluding—

7 “(A) services to be offered;

8 “(B) peak or average speeds to be achieved;

9 “(C) frequencies to be offered; and

10 “(D) populations to be served;

11 “(4) a schedule and strategy for the phased im-
12 plementation of corridors and services identified in
13 the plan;

14 “(5) a discussion of benefits and costs of poten-
15 tial investments in high-speed or intercity passenger
16 rail or freight rail that considers all system user and
17 public benefits and costs from a network perspective,
18 including factors such as potential ridership, travel
19 time reductions and improved reliability, benefits of
20 enhanced mobility of goods and people, environmental
21 benefits, economic development benefits, and other
22 public benefits;

23 “(6) a strategy for investments in passenger sta-
24 tions, including investment in intermodal stations
25 that are linked to local public transportation, other

1 *intercity transportation modes, and non-motorized*
2 *transportation options, and that connect residential*
3 *areas, commercial areas, and other nearby transpor-*
4 *tation facilities that support intercity passenger rail*
5 *and high-speed rail service, and in freight-related fa-*
6 *cilities, that is consistent with other Federal strategy,*
7 *planning, and investment efforts;*

8 “(7) *performance standards for fiscal and oper-*
9 *ational performance of new and enhanced high-speed*
10 *and intercity passenger rail services;*

11 “(8) *analysis of the environmental impacts of the*
12 *national rail plan;*

13 “(9) *recommendations for project financing,*
14 *management and implementation for corridor devel-*
15 *opment, station development, freight capacity develop-*
16 *ment, and similar projects;*

17 “(10) *recommendations for the integration of*
18 *freight and passenger service in a manner that pro-*
19 *vides for mutual and complementary growth;*

20 “(11) *a plan for integrating any proposed new*
21 *services with existing services;*

22 “(12) *service design and project execution proto-*
23 *cols, including design and construction standards, re-*
24 *quirements needed to ensure interoperability, and any*
25 *other protocols the Secretary deems appropriate; and*

1 “(13) additional factors that the Secretary deems
2 relevant.

3 **“§ 22702. Regional rail plans**

4 “(a) *IN GENERAL.*—The Secretary shall—

5 “(1) develop a regional rail plan for each region,
6 except the Northeast Corridor, that contains a de-
7 tailed plan for implementing the national rail plan,
8 including any plans for public investment in projects
9 that contribute to efficient movement and increased
10 capacity for freight by—

11 “(A) regional rail authorities, as defined by
12 the Secretary; or

13 “(B) any 2 or more States that have entered
14 into interstate compacts, agreements, or organi-
15 zations for the purpose of developing such plans;
16 and

17 “(2) in developing each regional rail plan, co-
18 ordinate with—

19 “(A) States;

20 “(B) local communities;

21 “(C) railroad infrastructure owners;

22 “(D) regional air quality planning agen-
23 cies;

24 “(E) Amtrak;

25 “(F) passenger rail service operators;

- 1 “(G) freight railroad operators;
- 2 “(H) metropolitan planning organizations;
- 3 “(I) governing authorities for transit sys-
- 4 tems or airports;
- 5 “(J) tribal governments;
- 6 “(K) the general public, including low-in-
- 7 come and minority populations, people with dis-
- 8 abilities, and older Americans; and
- 9 “(L) non-profit labor employee organiza-
- 10 tions.

11 “(b) *PURPOSES.*—*The purposes of a regional rail plan*

12 *shall be to refine and advance the implementation of the*

13 *national rail plan under section 22701.*

14 “(c) *CONTENTS.*—*A regional rail plan shall include—*

15 “(1) a map—

16 “(A) that indicates detailed alignment al-

17 ternatives for any new corridor identified in the

18 national rail plan under section 22701; and

19 “(B) that identifies the location of each po-

20 tential new station;

21 “(2) a phasing plan for developing or upgrading

22 specific segments of the regional network;

23 “(3) the identification of any environmental im-

24 pact analyses required under the National Environ-

1 *mental Policy Act of 1969 (42 U.S.C. 4321 et seq.) or*
2 *other laws (including regulations);*

3 “(4) *a full capital cost estimate for developing*
4 *the regional network;*

5 “(5) *an analysis of operating financial forecasts;*

6 “(6) *a benefit-cost analysis for the regional net-*
7 *work that considers both user and public benefits and*
8 *the costs from a network perspective, including factors*
9 *such as ridership projections, travel time reductions,*
10 *enhanced mobility benefits, environmental benefits,*
11 *economic benefits, and other public benefits;*

12 “(7) *an analysis of potential land use policies*
13 *and strategies for areas near high-speed and intercity*
14 *passenger rail stations;*

15 “(8) *potential non-Federal funding sources, in-*
16 *cluding a detailed consideration of anticipated pri-*
17 *vate sector participation;*

18 “(9) *a proposal for the institutional and govern-*
19 *ance structures that will be necessary to develop the*
20 *regional network;*

21 “(10) *other project implementation consider-*
22 *ations, including an analysis of the readiness of spe-*
23 *cific corridors to proceed for development;*

24 “(11) *an examination of multi-modal connec-*
25 *tions that considers the most cost-effective means for*

1 *achieving the region’s transportation goals and objec-*
2 *tives;*

3 *“(12) identification of plans for cost-effective,*
4 *public investment in intercity passenger rail projects*
5 *that contribute toward the efficient movement and in-*
6 *creased capacity for freight rail operations;*

7 *“(13) a list of capital projects needed to imple-*
8 *ment a region’s portion of the national rail plan;*

9 *“(14) a plan for coordinating service and capital*
10 *projects with adjacent regions;*

11 *“(15) a plan for crossing international borders,*
12 *as appropriate;*

13 *“(16) a plan for integrating any proposed new*
14 *services with existing service; and*

15 *“(17) a description of how the regional rail plan*
16 *refines and advances the implementation of the na-*
17 *tional rail plan.*

18 *“(d) UPDATES.—Not later than 1 year after the publi-*
19 *cation of the national rail plan under section 22701 and*
20 *periodically thereafter, the Secretary shall update each re-*
21 *gional rail plan—*

22 *“(1) to reflect any material changes to the con-*
23 *tents under subsection (c); and*

24 *“(2) to include any changes made to the national*
25 *rail plan under section 22701.*

1 “(e) *WAIVER.*—*The Secretary may waive a content re-*
2 *quirement under subsection (c) as necessary to accommo-*
3 *date a unique characteristic or situation in a region.*

4 “**§ 22703. State rail plans**

5 “(a) *IN GENERAL.*—*A State may prepare and main-*
6 *tain a State rail plan. A State rail plan shall—*

7 “(1) *be consistent with the national rail plan*
8 *under section 22701;*

9 “(2) *be consistent with the regional rail plans*
10 *under section 22702;*

11 “(3) *coordinate with other State transportation*
12 *planning goals and programs, including the statewide*
13 *transportation plans under section 135 of title 23,*
14 *and*

15 “(4) *set forth rail transportation’s role within*
16 *the State’s transportation system.*

17 “(b) *PURPOSES.*—*The purposes of a State rail plan*
18 *shall be to refine and advance the implementation of the*
19 *national rail plan and relevant regional rail plan under*
20 *sections 22701 and 22702.*

21 “(c) *OBJECTIVES.*—*The objectives of a State rail plan*
22 *shall be—*

23 “(1) *to set forth the State’s policy on freight and*
24 *intercity passenger rail transportation, including*
25 *commuter rail operations, within the State;*

1 “(2) to establish the time period covered by the
2 *State rail plan;*

3 “(3) to present the priorities and strategies to
4 *enhance rail service within the State that benefits the*
5 *public; and*

6 “(4) to serve as the basis for Federal and State
7 *rail investments within the State.*

8 “(d) *REQUIREMENTS.*—

9 “(1) *ESTABLISHMENT.*—*The Secretary shall es-*
10 *tablish minimum requirements, consistent with sec-*
11 *tions 22701 and 22702, for the preparation and peri-*
12 *odic revision of a State rail plan, including—*

13 “(A) *the establishment or designation of a*
14 *State rail transportation authority to prepare,*
15 *maintain, coordinate, and administer the State*
16 *rail plan;*

17 “(B) *the establishment or designation of a*
18 *State approval authority to approve the State*
19 *rail plan;*

20 “(C) *the submission of the State’s approved*
21 *State rail plan to the Secretary for review and*
22 *approval; and*

23 “(D) *the revision and resubmittal of a*
24 *State-approved State rail plan for review and*

1 *approval by the Secretary not less than once*
2 *every 5 years.*

3 “(2) *REVIEW.—The Secretary shall prescribe*
4 *procedures for a State to submit a State rail plan for*
5 *review and approval, including standardized format*
6 *and data requirements.*

7 “(3) *COMPLIANCE.—The Secretary shall deem a*
8 *State rail plan to be in compliance with this chapter*
9 *if the State rail plan—*

10 *“(A) is completed before the date of enact-*
11 *ment of the National Rail System Preservation,*
12 *Expansion, and Development Act of 2012; and*

13 *“(B) substantially meets the requirements of*
14 *chapter 227 as in effect on the day before the*
15 *date of enactment of the National Rail System*
16 *Preservation, Expansion, and Development Act*
17 *of 2012.*

18 “(4) *UPDATES.—A State rail plan that is*
19 *deemed in compliance under paragraph (3) shall be*
20 *updated not later than 1 year after the date of enact-*
21 *ment of the National Rail System Preservation, Ex-*
22 *pansion, and Development Act of 2012.*

23 “(e) *CONTENTS.—A State rail plan shall include—*

1 “(1) an inventory of the existing overall rail
2 transportation system and rail services and facilities
3 within the State;

4 “(2) an analysis of the role of rail transpor-
5 tation within the State’s surface transportation sys-
6 tem;

7 “(3) a review of all rail lines within the State,
8 including any proposed high-speed rail corridors and
9 significant rail line segments not currently in service;

10 “(4) a statement of the State’s passenger rail
11 service objectives, including minimum service levels,
12 for rail transportation routes within the State;

13 “(5) a general analysis of rail’s transportation,
14 economic, and environmental impacts within the
15 State, including congestion mitigation, trade and eco-
16 nomic development, air quality, land-use, energy-use,
17 and community impacts;

18 “(6) a long-range rail service and investment
19 program for current and future freight and intercity
20 passenger infrastructure within the State that meets
21 the requirements under subsection (f);

22 “(7) a statement of the public financing issues
23 for rail projects or service within the State, including
24 a list of current and prospective public capital and
25 operating funding resources, public subsidies, State

1 *taxation, and other financial policies relating to rail*
2 *infrastructure development;*

3 “(8) *the identification of rail infrastructure*
4 *issues within the State, after consulting with relevant*
5 *stakeholders;*

6 “(9) *a review of major passenger and freight*
7 *intermodal rail connections and facilities within the*
8 *State, including seaports;*

9 “(10) *a list of prioritized options to maximize*
10 *service integration and efficiency between rail and*
11 *other modes of transportation within the State;*

12 “(11) *a review of publicly funded projects within*
13 *the State to improve rail transportation safety and*
14 *security, including major projects funded under sec-*
15 *tion 130 of title 23;*

16 “(12) *a performance evaluation of passenger rail*
17 *services operating in the State, including possible im-*
18 *provements to those services and a description of*
19 *strategies to achieve the improvements;*

20 “(13) *a compilation of studies and reports on*
21 *high-speed rail corridor development within the State*
22 *that were not included in a prior plan under this*
23 *chapter;*

1 “(14) a plan for funding any recommended de-
2 velopment of a high-speed rail corridor within the
3 State; and

4 “(15) a statement that the State is in compliance
5 with the requirements of section 22102.

6 “(f) *LONG-RANGE RAIL SERVICE AND INVESTMENT*
7 *PROGRAM.*—

8 “(1) *CONTENTS.*—A long-range rail service and
9 investment program under subsection (e)(6) shall in-
10 clude—

11 “(A) a prioritized list of any freight or
12 intercity passenger rail capital projects expected
13 to be commenced or supported in whole or in
14 part by the State; and

15 “(B) a detailed capital and operating fund-
16 ing plan for each rail capital project under sub-
17 paragraph (A).

18 “(2) *RAIL CAPITAL PROJECTS LIST.*—

19 “(A) *CONTENTS.*—A list of rail capital
20 projects under paragraph (1)(A) shall include—

21 “(i) a description of the anticipated
22 public and private benefits of each rail cap-
23 ital project; and

24 “(ii) a statement of the correlation be-
25 tween—

1 “(I) *public funding contributions*
2 *for each rail capital project; and*

3 “(II) *the public benefits.*

4 “(B) *CONSIDERATIONS.—A State rail trans-*
5 *portation authority shall consider, when pre-*
6 *paring a list of rail capital projects under this*
7 *subsection—*

8 “(i) *contributions made by non-Fed-*
9 *eral and non-State sources through user*
10 *fees, matching funds, or other private cap-*
11 *ital involvement;*

12 “(ii) *rail capacity and congestion ef-*
13 *fects;*

14 “(iii) *effects on highway, aviation, and*
15 *maritime capacity, congestion, and safety;*

16 “(iv) *regional balance;*

17 “(v) *environmental impact;*

18 “(vi) *economic and employment im-*
19 *pacts; and*

20 “(vii) *projected ridership and other*
21 *service measures for passenger rail projects.*

22 “(g) *A State shall not be eligible to receive financial*
23 *assistance under chapter 244 or 261 unless the State com-*
24 *pletes a State rail plan pursuant to this section.*

1 **“§ 22704. Transparency and coordination**

2 “(a) *PREPARATION AND REVIEW.*—

3 “(1) *FEDERAL TRANSPARENCY.*—*The Secretary*
4 *of Transportation shall provide adequate and reason-*
5 *able notice and an opportunity for comment to the*
6 *public, rail carriers, commuter and transit authori-*
7 *ties (operating in or affected by rail operations with-*
8 *in the region or State), units of local government, and*
9 *other interested parties when the Secretary prepares*
10 *or reviews the national rail plan under section 22701*
11 *or a regional rail plan under section 22702.*

12 “(2) *STATE TRANSPARENCY.*—*A State shall pro-*
13 *vide adequate and reasonable notice and an oppor-*
14 *tunity for comment to the public, rail carriers, com-*
15 *muter and transit authorities (operating in or af-*
16 *ected by rail operations within the region or the*
17 *State), units of local government, and other interested*
18 *parties, when the State prepares or reviews a State*
19 *rail plan under section 22703.*

20 “(b) *INTERGOVERNMENTAL COORDINATION.*—*A State*
21 *shall—*

22 “(1) *review the freight and passenger rail service*
23 *activities and initiatives by regional planning agen-*
24 *cies, regional transportation authorities, and municipi-*
25 *palities (within the State or within the region in*

1 *which the State is located) when preparing a State*
2 *rail plan; and*

3 *“(2) include any recommendations made by the*
4 *regional planning agencies, regional transportation*
5 *authorities, and municipalities (within the State or*
6 *within the region in which the State is located), as*
7 *deemed appropriate by the State.*

8 **“§ 22705. Definitions**

9 *“In this chapter:*

10 *“(1) PRIVATE BENEFIT.—The term ‘private ben-*
11 *efit’ means a benefit—*

12 *“(A) that is determined on a project-by-*
13 *project basis, based upon an agreement between*
14 *the parties;*

15 *“(B) that is accrued to a person or private*
16 *entity, other than Amtrak, that directly improves*
17 *the economic and competitive condition of the*
18 *person or private entity through improved assets,*
19 *cost reductions, service improvements, or other*
20 *means as defined by the Secretary; or*

21 *“(C) that is defined by the Secretary, with*
22 *advice from the States and rail carriers if the*
23 *Secretary deems such advice necessary.*

24 *“(2) PUBLIC BENEFIT.—The term ‘public benefit’*
25 *means a benefit—*

1 “(A) that is determined on a project-by-
2 project basis, based upon an agreement between
3 the parties;

4 “(B) that is accrued to the public, including
5 Amtrak, in the form of enhanced mobility of peo-
6 ple or goods, environmental protection or en-
7 hancement, congestion mitigation, enhanced
8 trade and economic development, improved air
9 quality or land use, more efficient energy use,
10 enhanced public safety or security, reduction of
11 public expenditures due to improved transpor-
12 tation efficiency or infrastructure preservation,
13 and any other positive community effects as de-
14 fined by the Secretary; or

15 “(C) that is defined by the Secretary, with
16 advice from the States and rail carriers if the
17 Secretary deems such advice necessary.

18 “(3) STATE.—The term ‘State’ means any of the
19 50 States and the District of Columbia.

20 “(4) STATE RAIL TRANSPORTATION AUTHOR-
21 ITY.—The term ‘State rail transportation authority’
22 means the State agency or official responsible under
23 the direction of the Governor of the State or a State
24 law for the preparation, maintenance, coordination,
25 and administration of the State rail plan.”.

1 **SEC. 35102. IMPROVED DATA ON DELAY.**

2 *Not later than 1 year after the date of enactment of*
3 *this Act, the Secretary of Transportation, in coordination*
4 *with Amtrak, freight railroads, and other parties, as appro-*
5 *priate, shall develop guidance for developing improved, in-*
6 *cluding automated, means of measuring on-time perform-*
7 *ance delays.*

8 **SEC. 35103. DATA AND MODELING.**

9 *(a) DATA.—Not later than 1 year after the date of en-*
10 *actment of this Act, the Secretary of Transportation shall*
11 *conduct a data needs assessment, in consultation with the*
12 *Surface Transportation Board, Amtrak, freight railroads,*
13 *and State and local governments, to support the develop-*
14 *ment of an efficient and effective intercity passenger rail*
15 *network. The data needs assessment shall, among other*
16 *things—*

17 *(1) identify the data needed to conduct cost-effec-*
18 *tive modeling and analysis for high-speed and inter-*
19 *city passenger rail development programs;*

20 *(2) determine limitations to the data used for in-*
21 *puts and develop a strategy to address the limita-*
22 *tions;*

23 *(3) identify barriers to accessing existing data;*

24 *(4) include recommendations regarding whether*
25 *the authorization of additional data collection for*
26 *intercity passenger rail travel is warranted; and*

1 (5) *determine which entities will be responsible*
2 *for generating or collecting needed data.*

3 (b) *MODELING.—Not later than 1 year after the date*
4 *of enactment of this Act, the Secretary of Transportation*
5 *shall develop or improve modeling capabilities to support*
6 *the development of an efficient and effective intercity pas-*
7 *senger rail network, including service development, capac-*
8 *ity expansion, cost-effectiveness, and ridership estimates.*

9 (c) *BENEFIT-COST ANALYSIS.—Not later than 1 year*
10 *after the date of enactment of this Act, the Secretary of*
11 *Transportation shall enhance the usefulness of assessments*
12 *of benefits and costs, for both intercity passenger rail and*
13 *freight rail projects by—*

14 (1) *providing ongoing guidance and training on*
15 *developing benefit and cost information for rail*
16 *projects;*

17 (2) *providing more direct and consistent require-*
18 *ments for assessing benefits and costs across transpor-*
19 *tation funding programs, including the appropriate*
20 *use of discount rates;*

21 (3) *requiring an applicant to clearly commu-*
22 *nicate the methodology that is used to calculate the*
23 *project benefits and costs, including information on*
24 *assumptions underlying calculations, strengths and*

1 *limitations of data used, and the level of uncertainty*
2 *in estimates of project benefits and costs; and*

3 *(4) ensuring that an applicant receives clear and*
4 *consistent guidance on values to apply for key as-*
5 *sumptions used to estimate potential project benefits*
6 *and costs.*

7 *(d) CONFIDENTIAL DATA.—For the purposes of this*
8 *section, the Secretary of Transportation shall protect any*
9 *confidential data from public disclosure and such confiden-*
10 *tial data shall only be provided on the basis of a voluntary*
11 *agreement.*

12 **SEC. 35104. SHARED-USE CORRIDOR STUDY.**

13 *(a) IN GENERAL.—Not later than 2 years after the*
14 *date of enactment of this Act, the Secretary shall complete*
15 *a shared-use corridor study, in consultation with the Sur-*
16 *face Transportation Board, Amtrak, freight railroads,*
17 *States, non-profit employee labor organizations, and other*
18 *users of the rail system, as appropriate, to evaluate the best*
19 *means to enhance and support the further development of*
20 *high-speed and intercity passenger rail service within*
21 *United States shared-use corridors.*

22 *(b) CONTENTS.—In conducting the shared-use corridor*
23 *study, the Secretary shall—*

24 *(1) survey the access arrangements for high-speed*
25 *and intercity passenger rail service for use of rail in-*

1 *frastructure, assets and facilities owned by freight*
2 *railroads, commuter authorities, or other entities, and*
3 *standard processes for the resolution of disputes relat-*
4 *ing to such access;*

5 *(2) evaluate the roles and responsibilities of high-*
6 *speed and intercity passenger rail, freight rail, and*
7 *commuter rail service providers and infrastructure*
8 *owners in complying with Federal, State, and local*
9 *applicable requirements within United States shared-*
10 *use corridors;*

11 *(3) evaluate the roles and responsibilities of Fed-*
12 *eral, State, and local governments, infrastructure*
13 *owners, and high speed and intercity passenger rail,*
14 *freight rail, and commuter rail service providers in*
15 *supporting both the preservation and expansion of*
16 *high-speed and intercity passenger rail service, freight*
17 *transportation, and commuter transportation on*
18 *shared infrastructure or rights-of-way;*

19 *(4) evaluate the roles and responsibilities of high-*
20 *speed and intercity passenger rail, freight rail, and*
21 *commuter rail service providers in achieving satisfac-*
22 *tory on time performance for passenger and freight*
23 *rail services in shared use corridors; and*

24 *(5) evaluate other issues identified by the Sec-*
25 *retary.*

1 (c) *REPORT.*—Not later than 90 days after the date
2 the shared-use corridor study is completed under subsection
3 (a), the Secretary shall—

4 (1) report the results of the shared-use corridor
5 study to the Senate Committee on Commerce, Science,
6 and Transportation and the House of Representatives
7 Committee on Transportation and Infrastructure;
8 and

9 (2) make the shared-use corridor study available
10 to the public on the Department of Transportation’s
11 website.

12 **SEC. 35105. COOPERATIVE EQUIPMENT POOL.**

13 (a) *IN GENERAL.*—The Next Generation Corridor
14 Equipment Pool Committee established under section 305
15 of the Passenger Rail Investment and Improvement Act of
16 2008 (49 U.S.C. 24101 note) shall continue to implement
17 its authorized functions, as appropriate, and shall main-
18 tain and update, as needed, the specifications created by
19 the Committee.

20 (b) *EQUIPMENT POOLING ENTITY.*—Section 305 of the
21 Passenger Rail Investment and Improvement Act of 2008
22 (49 U.S.C. 24101 note), is amended by adding at the end
23 the following:

24 “(f) *EQUIPMENT POOLING ENTITY.*—

1 “(1) *ESTABLISHMENT.*—Not later than 1 year
2 after the date of enactment of the National Rail Sys-
3 tem Preservation, Expansion, and Development Act of
4 2012, the Committee shall create an equipment pool-
5 ing entity that includes—

6 “(A) Amtrak;

7 “(B) States that purchase, with Federal
8 funds, intercity passenger rail rolling stock and
9 equipment that is built in accordance with the
10 specifications created by the Next Generation
11 Corridor Equipment Pool Committee; and

12 “(C) other States and entities, as appro-
13 priate.

14 “(2) *IN GENERAL.*—The equipment pooling enti-
15 ty—

16 “(A) may—

17 “(i) be a corporation or other coopera-
18 tive entity; and

19 “(ii) be owned or jointly-owned by
20 Amtrak, a participating State, or other en-
21 tity; and

22 “(B) shall be authorized to—

23 “(i) lease or acquire intercity pas-
24 senger rail rolling stock and equipment used
25 in State-supported corridor services on

1 routes that are not more than 750 miles be-
2 tween end points, including by entering
3 into agreements for the funding, financing,
4 procurement, remanufacture, ownership,
5 and disposal of the intercity passenger rail
6 rolling stock and equipment;

7 “(ii) maintain, manage, and allocate
8 intercity passenger rail rolling stock and
9 equipment for use in State-supported cor-
10 ridor services, including by charging appro-
11 priate amounts for the use (including depre-
12 ciation and financing costs) of the intercity
13 passenger rail rolling stock and equipment;
14 and

15 “(iii) ensure adequate quantity and
16 quality of appropriate intercity passenger
17 rail rolling stock and equipment to support
18 the State-supported corridor services’ needs
19 as identified in the national rail plan, re-
20 gional rail plans, or State rail plans under
21 chapter 227.

22 “(3) *TRANSFER OF EQUIPMENT.*—Amtrak, after
23 consultation with the Secretary, may sell, lease, or
24 otherwise transfer equipment currently owned or
25 leased by Amtrak to the equipment pooling entity.

1 *The operation and utilization of any equipment*
 2 *transferred to the equipment pooling entity shall be*
 3 *covered by section 24405(b).*

4 “(4) *TRANSFER REQUIREMENT.*—A State shall
 5 *sell, lease, or otherwise transfer equipment built in ac-*
 6 *cordance with the specifications created by the Next*
 7 *Generation Corridor Equipment Pool Committee and*
 8 *purchased with Federal funds to the equipment pool-*
 9 *ing entity unless the Secretary exempts a State from*
 10 *this requirement.*

11 “(g) *GRANT FUNDING.*—A capital project to carry out
 12 *this section shall be eligible for grants under chapter 244.*
 13 *The equipment pooling entity shall be an eligible grant re-*
 14 *cipient under chapter 244.”.*

15 **SEC. 35106. PROJECT MANAGEMENT OVERSIGHT AND PLAN-**
 16 **NING.**

17 *Section 101(d) of the Passenger Rail Investment and*
 18 *Improvement Act of 2008 (122 Stat. 4908) is amended—*

19 (1) *by striking “¹/₂ of”; and*

20 (2) *by inserting “and joint capital planning”*
 21 *after “oversight”.*

22 **SEC. 35107. IMPROVEMENTS TO THE CAPITAL ASSISTANCE**
 23 **PROGRAMS.**

24 (a) *AMENDMENTS TO CHAPTER 244.*—Chapter 244 is
 25 *amended—*

1 (1) *in section 24401(1)*—

2 (A) *by striking “or” the first place it ap-*
3 *pears; and*

4 (B) *by striking “service.” and inserting*
5 *“service, or Amtrak.”;*

6 (2) *by amending section 24402(b) to read as fol-*
7 *lows:*

8 “*(b) PROJECT AS PART OF THE NATIONAL RAIL PLAN,*
9 *REGIONAL RAIL PLANS, OR STATE RAIL PLANS.—*

10 “*(1) GRANT APPROVAL.—The Secretary may not*
11 *approve a grant for a project under this section unless*
12 *the Secretary finds that—*

13 “*(A) the project is part of the national rail*
14 *plan, a regional rail plan, or a State rail plan*
15 *under chapter 227; or*

16 “*(B) the project is part of the capital spend-*
17 *ing plan under section 211 of the Passenger Rail*
18 *Investment and Improvement Act of 2008 (49*
19 *U.S.C. 24902 note); and*

20 “*(C) the applicant or recipient has or will*
21 *have directly or through appropriate agreements*
22 *with other entities, as approved by the Sec-*
23 *retary—*

24 “*(i) the legal, financial, and technical*
25 *capacity to carry out the project;*

1 “(ii) *satisfactory continuing control*
2 *over the use of the equipment or facilities;*
3 *and*

4 “(iii) *the capability and willingness to*
5 *maintain the equipment or facilities.*

6 “(2) *PROVISION OF INFORMATION.—An appli-*
7 *cant or recipient shall provide sufficient information*
8 *for the Secretary to make the required findings under*
9 *this subsection.*

10 “(3) *JUSTIFICATION.—An applicant or recipient,*
11 *except for Amtrak, that did not select the proposed op-*
12 *erator of its service competitively shall provide writ-*
13 *ten justification to the Secretary substantiating—*

14 “(A) *why the proposed operator is the best,*
15 *taking into account price and other factors; and*

16 “(B) *that the use of the proposed operator*
17 *will not unnecessarily increase the cost of the*
18 *project.”;*

19 (3) *in section 24402(c)—*

20 (A) *by amending paragraph (1)(A) to read*
21 *as follows:*

22 “(1) *that the project be part of the national rail*
23 *plan, a regional rail plan, or a State rail plan under*
24 *chapter 227, or the capital spending plan under sec-*

1 *tion 211 of the Passenger Rail Investment and Im-*
2 *provement Act of 2008 (49 U.S.C. 24902 note);”;*

3 *(B) in paragraph (1)(D), by inserting “, ex-*
4 *cept for Amtrak,” after “an applicant”;*

5 *(C) by amending paragraph (1)(F) to read*
6 *as follows:*

7 *“(F) that each project be compatible with*
8 *and operate in conformance with plans developed*
9 *pursuant to the requirements of section 135 of*
10 *title 23, United States Code;”;*

11 *(D) in paragraph (2)(C), by striking*
12 *“and”;*

13 *(E) in paragraph (3)(B)(iii), by striking*
14 *the period and inserting “; and”; and*

15 *(F) by adding at the end the following:*

16 *“(4) achieve the appropriate mix of projects se-*
17 *lected for funding to ensure the advancement of the*
18 *national rail plan, including both the development of*
19 *new or expanded routes and services and the mainte-*
20 *nance and improvement of the current rail system.”;*

21 *(4) by amending section 24402(d) to read as fol-*
22 *lows:*

23 *“(d) STATE RAIL PLANS.—State rail plans completed*
24 *before the date of enactment of the Passenger Rail Invest-*
25 *ment and Improvement Act of 2008 (122 Stat. 4907) that*

1 *substantially meet the requirements of chapter 227 as in*
2 *effect on the day before the date of enactment of the National*
3 *Rail System Preservation, Expansion, and Development*
4 *Act of 2012, shall be deemed by the Secretary to have met*
5 *the requirements of subsection (c)(1)(A) of this section.”;*

6 *(5) by amending section 24402(e) to read as fol-*
7 *lows:*

8 *“(e) PROJECT TRANSFERS.—The Secretary may per-*
9 *mit a recipient under this section to enter into a cooperative*
10 *agreement to transfer the grant and related responsibilities*
11 *and requirements to Amtrak to expedite, enhance, or other-*
12 *wise facilitate the completion of the project and any such*
13 *transfer shall be subject to the requirements of this chap-*
14 *ter.”;*

15 *(6) in the heading of section 24402(f), by strik-*
16 *ing “AND EARLY SYSTEMS WORK AGREEMENTS”;*

17 *(7) by amending section 24402(f)(1) to read as*
18 *follows:*

19 *“(1) In implementing this section, the Secretary*
20 *may issue a letter of intent to an applicant announc-*
21 *ing an intention to obligate, for a major capital*
22 *project under this section, an amount from future*
23 *available budget authority specified in law that is not*
24 *more than the amount stipulated as the financial*
25 *participation of the Secretary in the project.”;*

1 (8) *in section 24402(g) by—*

2 (A) *amending paragraph (1)(B) to read as*
3 *follows:*

4 “*(B) A grant—*

5 “*(i) for a project designated as part of*
6 *a priority corridor or service by the na-*
7 *tional rail plan and scheduled within the*
8 *national rail plan to be implemented with-*
9 *in a time frame consistent with the grant*
10 *application shall not exceed 80 percent of*
11 *the project net capital cost;*

12 “*(ii) for a project to implement a per-*
13 *formance improvement plan under section*
14 *24710 shall not exceed 100 percent of the*
15 *net project capital cost; and*

16 “*(iii) for any other project shall not*
17 *exceed 50 percent of the net project capital*
18 *cost.”; and*

19 (B) *by adding at the end the following:*

20 “*(5) When Amtrak is an applicant under this*
21 *chapter, it may use ticket and other revenues gen-*
22 *erated from its operations and other sources to satisfy*
23 *the non-Federal share requirements under this sub-*
24 *section, except that Amtrak may not use Federal*
25 *funds authorized under subsections (a) or (c) of sec-*

1 *tion 101 of the Passenger Rail Investment and Im-*
2 *provement Act of 2008 (122 Stat. 4908).”;*

3 *(9) in section 24402(h), by striking “2” each*
4 *place it appears and inserting “3”;*

5 *(10) in section 24402(i)(1), by striking “A met-*
6 *ropolitan planning organization, State transportation*
7 *department, or other project sponsor” and inserting*
8 *“An applicant”;*

9 *(11) by amending section 24402(k) to read as*
10 *follows:*

11 *“(k) SMALL CAPITAL PROJECTS.—The Secretary shall*
12 *make not less than 5 percent annually available from the*
13 *amounts appropriated under section 24406 beginning in*
14 *fiscal year 2009 for grants for capital projects eligible under*
15 *this section not exceeding \$10,000,000, including costs eligi-*
16 *ble under section 209(d) of the Passenger Rail Investment*
17 *and Improvement Act of 2008 (49 U.S.C. 24101 note). For*
18 *grants awarded under this subsection, the Secretary may*
19 *waive one or more of the requirements of this section, in-*
20 *cluding State rail plan requirements, or of section*
21 *24405(c)(1)(B), as appropriate.”;*

22 *(12) by amending section 24403(b) to read as*
23 *follows:*

24 *“(b) SECRETARIAL OVERSIGHT AND PARTICIPATION.—*

1 “(1) *The Secretary may use not more than 1*
2 *percent of amounts made available in a fiscal year*
3 *for capital projects under this chapter to participate*
4 *in the planning, management, and oversight of the*
5 *development and implementation of any such projects.*

6 “(2) *The Secretary may use amounts available*
7 *under paragraph (1) to directly undertake or make*
8 *contracts for project planning and design participa-*
9 *tion or safety, procurement, management, and finan-*
10 *cial compliance reviews and audits of a recipient of*
11 *grants awarded under this chapter.*

12 “(3) *The Federal Government shall pay the en-*
13 *tire cost of carrying out a contract under this sub-*
14 *section.”; and*

15 (13) *in section 24405 by adding “or between*
16 *Amtrak and the railroad” after “railroad” in sub-*
17 *section (c)(1).*

18 (b) *CHAPTER 244 GRANT PROCEDURES.—Not later*
19 *than 180 days after the date of enactment of this Act, the*
20 *Secretary of Transportation shall issue a final rule estab-*
21 *lishing grant procedures, as required by section 24402(a)*
22 *of title 49, United States Code.*

23 (c) *AMENDMENTS TO CHAPTER 261.—Chapter 261 is*
24 *amended—*

25 (1) *in section 26106—*

1 (A) by amending subsection (a) to read as
2 follows:

3 “(a) *IN GENERAL.*—*The Secretary of Transportation*
4 *shall establish and implement a high-speed rail corridor*
5 *program consistent with the national rail plan, regional*
6 *rail plans, and State rail plans required by chapter 227*
7 *of title 49, United States Code.”;*

8 (B) by amending subsection (b)(2) to read
9 as follows:

10 “(2) *CORRIDOR.*—*The term ‘corridor’ means—*

11 “(A) *a corridor designated by the Secretary*
12 *pursuant to section 104(d)(2) of title 23; or*

13 “(B) *a corridor expected to achieve high-*
14 *speed service pursuant to section 22701 of title*
15 *49.”;*

16 (C) *in subsection (e)(2)(A)—*

17 (i) *in clause (ii), by inserting “, di-*
18 *rectly or through appropriate agreements*
19 *with other entities,” after “have”;*

20 (ii) *in clause (v), by inserting “, except*
21 *for Amtrak,” after “applicant”;*

22 (iii) *in clause (vi), by striking “; and”*
23 *and inserting a semicolon;*

24 (iv) *in clause (vii)(II), by striking “(if*
25 *it is available)”;* *and*

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

2 “(viii) that the project and the high-
3 speed rail services it supports are coordi-
4 nated and integrated with existing and
5 planned conventional intercity passenger
6 rail services;

7 “(ix) that the Secretary, and Amtrak
8 at the Secretary’s request, are permitted to
9 participate in the planning, design, man-
10 agement, and delivery of the project, as nec-
11 essary to ensure project success and promote
12 interstate commerce; and

13 “(x) that the Federal government is ac-
14 corded an appropriate participation, over-
15 sight, ownership, or control in the project
16 commensurate with the level of Federal in-
17 vestment as determined by the Secretary;”;
18 and

19 (D) in subsection (e)(4), by striking “pursu-
20 ant to section 22506 of this title”.

21 (d) CONGESTION GRANTS.—Section 24105 is amend-
22 ed—

23 (1) in subsection (a)—

24 (A) by striking “in cooperation with
25 States” and “high priority rail corridor”;

1 (B) by striking “congestion” and inserting
2 “freight or commuter railroad congestion that
3 impacts intercity passenger trains, enhance route
4 performance, preserve service,”; and

5 (C) by striking the period and inserting “on
6 routes defined under section 24102(5)(C).”;

7 (2) in subsection (b)—

8 (A) by inserting “or the Federal Railroad
9 Administration” after “Amtrak”;

10 (B) by striking “congestion” and inserting
11 “freight or commuter railroad congestion that
12 impacts intercity passenger trains, enhance route
13 performance, preserve service,”;

14 (C) by striking “; and” and inserting a pe-
15 riod; and

16 (D) by striking paragraph (3);

17 (3) in subsection (c), by striking “80” and in-
18 serting “100”; and

19 (4) in subsection (d), by inserting “, except that
20 the Secretary may waive the requirements of section
21 24405(c)(1)(B), as appropriate, for grants totaling
22 less than \$10,000,000” after “title”.

23 (e) *ADDITIONAL HIGH-SPEED RAIL PROJECTS.*—*The*
24 *Passenger Rail Investment and Improvement Act of 2008*
25 *(122 Stat. 4907) is amended by striking section 502.*

1 **SEC. 35108. LIABILITY.**

2 (a) *CLARIFICATION OF COMMUTER RAIL LIABILITY.*—

3 *Section 28103 is amended—*

4 (1) *in subsection (a)(2), by inserting, “, includ-*
5 *ing commuter rail passengers,” after “rail pas-*
6 *sengers,”;*

7 (2) *by amending subsection (b) to read as fol-*
8 *lows:*

9 “(b) *CONTRACTUAL OBLIGATIONS.*—*A provider of rail*
10 *passenger transportation may enter into contracts that allo-*
11 *cate financial responsibility for claims. Such contracts shall*
12 *be enforceable notwithstanding any other provision of law,*
13 *common law, or public policy, or the nature of the conduct*
14 *giving rise to the damages or liability.”; and*

15 (3) *in subsection (e)—*

16 (A) *by striking “and” at the end of para-*
17 *graph (2);*

18 (B) *by striking the period at the end of*
19 *paragraph (3) and inserting “; and”; and*

20 (C) *by adding at the end the following:*

21 “(4) *the term ‘rail passenger transportation’ in-*
22 *cludes commuter rail transportation.”.*

23 (b) *STUDY.*—

24 (1) *IN GENERAL.*—*Not later than 1 year after*
25 *the date of enactment of this Act, the Secretary of*
26 *Transportation shall conduct a study regarding op-*

1 *tions for clarifying and improving passenger rail li-*
2 *ability requirements and arrangements, including*
3 *those related to environmental liability, necessary for*
4 *supporting the continued development and improve-*
5 *ment of the national passenger rail system and the*
6 *furtherance of the national rail plan under chapter*
7 *227 of title 49, United States Code. The study shall*
8 *consider—*

9 *(A) whether to expand statutory liability*
10 *limits to third parties; and*

11 *(B) whether to revise the current statutory*
12 *liability limits based on inflation or other meth-*
13 *ods to improve the certainty of liability coverage.*

14 (2) *REPORT.—Not later than 90 days after the*
15 *date of completion of the study, the Secretary shall*
16 *submit the results of the study and any associated*
17 *recommendations to the Committee on Commerce,*
18 *Science, and Transportation of the Senate and the*
19 *Committee on Transportation and Infrastructure of*
20 *the House of Representatives.*

21 **SEC. 35109. DISADVANTAGED BUSINESS ENTERPRISES.**

22 (a) *DEFINITIONS.—In this section:*

23 (1) *SECRETARY.—The term “Secretary” means*
24 *the Secretary of Transportation.*

1 (2) *SMALL BUSINESS CONCERN.*—*The term*
2 *“small business concern” has the meaning given the*
3 *term in section 3 of the Small Business Act (15*
4 *U.S.C. 632), except the term does not include any*
5 *concern or group of concerns that—*

6 (A) *are controlled by the same socially and*
7 *economically disadvantaged individual or indi-*
8 *viduals; and*

9 (B) *have average annual gross receipts over*
10 *the preceding 3 fiscal years in excess of*
11 *\$22,410,000, as adjusted annually by the Sec-*
12 *retary for inflation.*

13 (3) *SOCIALLY AND ECONOMICALLY DISADVAN-*
14 *TAGED INDIVIDUALS.*—

15 (A) *IN GENERAL.*—

16 (i) *SOCIALLY DISADVANTAGED INDIVID-*
17 *UALS.*—*The term “socially disadvantaged*
18 *individuals” has the meaning given the*
19 *term in section 8(a)(5) of the Small Business*
20 *Act (15 U.S.C. 637(a)(5)), and relevant*
21 *subcontracting regulations issued pursuant*
22 *to that Act.*

23 (ii) *ECONOMICALLY DISADVANTAGED*
24 *INDIVIDUALS.*—*The term “economically dis-*
25 *advantaged individuals” has the meaning*

1 *given the term in section 8(a)(6) of the*
2 *Small Business Act (15 U.S.C. 637(a)(6)),*
3 *and relevant subcontracting regulations*
4 *issued pursuant to that Act.*

5 *(B) INCLUSIONS.—For purposes of this sec-*
6 *tion, women shall be presumed to be socially and*
7 *economically disadvantaged individuals.*

8 *(b) IN GENERAL.—Except to the extent that the Sec-*
9 *retary determines otherwise, not less than 10 percent of the*
10 *amounts made available for any program under chapter*
11 *244, section 24105, or section 26106 of title 49, United*
12 *States Code, shall be expended through a small business con-*
13 *cern owned and controlled by 1 or more socially and eco-*
14 *nomically disadvantaged individuals.*

15 *(c) ANNUAL LISTING OF DISADVANTAGED SMALL*
16 *BUSINESS CONCERNS.—Each State shall annually—*

17 *(1) survey each small business concern in the*
18 *State;*

19 *(2) compile a list of all of the small business con-*
20 *cerns in the State, including the location of each*
21 *small business concern in the State; and*

22 *(3) notify the Secretary, in writing, of the per-*
23 *centage of the small business concerns that—*

24 *(A) are controlled by women;*

1 (B) are controlled by socially and economi-
2 cally disadvantaged individuals (except for
3 women); and

4 (C) are controlled by individuals who are
5 women and who are socially and economically
6 disadvantaged individuals.

7 (d) *UNIFORM CERTIFICATION.*—The Secretary shall es-
8 tablish minimum uniform criteria for State governments
9 to use in certifying whether a small business concern quali-
10 fies under this section. The minimum uniform criteria shall
11 include—

12 (1) an on-site visit;

13 (2) a personal interview;

14 (3) a license;

15 (4) an analysis of stock ownership;

16 (5) an analysis of bonding capacity;

17 (6) the listing of equipment;

18 (7) the listing of work completed; and

19 (8) a resume of each principal owner, the finan-
20 cial capacity, and the type of work preferred.

21 (e) *REPORTING.*—The Secretary shall establish min-
22 imum requirements for State governments to use in report-
23 ing to the Secretary information concerning disadvantaged
24 business enterprise awards, commitments, and achieve-
25 ments, and such other information as the Secretary deter-

1 *mines appropriate for the proper monitoring of the dis-*
2 *advantaged business enterprise program.*

3 (f) *COMPLIANCE WITH COURT ORDERS.*—*Nothing in*
4 *this section shall limit the eligibility of a person to receive*
5 *funds made available under chapter 244, section 24105, or*
6 *section 26106 of title 49, United States Code, if the person*
7 *is prevented, in whole or in part, from complying with sub-*
8 *section (b) because a Federal court issues a final order in*
9 *which the court finds that the requirement of subsection (b)*
10 *or the program established under subsection (b) is unconsti-*
11 *tutional.*

12 **SEC. 35110. WORKFORCE DEVELOPMENT.**

13 *Not later than 1 year after the date of enactment of*
14 *this Act, the Secretary of Transportation shall, in consulta-*
15 *tion with the States, local governments, Amtrak, freight*
16 *railroad, and non-profit employee labor organizations—*

17 (1) *complete a study regarding workforce devel-*
18 *opment needs in the passenger and freight rail indus-*
19 *try, including what knowledge and skill gaps in plan-*
20 *ning, financing, engineering, and operating passenger*
21 *and freight rail systems exist, to assist in creating*
22 *programs to help improve the rail industry;*

23 (2) *make recommendations based on the results*
24 *of the study; and*

1 (3) *report the findings and recommendations to*
2 *the Committee on Commerce, Science, and Transpor-*
3 *tation of the Senate and the Committee on Transpor-*
4 *tation and Infrastructure of the House of Representa-*
5 *tives.*

6 **SEC. 35111. VETERANS EMPLOYMENT.**

7 *Not later than 180 days after the date of enactment*
8 *of this Act, the Secretary of Transportation shall—*

9 (1) *conduct a study to evaluate the best means*
10 *for providing a preference to veterans in the award-*
11 *ing of contracts and subcontracts using amounts*
12 *made available under chapter 244, and sections 24105*
13 *and 26104 of title 49, United States Code;*

14 (2) *make recommendations based on the results*
15 *of the study; and*

16 (3) *report the findings and recommendations to*
17 *the Committee on Commerce, Science, and Transpor-*
18 *tation of the Senate and the Committee on Transpor-*
19 *tation and Infrastructure of the House of Representa-*
20 *tives.*

21 ***Subtitle B—Amtrak***

22 **SEC. 35201. STATE-SUPPORTED ROUTES.**

23 (a) *GRANT AVAILABILITY.—In addition to the uses*
24 *permitted under section 209(d) of the Passenger Rail In-*
25 *vestment and Improvement Act of 2008 (49 U.S.C. 24101*

1 *note), a State may use funds provided under section 24406*
2 *of title 49, United States Code, to temporarily pay Amtrak*
3 *some or all of the operating costs for services identified*
4 *under section 24102(5)(D) of title 49, United States Code,*
5 *determined under the methodology established pursuant to*
6 *section 209 of the Passenger Rail Investment and Improve-*
7 *ment Act of 2008 (49 U.S.C. 24101 note), that exceed—*

8 (1) *the operating costs (adjusted for inflation)*
9 *that the State paid Amtrak for the same services in*
10 *the year prior to the implementation of section 209*
11 *of that Act; or*

12 (2) *if the services were not fully State-supported*
13 *in that year, the full cost the State would have paid*
14 *Amtrak under the State-supported service costing*
15 *methodology then in effect.*

16 (b) *TRANSITION ASSISTANCE GUIDANCE.—Not later*
17 *than 180 days after the Surface Transportation Board de-*
18 *termines the appropriate methodology pursuant to section*
19 *209 of the Passenger Rail Investment and Improvement Act*
20 *of 2008 (49 U.S.C. 24101 note), the Secretary shall develop*
21 *a transition assistance guidance that includes—*

22 (1) *criteria for phasing-out the temporary oper-*
23 *ating assistance under this section not later than Oc-*
24 *tober 1, 2017;*

25 (2) *a grant application process that permits—*

1 **“SEC. 24905. NORTHEAST CORRIDOR INFRASTRUCTURE**
2 **AND OPERATIONS ADVISORY COMMISSION**
3 **IMPROVEMENTS.”;**

4 (2) *by redesignating subsection (e) as subsection*
5 *(g);*

6 (3) *by striking subsections (a), (b), (c), (d), and*
7 *(f) and inserting before subsection (g), as redesign-*
8 *ated, the following:*

9 *“(a) NORTHEAST CORRIDOR INFRASTRUCTURE AND*
10 *OPERATIONS ADVISORY COMMISSION.—*

11 *“(1) IN GENERAL.—The Secretary of Transpor-*
12 *tation shall establish a Northeast Corridor Infrastruc-*
13 *ture and Operations Advisory Commission (referred*
14 *to in this section as the ‘Commission’) to foster the*
15 *creation and implementation of a unified, regional,*
16 *long-term investment strategy for the Northeast Cor-*
17 *ridor and to promote mutual cooperation and plan-*
18 *ning pertaining to the capital investment, rail oper-*
19 *ations and related activities of the Northeast Cor-*
20 *ridor. The Commission shall be made up of—*

21 *“(A) members representing Amtrak;*

22 *“(B) members representing the Department*
23 *of Transportation, including the Federal Rail-*
24 *road Administration and the Office of the Sec-*
25 *retary;*

1 “(C) 1 member from each of the States (in-
2 cluding the District of Columbia) that constitute
3 the Northeast Corridor as defined in section
4 24102, designated by, and serving at the pleasure
5 of, the chief executive officer thereof; and

6 “(D) non-voting representatives of freight
7 railroad carriers using the Northeast Corridor
8 selected by the Secretary.

9 “(2) MEMBERSHIP.—The Secretary shall ensure
10 that the membership belonging to any of the groups
11 enumerated under paragraph (1) shall not constitute
12 a majority of the Commission’s memberships.

13 “(3) MEETINGS.—The Commission shall—

14 “(A) establish a schedule and location for
15 convening meetings;

16 “(B) meet not less than 4 times per fiscal
17 year; and

18 “(C) develop rules and procedures to govern
19 the Commission’s proceedings.

20 “(4) VACANCIES.—A vacancy in the Commission
21 shall be filled in the manner in which the original
22 appointment was made.

23 “(5) TRAVEL EXPENSES.—Members shall serve
24 without pay but shall receive travel expenses, includ-

1 *ing per diem in lieu of subsistence, in accordance*
2 *with sections 5702 and 5703 of title 5.*

3 “(6) *CHAIRPERSON.*—*The Chairperson of the*
4 *Commission shall be elected by the members.*

5 “(7) *PERSONNEL.*—*The Commission may ap-*
6 *point and fix the pay of such personnel as the Com-*
7 *mission considers appropriate.*

8 “(8) *DETAILEES.*—*Upon request of the Commis-*
9 *sion, the head of any department or agency of the*
10 *United States may detail, on a reimbursable basis,*
11 *any of the personnel of that department or agency to*
12 *the Commission to assist it in carrying out its duties*
13 *under this section.*

14 “(9) *ADMINISTRATIVE SUPPORT.*—*Upon the re-*
15 *quest of the Commission, the Administrator of Gen-*
16 *eral Services shall provide to the Commission, on a*
17 *reimbursable basis, the administrative support serv-*
18 *ices necessary for the Commission to carry out its re-*
19 *sponsibilities under this section.*

20 “(10) *CONSULTATION WITH OTHER ENTITIES.*—
21 *The Commission shall consult with other entities as*
22 *appropriate.*

23 “(b) *STATEMENT OF GOALS AND RECOMMENDA-*
24 *TIONS.*—

1 “(1) *STATEMENT OF GOALS.*—*The Commission*
2 *shall develop a statement of goals concerning the fu-*
3 *ture of Northeast Corridor rail infrastructure and op-*
4 *erations based on achieving expanded and improved*
5 *intercity, commuter, and freight rail services oper-*
6 *ating with greater safety and reliability, reduced*
7 *travel times, increased frequencies, and enhanced*
8 *intermodal connections designed to address airport*
9 *and highway congestion, reduce transportation energy*
10 *consumption, improve air quality, and increase eco-*
11 *nomical development of the Northeast Corridor region.*

12 “(2) *RECOMMENDATIONS.*—*The Commission*
13 *shall develop recommendations based on the statement*
14 *of goals developed under this section addressing, as*
15 *appropriate—*

16 “(A) *short-term and long-term capital in-*
17 *vestment needs beyond those specified in the*
18 *state-of-good-repair plan under section 211 of the*
19 *Passenger Rail Investment and Improvement Act*
20 *of 2008 (49 U.S.C. 24902 note);*

21 “(B) *future funding requirements for cap-*
22 *ital improvements and maintenance;*

23 “(C) *operational improvements of intercity*
24 *passenger rail, commuter rail, and freight rail*
25 *services;*

1 “(D) opportunities for additional non-rail
2 uses of the Northeast Corridor;

3 “(E) scheduling and dispatching;

4 “(F) safety and security enhancements;

5 “(G) equipment design;

6 “(H) marketing of rail services;

7 “(I) future capacity requirements; and

8 “(J) potential funding and financing mech-
9 anisms for projects of corridor-wide significance.

10 “(c) *NORTHEAST CORRIDOR HIGH SPEED AND INTER-*
11 *CITY SERVICE DEVELOPMENT PLAN.*—

12 “(1) *LONG-RANGE NORTHEAST CORRIDOR SERV-*
13 *ICE DEVELOPMENT PLAN.*—*The Federal Railroad Ad-*
14 *ministration, in coordination with the Commission,*
15 *Amtrak, the States, and other corridor users, shall*
16 *complete a long-range Northeast Corridor Service De-*
17 *velopment Plan not later than December 31, 2014.*

18 “(2) *COLLABORATION AND COOPERATION.*—*The*
19 *parties comprising the Commission, acting separately*
20 *and collectively, shall collaborate and cooperate to the*
21 *maximum extent permitted by law in—*

22 “(A) *the preparation of the service develop-*
23 *ment plan;*

24 “(B) *the programmatic environmental re-*
25 *view process; and*

1 “(C) the subsequent requirements required
2 by the National Environmental Policy Act of
3 1969 (42 U.S.C. 4321 et seq.), including the de-
4 velopment of supporting documentation.

5 “(d) *COMPREHENSIVE LONG-RANGE NORTHEAST COR-*
6 *RIDOR STRATEGY.*—

7 “(1) *IN GENERAL.*—Not later than 1 year after
8 completion of the service development plan under sub-
9 section (c), the Commission shall develop a com-
10 prehensive long-range strategy for the future high-
11 speed, intercity, commuter, and freight rail utiliza-
12 tion of the Northeast Corridor that considers—

13 “(A) the statement of goals developed under
14 subsection (b)(1);

15 “(B) the recommendations developed under
16 subsection (b)(2);

17 “(C) the economic development report under
18 subsection (h);

19 “(D) the service development plan and re-
20 lated alternatives developed through the pro-
21 grammatic environmental review for the North-
22 east Corridor;

23 “(E) the capital and operating plans of all
24 entities operating on the Northeast Corridor;

1 “(F) improvement programs and service
2 initiatives planned by corridor owners and
3 users;

4 “(G) relevant local, State, and Federal
5 transportation plans; and

6 “(H) other plans, as appropriate.

7 “(2) STRATEGY COMPONENTS.—The comprehen-
8 sive long-range strategy shall include—

9 “(A) a comprehensive program containing a
10 description and the planned phasing of all
11 Northeast Corridor improvement programs, in-
12 vestments, and other anticipated changes;

13 “(B) the impacts of the comprehensive pro-
14 gram on:

15 “(i) highway and aviation congestion;

16 “(ii) economic development;

17 “(iii) job creation; and

18 “(iv) the environment;

19 “(C) the potential financing sources for the
20 comprehensive program, including Federal,
21 State, local, and private sector sources;

22 “(D) new institutional or other structures
23 necessary to implement the comprehensive pro-
24 gram;

1 “(E) the types of collaboration, participa-
2 tion, arrangements, and support between Amtrak
3 and the Federal Government, the State and local
4 governments in the Northeast Corridor, the com-
5 muter rail authorities and freight railroads that
6 utilize the Northeast Corridor, the private sector,
7 and others, as appropriate, that are necessary to
8 achieve the comprehensive program; and

9 “(F) any regulatory or statutory changes
10 necessary to efficiently advance the comprehen-
11 sive program.

12 “(e) ACCESS COSTS.—

13 “(1) DEVELOPMENT OF STANDARDIZED FOR-
14 MULA.—Not later than September 30, 2013, the Com-
15 mission shall—

16 “(A) develop a standardized formula for de-
17 termining and allocating costs, revenues, and
18 compensation for Northeast Corridor commuter
19 rail passenger transportation (as defined in sec-
20 tion 24102) on the Northeast Corridor main line
21 between Boston, Massachusetts, and Washington,
22 District of Columbia, and the Northeast Corridor
23 branch lines connecting to Harrisburg, Pennsyl-
24 vania, Springfield, Massachusetts, and Spuyten
25 Duyvil, New York, that use Amtrak facilities or

1 *services or that provide such facilities or services*
2 *to Amtrak that ensures that—*

3 *“(i) there is no cross-subsidization of*
4 *commuter rail passenger, intercity rail pas-*
5 *senger, or freight rail transportation;*

6 *“(ii) each service is assigned the costs*
7 *incurred only for the benefit of that service,*
8 *and a proportionate share, based upon fac-*
9 *tors that reasonably reflect relative use, of*
10 *costs incurred for the common benefit of*
11 *more than 1 service; and*

12 *“(iii) all financial contributions made*
13 *by an operator of a service that benefit an*
14 *infrastructure owner other than the operator*
15 *are considered, including any capital infra-*
16 *structure investments and in-kind services;*

17 *“(B) develop a proposed timetable for im-*
18 *plementing the formula not later than December*
19 *31, 2014;*

20 *“(C) transmit the proposed timetable to the*
21 *Surface Transportation Board; and*

22 *“(D) at the request of a Commission mem-*
23 *ber, petition the Surface Transportation Board*
24 *to appoint a mediator to assist the Commission*

1 *members through non-binding mediation to*
2 *reach an agreement under this section.*

3 “(2) *IMPLEMENTATION.*—*Amtrak and public au-*
4 *thorities providing commuter rail passenger transpor-*
5 *tation on the Northeast Corridor shall implement new*
6 *agreements for usage of facilities or services based on*
7 *the standardized formula under paragraph (1) in ac-*
8 *cordance with the timetable established therein. If the*
9 *entities fail to implement the new agreements in ac-*
10 *cordance with the timetable, the Commission shall pe-*
11 *tition the Surface Transportation Board to determine*
12 *the appropriate compensation amounts for such serv-*
13 *ices under section 24904(c). The Surface Transpor-*
14 *tation Board shall enforce its determination on the*
15 *party or parties involved.*

16 “(3) *REVISIONS.*—*The Commission may make*
17 *necessary revisions to the standardized formula devel-*
18 *oped under paragraph (1), including revisions based*
19 *on Amtrak’s financial accounting system developed*
20 *under section 203 of the Passenger Rail Investment*
21 *and Improvement Act of 2008 (49 U.S.C. 24101*
22 *note).*

23 “(f) *TRANSMISSION OF STATEMENT OF GOALS, REC-*
24 *COMMENDATIONS, AND PLANS.*—*The Commission shall*
25 *transmit to the Committee on Commerce, Science, and*

1 *Transportation of the Senate and the Committee on Trans-*
2 *portation and Infrastructure of the House of Representa-*
3 *tives—*

4 “(1) *not later than 60 days after the date of en-*
5 *actment of the National Rail System Preservation,*
6 *Expansion, and Development Act of 2012, the state-*
7 *ment of goals under subsection (b);*

8 “(2) *annually beginning on December 31, 2012,*
9 *the recommendations under subsection (b)(2) and the*
10 *standardized formula and timetable under subsection*
11 *(e)(1); and*

12 “(3) *the comprehensive long-range strategy under*
13 *this section.”; and*

14 “(4) *by inserting after subsection (g), as redesign-*
15 *ated, the following*

16 “(h) *REPORT ON NORTHEAST CORRIDOR ECONOMIC*
17 *DEVELOPMENT.—Not later than September 30, 2013, the*
18 *Commission shall transmit a report to the Committee on*
19 *Commerce, Science, and Transportation of the Senate and*
20 *the Committee on Transportation and Infrastructure of the*
21 *House of Representatives on the role of Amtrak’s Northeast*
22 *Corridor service between Washington, District of Columbia,*
23 *and Boston, Massachusetts, in the economic development of*
24 *the Northeast Corridor region. The report shall examine*

1 *how to enhance the utilization of the Northeast Corridor for*
2 *greater economic development, including—*

3 “(1) *improving real estate utilization;*

4 “(2) *improved intercity, commuter, and freight*
5 *services; and*

6 “(3) *improving optimum utility utilization.*

7 “(i) *NORTHEAST CORRIDOR SAFETY COMMITTEE.—*

8 “(1) *IN GENERAL.—The Secretary shall establish*
9 *a Northeast Corridor Safety Committee composed of*
10 *members appointed by the Secretary. The members*
11 *shall be representatives of—*

12 “(A) *the Department of Transportation, in-*
13 *cluding the Federal Railroad Administration;*

14 “(B) *Amtrak;*

15 “(C) *freight carriers operating more than*
16 *150,000 train miles a year on the main line of*
17 *the Northeast Corridor;*

18 “(D) *commuter rail agencies;*

19 “(E) *rail passengers;*

20 “(F) *rail labor; and*

21 “(G) *other individuals and organizations*
22 *the Secretary decides have a significant interest*
23 *in rail safety or security.*

24 “(2) *FUNCTION; MEETINGS.—The Secretary shall*
25 *consult with the Committee about safety and security*

1 *improvements on the Northeast Corridor main line.*
2 *The Committee shall meet not less than 2 times per*
3 *year to consider safety and security matters on the*
4 *main line.*

5 “(3) *REPORT.*—*At the beginning of the first ses-*
6 *sion of each Congress, the Secretary shall submit a re-*
7 *port to the Commission and to the Committee on*
8 *Commerce, Science, and Transportation of the Senate*
9 *and the Committee on Transportation and Infrastruc-*
10 *ture of the House of Representatives on the status of*
11 *efforts to improve safety and security on the Northeast*
12 *Corridor main line. The report shall include the safe-*
13 *ty and security recommendations of the Committee*
14 *and the comments of the Secretary on those rec-*
15 *ommendations.”.*

16 (b) *CONFORMING AMENDMENT.*—*The table of contents*
17 *for chapter 249 is amended by striking the item relating*
18 *to section 24905 and inserting the following:*

“24905. Northeast corridor infrastructure and operations advisory commission
improvements.”.

19 **SEC. 35203. NORTHEAST CORRIDOR HIGH-SPEED RAIL IM-**
20 **PROVEMENT PLAN.**

21 (a) *PLANS.*—*Not later than 180 days after the date*
22 *of enactment of this Act, Amtrak shall—*

1 (1) *complete a refined vision for an integrated*
2 *program of improvements on the Northeast Corridor*
3 *that will result in, by 2040—*

4 (A) *the development and operation of a new*
5 *high-speed rail system capable of high capacity,*
6 *200 mile-per-hour or greater operation between*
7 *Washington, District of Columbia and Boston,*
8 *Massachusetts;*

9 (B) *the completion of the improvements*
10 *identified in the Northeast Corridor Infrastruc-*
11 *ture Master Plan published by Amtrak on May*
12 *19, 2010; and*

13 (C) *the continued operation of existing and*
14 *currently planned intercity, commuter, and*
15 *freight services utilizing the Northeast Corridor*
16 *during the implementation of the program; and*

17 (2) *complete a business and financing plan to*
18 *achieve the program under paragraph (1) that identi-*
19 *fies the estimated—*

20 (A) *benefits and costs of the program, in-*
21 *cluding ridership, revenues, capital and oper-*
22 *ating costs, and cash flow projections;*

23 (B) *implementation schedule, including the*
24 *phasing of the program into achievable segments*

1 *that maximize the benefits and support the ultimate*
2 *completion of the program;*

3 *(C) potential financing sources for the pro-*
4 *gram, including Federal, State, local, and pri-*
5 *vate sector sources; and*

6 *(D) organization changes, new institutional*
7 *or corporate arrangements, partnerships, pro-*
8 *curement techniques, and other structures nec-*
9 *essary to implement the program.*

10 *(b) SUPPORT.—The Secretary of Transportation shall*
11 *provide appropriate support, assistance, oversight, and*
12 *guidance to Amtrak during the preparation of the plans*
13 *under subsection (a).*

14 *(c) SUBMISSION.—Amtrak shall submit the refined vi-*
15 *sion and an appropriate elements of the business and fi-*
16 *nancing plan to the Federal Railroad Administration and*
17 *the Northeast Corridor Infrastructure and Operations Advi-*
18 *sory Commission for use in the development of the Northeast*
19 *Corridor High Speed and Intercity Service Development*
20 *Plan and the Comprehensive Long-Range Northeast Cor-*
21 *ridor Strategy.*

22 *(d) HIGH-SPEED RAIL EQUIPMENT.—The Secretary of*
23 *Transportation shall not preclude the use of Federal funds*
24 *made available to purchase rolling stock to purchase any*
25 *equipment used for “high-speed rail” (as defined in section*

1 26106(b)(4) of title 49, United States Code) that otherwise
2 complies with all applicable Federal standards.

3 **SEC. 35204. NORTHEAST CORRIDOR ENVIRONMENTAL RE-**
4 **VIEW PROCESS.**

5 (a) *NORTHEAST CORRIDOR.*—Not later than 90 days
6 after the date of enactment of this Act, the Secretary shall
7 complete a plan and a schedule for the completion of the
8 programmatic environmental review for the Northeast Cor-
9 ridor. The schedule shall require the completion of the pro-
10 grammatic environmental review for the Northeast Corridor
11 not later than 3 years after the date of enactment of this
12 Act.

13 (b) *COORDINATION WITH THE NORTHEAST CORRIDOR*
14 *INFRASTRUCTURE AND OPERATIONS ADVISORY COMMIS-*
15 *SION.*—The Federal Railroad Administration shall closely
16 coordinate the programmatic environmental review process
17 with the Northeast Corridor Infrastructure and Operations
18 Advisory Commission.

19 **SEC. 35205. DELEGATION AUTHORITY.**

20 (a) *DELEGATION OF AUTHORITY.*—In carrying out
21 programmatic or project level environmental reviews for
22 high speed and intercity passenger rail programs, projects,
23 or services, the Secretary may delegate to Amtrak any or
24 all of the Secretary's authority and responsibility under the
25 National Environmental Policy Act of 1969 (42 U.S.C.

1 4321 et seq.), section 106 of the National Historic Preserva-
2 tion Act of 1966 (16 U.S.C. 470f), section 4(f) of the Depart-
3 ment of Transportation Act (80 Stat. 934), section 404 of
4 the Federal Water Pollution Control Act (33 U.S.C. 1344),
5 and section 7 of the Endangered Species Act of 1973 (16
6 U.S.C. 1536), and may provide to Amtrak any related
7 funding provided to the Secretary for such purposes as the
8 Secretary deems necessary if—

9 (1) Amtrak agrees in writing to assume the dele-
10 gated authority and responsibility;

11 (2) Amtrak has or can obtain sufficient resources
12 or the Secretary provides such resources to Amtrak to
13 appropriately carry out such authority or responsi-
14 bility; and

15 (3) delegating the authority and responsibility
16 will improve the quality or timeliness of the environ-
17 mental review.

18 **SEC. 35206. AMTRAK INSPECTOR GENERAL.**

19 (a) *IN GENERAL.*—Chapter 243 is amended by adding
20 after section 24316 the following:

21 **“§ 24317. Inspector general**

22 “(a) *AUTHORIZATION OF APPROPRIATIONS.*—There
23 are authorized to be appropriated to the Office of the Inspec-
24 tor General of Amtrak the following amounts:

25 “(1) For fiscal year 2009, \$20,000,000.

1 “(2) For fiscal year 2010, \$21,000,000.

2 “(3) For fiscal year 2011, \$22,000,000.

3 “(4) For fiscal year 2012, \$22,000,000.

4 “(5) For fiscal year 2013, \$23,000,000.

5 “(b) *AUTHORITY.*—

6 “(1) *IN GENERAL.*—*The Inspector General of*
7 *Amtrak shall have the authority available to other In-*
8 *spectors General, as necessary in carrying out the du-*
9 *ties specified in the Inspector General Act 1978 (5*
10 *U.S.C. App. 3), to investigate any alleged violation of*
11 *sections 286, 287, 371, 641, 1001, 1002 and 1516 of*
12 *title 18.*

13 “(2) *AGENCY.*—*Solely for purposes of sections*
14 *286, 287, 371, 641, 1001, 1002, and 1516 of title 18,*
15 *Amtrak and the Amtrak Office of the Inspector Gen-*
16 *eral, shall be considered a corporation in which the*
17 *United States has a proprietary interest as set forth*
18 *in section 6 of such title.*

19 “(c) *FALSE CLAIMS.*—*Claims made or presented to*
20 *Amtrak shall be considered as claims under section*
21 *3729(b)(2)(A)(ii) of title 31. Statements made or presented*
22 *to Amtrak shall be considered as statements under subpara-*
23 *graphs (B) and (G) of section 3729(a)(1) of such title.*

1 “(d) *LIMITATION.*—Subsections (b) and (c) shall be ef-
2 fective only with respect to a fiscal year for which Amtrak
3 receives a Federal subsidy.

4 “(e) *QUALIFIED IMMUNITY.*—

5 “(1) *IN GENERAL.*—An employee of the Amtrak
6 Office of Inspector General shall enjoy the same per-
7 sonal qualified immunity from lawsuit or liability as
8 the employees of the Department of Transportation
9 Office of Inspector General with respect to the per-
10 formance of investigative, audit, inspection, or eval-
11 uation functions authorized under the Inspector Gen-
12 eral Act of 1978 (5 U.S.C. App.) that are carried out
13 for the Amtrak Office of Inspector General.

14 “(2) *FEDERAL GOVERNMENT LIABILITY.*—No li-
15 ability of any kind shall attach to or rest upon the
16 United States for any damages from or by any ac-
17 tions of the Amtrak Office of Inspector General, its
18 employees, agents, or representatives.

19 “(f) *SERVICES.*—Amtrak and the Inspector General of
20 Amtrak may obtain services under sections 502(a) and 602
21 of title 40, including travel programs, from the Adminis-
22 trator of General Services. The Administrator of General
23 Services shall provide services under sections 502(a) and
24 602 of title 40, to Amtrak and the Inspector General.”.

1 **(b) MANAGEMENT ASSESSMENT.**—*Section 24310 is*
2 *amended to read as follows:*

3 “(a) **IN GENERAL.**—*Not later than 3 years after the*
4 *date of enactment of the Passenger Rail Investment and Im-*
5 *provement Act of 2008 (122 Stat. 4907) and 2 years there-*
6 *after—*

7 “(1) *the Inspector General of the Department of*
8 *Transportation shall complete an overall assessment*
9 *of the progress made by the Department of Transpor-*
10 *tation in implementing the provisions of that Act;*
11 *and*

12 “(2) *the Inspector General of Amtrak shall com-*
13 *plete an overall assessment of the progress made by*
14 *Amtrak management in implementing the provisions*
15 *of the Passenger Rail Investment and Improvement*
16 *Act of 2008 (122 Stat. 4907).*

17 “(b) **ASSESSMENT.**—*The management assessment by*
18 *the Amtrak Inspector General may include a review of—*

19 “(1) *the effectiveness in improving annual finan-*
20 *cial planning;*

21 “(2) *the effectiveness in improving financial ac-*
22 *counting;*

23 “(3) *Amtrak management’s efforts to implement*
24 *minimum train performance standards;*

1 “(4) *Amtrak management’s progress toward*
2 *maximizing revenues, minimizing Federal subsidies,*
3 *and improving financial results; and*

4 “(5) *any other aspect of Amtrak operations that*
5 *the Amtrak Inspector General finds appropriate.*”.

6 (c) *INSPECTOR GENERAL POLICIES AND PROCE-*
7 *DURES.—The Amtrak Inspector General and Amtrak*
8 *shall—*

9 (1) *continue to follow the policies and procedures*
10 *for interacting with one another in a manner that is*
11 *consistent with the Inspector General Act of 1978 (5*
12 *U.S.C. App.), as approved by the Council of the In-*
13 *spectors General on Integrity and Efficiency; and*

14 (2) *work toward establishing proper protocols*
15 *and firewalls to maintain the Amtrak Inspector Gen-*
16 *eral’s independence, as appropriate.*

17 (d) *IMPROVEMENTS.—The Amtrak Inspector General*
18 *and Amtrak shall identify any funding needs and authority*
19 *improvements necessary to effectuate the policies, proce-*
20 *dures, protocols, and firewalls under subsection (c) and sub-*
21 *mit a report of the necessary funding and authority im-*
22 *provements as part of their annual budget requests.*

23 (e) *TECHNICAL AMENDMENT.—Section 101 of the Pas-*
24 *senger Rail Investment and Improvement Act of 2008 (122*

1 *Stat. 4907), is amended by striking subsection (b) and in-*
2 *serting the following:*

3 “(b) [Reserved].”

4 (f) *CLERICAL AMENDMENT.—The table of contents for*
5 *chapter 243 is amended by adding at the end the following:*

“24317. *Inspector General.*”

6 **SEC. 35207. COMPENSATION FOR PRIVATE-SECTOR USE OF**
7 **FEDERALLY-FUNDED ASSETS.**

8 *If capital assets that are owned by a public entity or*
9 *Amtrak built or improved with Federal funds authorized*
10 *under subtitle V of title 49, United States Code, are made*
11 *available for exclusive use by a for-profit entity, except for*
12 *an entity owned or controlled by the Department of Trans-*
13 *portation, for the purpose of providing intercity passenger*
14 *rail service, the Secretary may require, as appropriate, that*
15 *the for-profit entity provide adequate compensation, as de-*
16 *termined by the Secretary, to the United States for the use*
17 *of the capital assets in an amount that reflects the benefit*
18 *of the Federal funding to the for-profit entity.*

19 **SEC. 35208. ON-TIME PERFORMANCE.**

20 *Where the on time performance of any intercity pas-*
21 *senger train averages less than 80 percent for any 2 con-*
22 *secutive calendar quarters and the failure to meet such per-*
23 *formance levels is solely the responsibility of the host rail-*
24 *road, Amtrak shall not pay the host railroad any incentive*

1 *payments for on time performance of the subject intercity*
 2 *passenger train during such calendar quarters.*

3 **SEC. 35209. BOARD OF DIRECTORS.**

4 *Section 24302(a)(3) is amended by striking “5” the*
 5 *second place it appears and inserting “4”.*

6 **SEC. 35210. AMTRAK.**

7 *Section 24305(f) of title 49, United States Code, is*
 8 *amended by adding at the end the following:*

9 *“(5) The requirements under this subsection shall*
 10 *apply to all contracts eligible for assistance under*
 11 *this chapter for a project carried out within the scope*
 12 *of the applicable finding, determination, or decision*
 13 *under the National Environmental Policy Act of 1969*
 14 *(42 U.S.C. 4321 et seq.), regardless of the funding*
 15 *source of such contracts, if at least 1 contract for the*
 16 *project is funded with amounts made available to*
 17 *carry out this chapter.”.*

18 ***Subtitle C—Rail Safety***
 19 ***Improvements***

20 **SEC. 35301. POSITIVE TRAIN CONTROL.**

21 *(a) REVIEW AND APPROVAL.—Section 20157(c) is*
 22 *amended to read as follows:*

23 *“(c) REVIEW AND APPROVAL.—*

24 *“(1) REVIEW.—Not later than 90 days after the*
 25 *Secretary receives a proposed plan, the Secretary*

1 *shall review and approve or disapprove it. If a pro-*
2 *posed plan is not approved, the Secretary shall notify*
3 *the affected railroad carrier or other entity as to the*
4 *specific deficiencies in the proposed plan. The rail-*
5 *road carrier or other entity shall correct the defi-*
6 *ciencies not later than 30 days after receipt of the*
7 *written notice.*

8 “(2) *AMENDMENTS.*—*The Secretary shall review*
9 *any amendments to a plan in the time frame re-*
10 *quired by section (1).*

11 “(3) *ANNUAL REVIEW.*—*The Secretary shall con-*
12 *duct an annual review to ensure that each railroad*
13 *carrier and entity is complying with its plan, includ-*
14 *ing a railroad carrier or entity that elects to fully im-*
15 *plement a positive train control system prior to the*
16 *required deadline.”.*

17 “(b) *REPORT CRITERIA.*—*Section 20157(d) is amended*
18 *to read as follows:*

19 “(d) *REPORT.*—*Not later than June 30, 2012, the Sec-*
20 *retary shall submit a report to the Committee on Commerce,*
21 *Science, and Transportation of the Senate and the Com-*
22 *mittee on Transportation and Infrastructure of the House*
23 *of Representatives on the progress of the railroad carriers*
24 *in implementing the positive train control systems, includ-*
25 *ing—*

1 “(1) *the likelihood that each railroad will meet*
2 *the December 31, 2015 deadline;*

3 “(2) *the obstacles to each railroad’s successful*
4 *implementation, including the obstacles identified in*
5 *the General Accountability Office’s report issued on*
6 *December 15, 2010, and titled ‘Rail Safety: Federal*
7 *Railroad Administration Should Report on Risks to*
8 *Successful Implementation of Mandated Safety Tech-*
9 *nology’ (GAO–11–133); and*

10 “(3) *the actions that Congress, railroads, rel-*
11 *evant Federal entities, and other stakeholders can take*
12 *to mitigate obstacles to successful implementation.”.*

13 (c) *EXTENSION AUTHORITY.—Section 20157 is*
14 *amended—*

15 (1) *by redesignating subsections (h) and (i) as*
16 *subsections (i) and (j), respectively; and*

17 (2) *by inserting after subsection (g) the fol-*
18 *lowing:*

19 “(h) *EXTENSION.—*

20 “(1) *IN GENERAL.—After completing the report*
21 *under subsection (d), the Secretary may extend in 1*
22 *year increments, upon application, the implementa-*
23 *tion deadline, if the Secretary—*

24 “(A) *determines that—*

1 “(i) full implementation will likely be
2 infeasible due to circumstances beyond the
3 control of the applicant, including funding
4 availability, spectrum acquisition, resource
5 and technology availability, and interoper-
6 ability standards;

7 “(ii) the applicant has demonstrated
8 good faith in its positive train control im-
9 plementation;

10 “(iii) the applicant has presented a re-
11 vised positive train control implementation
12 plan indicating how it will fully implement
13 positive train control as soon as feasible,
14 and not later than December 31, 2018; and

15 “(iv) such extension will not extend be-
16 yond December 31, 2018; and

17 “(B) takes into consideration—

18 “(i) whether the affected areas of track
19 have been identified as areas of greater risk
20 to the public and railroad employees in the
21 applicant’s positive train control implemen-
22 tation plan under section 236.1011(a)(4) of
23 title 49, Code of Federal Regulations; and

24 “(ii) the risk of operational failure to
25 the affected service areas and the applicant.

1 “(2) *APPLICATION REVIEW.*—*The Secretary shall*
2 *review an application submitted pursuant to para-*
3 *graph (1) and approve or disapprove the application*
4 *not later than 10 days after the application is re-*
5 *ceived.*”.

6 (d) *APPLICABILITY.*—*Section 20157 is amended by*
7 *striking “transported;” in subsection (a)(1)(B) and insert-*
8 *ing “transported on or after December 31, 2015;”.*

9 **SEC. 35302. ADDITIONAL ELIGIBILITY FOR RAILROAD REHA-**
10 **BILITATION AND IMPROVEMENT FINANCING.**

11 (a) *POSITIVE TRAIN CONTROL SYSTEMS.*—*Section*
12 *502(b)(1) of the Railroad Revitalization and Regulatory*
13 *Reform Act of 1976 (45 U.S.C. 822(b)(1)), is amended—*

14 (1) *in subparagraph (B) by striking “or”;*

15 (2) *in subparagraph (C) by striking “facilities.”*
16 *and inserting “facilities; or”; and*

17 (3) *by adding at the end the following:*

18 “(D) *implement a positive train control*
19 *system, as required by section 20157 of title 49,*
20 *United States Code.*”.

21 (b) *POSITIVE TRAIN CONTROL COLLATERAL.*—*Section*
22 *502(h)(2) of the Railroad Revitalization and Regulatory*
23 *Reform Act of 1976 (45 U.S.C. 822(h)(2)), is amended by*
24 *adding at the end the following:*

1 *“For purposes of making a finding under sub-*
2 *section (g)(4) for a loan for positive train control, the*
3 *total cost of the labor and materials associated with*
4 *installing positive train control shall be deemed to be*
5 *equal to the collateral value of that asset.”.*

6 **SEC. 35303. FCC STUDY OF SPECTRUM AVAILABILITY.**

7 *(a) SPECTRUM NEEDS ASSESSMENT.—Not later than*
8 *120 days after the date of enactment of this Act, the Sec-*
9 *retary of Transportation and the Chairman of the Federal*
10 *Communications Commission shall coordinate to assess*
11 *spectrum needs and availability for implementing positive*
12 *train control systems, as defined in section 20157 of title*
13 *49, United States Code. In conducting the spectrum needs*
14 *assessment, the Secretary and the Chairman shall—*

15 *(1) evaluate the information provided in the*
16 *Federal Communications Commission WT–11–79*
17 *proceeding;*

18 *(2) evaluate the positive train control implemen-*
19 *tations plans and any subsequent amendments or*
20 *waivers to those plans provided to the Federal Rail-*
21 *road Administration; and*

22 *(3) evaluate individual railroad spectrum de-*
23 *mand studies.*

24 *(b) RECOMMENDATIONS.—Not later than 90 days after*
25 *the completion of the spectrum needs assessment under sub-*

1 *section (a), the Secretary and the Chairman shall submit*
2 *a plan to the Committee on Commerce, Science, and Trans-*
3 *portation of the Senate and the Committee on Transpor-*
4 *tation and Infrastructure of the House of Representatives,*
5 *for approximate resolution to any issues that may prevent*
6 *railroad carriers or entities from complying with the De-*
7 *cember 31, 2015, positive train control implementation*
8 *deadline.*

9 ***Subtitle D—Freight Rail***

10 ***SEC. 35401. RAIL LINE RELOCATION.***

11 *Section 20154 is amended—*

12 *(1) in subsection (b)—*

13 *(A) by striking “either”;*

14 *(B) by striking “or” at the end of para-*
15 *graph (1);*

16 *(C) by striking the period at the end of*
17 *paragraph (2) and inserting “; or”; and*

18 *(D) by adding at the end the following:*

19 *“(3) involves a lateral or vertical relocation of*
20 *any portion of a road.”;*

21 *(2) in subsection (e)(1), by striking “10” and in-*
22 *serting “20”; and*

23 *(3) in subsection (h)(3), by inserting “a public*
24 *agency,” after “of a State,”.*

1 **SEC. 35402. COMPILATION OF COMPLAINTS.**

2 (a) *IN GENERAL.*—Section 704 is amended—

3 (1) *by striking the section heading and inserting*
4 *the following:*

5 **“§ 704. Reports”;**

6 (2) *by inserting “(a) ANNUAL REPORT.—” before*
7 *“The Board”;* and

8 (3) *by adding at the end the following:*

9 *“(b) COMPLAINTS.—*

10 *“(1) IN GENERAL.—The Board shall establish*
11 *and maintain a database of complaints received by*
12 *the Board.*

13 *“(2) QUARTERLY REPORT.—The Board shall post*
14 *a quarterly report of formal and informal service*
15 *complaints received by the Board during the previous*
16 *quarter that includes—*

17 *“(A) a list of the type of each complaint;*

18 *“(B) the geographic region of the complaint;*

19 *and*

20 *“(C) the resolution of the complaint, if ap-*
21 *propriate.*

22 *“(3) WRITTEN CONSENT.—The quarterly report*
23 *may identify a complainant that submitted an infor-*
24 *mal complaint only upon the written consent of the*
25 *complainant.*

1 “(4) *WEBSITE POSTING.*—*The report shall be*
2 *posted on the Board’s public website.*”.

3 (b) *CONFORMING AMENDMENT.*—*The table of contents*
4 *for chapter 7 is amended by striking the item relating to*
5 *section 704 and inserting the following:*

 “704. *Reports.*”.

6 **SEC. 35403. MAXIMUM RELIEF IN CERTAIN RATE CASES.**

7 (a) *IN GENERAL.*—*The Surface Transportation Board*
8 *shall revise the maximum amount of rate relief available*
9 *to railroad shippers in cases brought pursuant to the meth-*
10 *od developed under section 10701(d)(3) of title 49, United*
11 *States Code, as that section existed as of the date of enact-*
12 *ment of this Act, to be as follows:*

13 (1) *\$1,500,000 in a rate case brought using the*
14 *Surface Transportation Board’s “three-benchmark”*
15 *procedure.*

16 (2) *\$10,000,000 in a rate case brought using the*
17 *Surface Transportation Board’s “simplified stand-*
18 *alone cost” procedure.*

19 (b) *PERIODIC REVIEW.*—*The Board shall periodically*
20 *review the amounts established by subsection (a) and revise*
21 *the amounts, as appropriate.*

22 **SEC. 35404. RATE REVIEW TIMELINES.**

23 *In stand-alone cost rate challenges, the Surface Trans-*
24 *portation Board shall comply with the following timelines*

1 *unless it extends them, after a request from any party or*
2 *in the interest of due process:*

3 (1) *For discovery, 150 days after the date on*
4 *which the challenge is initiated.*

5 (2) *For development of the evidentiary record,*
6 *155 days after that date.*

7 (3) *For submission of parties' closing briefs, 60*
8 *days after that date.*

9 (4) *For a final Board decision, 180 days after*
10 *the date on which the parties submit closing briefs.*

11 **SEC. 35405. REVENUE ADEQUACY STUDY.**

12 *(a) REVENUE ADEQUACY STUDY.—*

13 (1) *IN GENERAL.—Not later than 180 days after*
14 *the date of enactment of this Act, the Surface Trans-*
15 *portation Board shall initiate a study to provide fur-*
16 *ther guidance on how it will apply its revenue ade-*
17 *quacy constraint.*

18 (2) *CONSIDERATIONS.—In conducting the study,*
19 *the Surface Transportation Board shall consider*
20 *whether to apply the revenue adequacy constrain*
21 *using replacement costs to value the assets of rail fa-*
22 *cilities and equipment.*

23 *(b) PUBLIC NOTICE.—In conducting the study under*
24 *subsection (a), the Surface Transportation Board shall—*

25 (1) *provide public notice;*

1 (2) *an opportunity for comment; and*

2 (3) *conduct 1 or more public hearings.*

3 (c) *REPORT.—Not later than 60 days after the study*
4 *under subsection (a) is complete, the Surface Transpor-*
5 *tation Board shall submit the findings of the study to the*
6 *Commerce, Science, and Transportation Committee of the*
7 *Senate and the Transportation and Infrastructure Com-*
8 *mittee of the House of Representatives.*

9 **SEC. 35406. QUARTERLY REPORTS.**

10 *Not later than 60 days after the date of enactment of*
11 *this Act, the Surface Transportation Board shall provide*
12 *quarterly reports to the Commerce, Science, and Transpor-*
13 *tation Committee of the Senate and the Transportation and*
14 *Infrastructure Committee of the House of Representatives*
15 *on the Surface Transportation Board's progress toward ad-*
16 *ressing issues raised in unfinished regulatory proceedings,*
17 *regardless of whether a proceeding is subject to a statutory*
18 *or regulatory deadline.*

19 **SEC. 35407. WORKFORCE REVIEW.**

20 (a) *IN GENERAL.—Not later than 180 days after the*
21 *date of enactment of this Act, the Chairman of the Surface*
22 *Transportation Board, in consultation with the Director of*
23 *the Office of Personnel Management, shall conduct a review*
24 *of the Surface Transportation Board workforce to assist in*

1 *the development of a comprehensive, long-term human cap-*
2 *ital improvement plan.*

3 (b) *PLAN.*—*Not later than 180 days after the review*
4 *under subsection (a) is complete, the Chairman shall de-*
5 *velop a comprehensive, long-term human capital improve-*
6 *ment plan for Surface Transportation Board personnel to*
7 *identify—*

8 (1) *the optimal workforce size of the Surface*
9 *Transportation Board to address its current and fu-*
10 *ture program needs;*

11 (2) *the hiring, training, managing, and com-*
12 *penetration needs to recruit and retain qualified per-*
13 *sonnel, including experts to assess long-standing and*
14 *emerging railroad industry trends;*

15 (3) *the means for improving the current organi-*
16 *zational structure and workforce to most efficiently*
17 *execute the Surface Transportation Board's mission;*
18 *and*

19 (4) *any recommendations for potential coordina-*
20 *tion with colleges, universities, or other non-profit or-*
21 *ganizations for training programs to support work-*
22 *force development.*

23 (c) *REPORT.*—*The Chairman shall submit the plan to*
24 *the Committee on Commerce, Science, and Transportation*

1 *of the Senate and the Committee on Transportation and*
2 *Infrastructure of the House of Representatives.*

3 **SEC. 35408. RAILROAD REHABILITATION AND IMPROVE-**
4 **MENT FINANCING.**

5 (a) *CONDITIONS OF ASSISTANCE.*—Section 502(h)(2)
6 *of the Railroad Revitalization and Regulatory Reform Act*
7 *of 1976 (45 U.S.C. 822(h)(2)), as amended by section 36302*
8 *of this Act, is amended by adding at the end the following:*

9 “*The Secretary shall accept, for the purpose of making*
10 *a finding with regard to adequate collateral for a public*
11 *entity, the net present value on a future stream of State*
12 *or local subsidy income or a dedicated revenue as collateral*
13 *offered to secure a loan.*”.

14 (b) *ELIGIBLE PURPOSES.*—Section 502(b)(1) *of the*
15 *Railroad Revitalization and Regulatory Reform Act of*
16 *1976 (45 U.S.C. 822(b)(1)), as amended by section 36302*
17 *of this Act, is further amended—*

18 (1) *by striking “or” at the end of subparagraph*
19 *(C);*

20 (2) *by striking the period at the end of subpara-*
21 *graph (D) and inserting “; or”; and*

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

23 “*(E) conduct preliminary engineering, en-*
24 *vironmental review, permitting, or other pre-con-*
25 *struction activities.*”.

1 (c) *STUDY.*—*The Secretary shall submit a report to*
 2 *the Committee on Commerce, Science, and Transportation*
 3 *of the Senate and the Committee on Transportation and*
 4 *Infrastructure of the House of Representatives detailing rec-*
 5 *ommendations for improving the Railroad Rehabilitation*
 6 *and Improvement Financing program administration, in-*
 7 *cluding timely processing of applications, expansion of eli-*
 8 *gibilities, and other issues that impede passenger and rail*
 9 *carriers from utilizing the program.*

10 ***Subtitle E—Technical Corrections***

11 ***SEC. 35501. TECHNICAL CORRECTIONS.***

12 (a) *RAIL SAFETY IMPROVEMENT ACT OF 2008.*—

13 (1) *The table of contents in section 1(b) of the*
 14 *Rail Safety Improvement Act of 2008 (122 Stat.*
 15 *4848) is amended—*

16 (A) *by striking the item relating to section*
 17 *201 and inserting the following:*

“Sec. 201. Pedestrian safety at or near railroad passenger stations.”; and

18 (B) *by striking the item relating to section*
 19 *403 and inserting the following:*

*“Sec. 403. Study and rulemaking on track inspection time; rulemaking on con-
 crete crossties.”.*

20 (2) *Section 2(a)(1) of the Rail Safety Improve-*
 21 *ment Act of 2008 (49 U.S.C. 20102 note), is amended*
 22 *by inserting a comma after “railroad tracks at*
 23 *grade”.*

1 (3) *Section 102(a) of the Rail Safety Improve-*
2 *ment Act of 2008 (49 U.S.C. 20101 note), is amend-*
3 *ed—*

4 (A) *by striking “, at a minimum,”;*

5 (B) *in paragraph (1), by inserting a*
6 *comma after “railroads”; and*

7 (C) *by amending paragraph (6) to read as*
8 *follows:*

9 “(6) *Improving the safety of railroad bridges,*
10 *tunnels, and related infrastructure to prevent acci-*
11 *dents, incidents, injuries, and fatalities caused by cat-*
12 *astrophic and other failures of such infrastructure.”.*

13 (4) *Section 108(f)(1) of the Rail Safety Improve-*
14 *ment Act of 2008 (49 U.S.C. 21101 note), is amended*
15 *by striking “requirements for recordkeeping and re-*
16 *porting for Hours of Service of Railroad Employees”*
17 *and inserting “requirements for record keeping and*
18 *reporting for hours of service of railroad employees”.*

19 (5) *Section 201 of the Rail Safety Improvement*
20 *Act of 2008 (49 U.S.C. 20134 note), is amended—*

21 (A) *in the section heading, by striking “PE-*
22 *DESTRIAN CROSSING SAFETY.” and inserting*
23 *“PEDESTRIAN SAFETY AT OR NEAR RAIL-*
24 *ROAD PASSENGER STATIONS.”;*

1 (B) by striking “strategies and methods to
2 prevent pedestrian accidents, incidents, injuries,
3 and fatalities at or near passenger stations, in-
4 cluding” and inserting “strategies and methods
5 to prevent train-related accidents, incidents, in-
6 juries, and fatalities that involve a pedestrian at
7 or near a railroad passenger station, including”;
8 and

9 (C) in paragraph (1) by striking “at rail-
10 road passenger stations”.

11 (6) Section 206(a) of the Rail Safety Improve-
12 ment Act of 2008 (49 U.S.C. 22501 note), is amended
13 by striking “Public Service Announcements” and in-
14 serting “public service announcements”.

15 (7) Section 403 of the Rail Safety Improvement
16 Act of 2008 (49 U.S.C. 20142 note), is amended—

17 (A) in the section heading, by striking
18 “**TRACK INSPECTION TIME STUDY.**” and in-
19 serting “**STUDY AND RULEMAKING ON**
20 **TRACK INSPECTION TIME; RULEMAKING**
21 **ON CONCRETE CROSSTIES.**”; and

22 (B) in subsection (d)—

23 (i) by striking “CROSS TIES” in the
24 subsection heading and inserting “CROSS-
25 TIES”;

1 (ii) by striking “cross ties” and insert-
2 ing “crossties”; and

3 (iii) in paragraph (2), by striking
4 “cross tie” and inserting “crosstie”.

5 (8) Section 405 of the Rail Safety Improvement
6 Act of 2008 (49 U.S.C. 20103 note), is amended—

7 (A) in subsection (a), by striking “cell
8 phones” and inserting “cellular telephones”; and

9 (B) in subsection (d)—

10 (i) by striking “of Transportation”;

11 and

12 (ii) by striking “cell phones” and in-
13 serting “cellular telephones”.

14 (9) Section 411(a) of the Rail Safety Improve-
15 ment Act of 2008 (49 U.S.C. 5103 note), is amend-
16 ed—

17 (A) by striking “5101(a)” and inserting
18 “5105(a)”; and

19 (B) by striking “5101(b)” and inserting
20 “5105(b)”.

21 (10) Section 412 of the Rail Safety Improvement
22 Act of 2008 (49 U.S.C. 20140 note), is amended by
23 striking “of Transportation”.

1 (11) *Section 414(2) of the Rail Safety Improve-*
2 *ment Act of 2008 (49 U.S.C. 20103 note), is amend-*
3 *ed—*

4 (A) *by striking “parts” and inserting “sec-*
5 *tions”; and*

6 (B) *by striking “part” and inserting “sec-*
7 *tion”.*

8 (12) *Section 416 of the Rail Safety Improvement*
9 *Act of 2008 (49 U.S.C. 20107 note), is amended—*

10 (A) *by striking “of Transportation”;*

11 (B) *in paragraphs (3) and (4), by striking*
12 *“Federal Railroad Administration” and insert-*
13 *ing “Secretary”; and*

14 (C) *in paragraph (4), by striking “sub-*
15 *section” and inserting “section”.*

16 (13) *Section 417(c) of the Rail Safety Improve-*
17 *ment Act of 2008 (49 U.S.C. 20103 note), is amended*
18 *by striking “each railroad” and inserting “each rail-*
19 *road carrier”.*

20 (14) *Section 503 of the Rail Safety Improvement*
21 *Act of 2008 (49 U.S.C. 1139 note), is amended—*

22 (A) *in subsection (a), by striking “rail acci-*
23 *dents” and inserting “rail passenger accidents”;*

24 (B) *in subsection (b)—*

1 (i) by striking “passenger rail acci-
2 dents” and inserting “rail passenger acci-
3 dents”; and

4 (ii) by striking “passenger rail acci-
5 dent” each place it appears and inserting
6 “rail passenger accidents”; and

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

8 “(d) *DEFINITIONS.*—In this section, the terms ‘pas-
9 senger’, ‘rail passenger accident’, and ‘rail passenger car-
10 rier’ have the meanings given the terms in section 1139 of
11 title 49, United States Code.”

12 “(e) *FUNDING.*—Out of the funds appropriated pursu-
13 ant to section 20117(a)(1)(A) of title 49, United States
14 Code, there shall be made available to the Secretary of
15 Transportation \$500,000 for fiscal year 2009 to carry out
16 this section. Amounts made available pursuant to this sub-
17 section shall remain available until expended.”.

18 (b) *PASSENGER RAIL INVESTMENT AND IMPROVEMENT*
19 *ACT OF 2008.*—

20 (1) *Section 206(a) of the Passenger Rail Invest-*
21 *ment and Improvement Act of 2008 (49 U.S.C. 24101*
22 *note), is amended by inserting “of this division” after*
23 *“302”.*

1 (2) *Section 211 of the Passenger Rail Investment*
2 *and Improvement Act of 2008 (49 U.S.C. 24902*
3 *note), is amended—*

4 (A) *in subsection (d), by inserting “of this*
5 *division” after “101(c)”;* and

6 (B) *in subsection (e), by inserting “of this*
7 *division” after “101(d)”.*

8 (c) *TITLE 49 OF THE UNITED STATE CODE.—*

9 (1) *Section 1139 is amended—*

10 (A) *in subsection (a)(1), by striking “phone*
11 *number” and inserting “telephone number”;*

12 (B) *in subsection (a)(2), by striking “post*
13 *trauma” and inserting “post-trauma”;*

14 (C) *in subsections (h)(1)(A) and*
15 *(h)(2)(A)—*

16 (i) *by striking “interstate”;* and

17 (ii) *by striking “such term is”;*

18 (D) *in subsection (g)(1), by striking*
19 *“board” in the heading and inserting “BOARD”;*

20 (E) *in subsections (h)(1)(B) and*
21 *(h)(2)(B)—*

22 (i) *by striking “interstate or intra-*
23 *state”;* and

24 (ii) *by striking “such term is”;*

25 (F) *in subsection (j)(1)—*

1 (i) by striking “(other than subsection
2 (g))” and inserting “(except for subsections
3 (g) and (k))”; and

4 (ii) by striking “railroad passenger ac-
5 cident” and inserting “rail passenger acci-
6 dent”; and

7 (G) in subsection (j)(2), by striking “rail-
8 road passenger accident” and inserting “rail
9 passenger accident”.

10 (2) Section 10909(b) is amended—

11 (A) by striking “Railroad” and inserting
12 “Railroads”; and

13 (B) in paragraph (2), by inserting a
14 comma after “comment”.

15 (3) Section 20109 is amended—

16 (A) in subsection (c)(1), by striking “the
17 railroad shall promptly arrange” and inserting
18 “the railroad carrier shall promptly arrange”;

19 (B) in subsection (d)(2)(A)(i), by striking
20 “(d)” and inserting “paragraph” after “under”;

21 (C) in subsection (d)(2)(A)(iii), by inserting
22 “section” after “set forth in”; and

23 (D) in subsection (d)(4)(i), by striking
24 “must” and inserting “shall”.

25 (4) Section 20120(a) is amended—

1 (A) by striking “(a) *IN GENERAL*” and in-
2 serting “Not”;

3 (B) in paragraph (2)(G), by inserting
4 “and” after the semicolon;

5 (C) in paragraph (4), by striking “provide”
6 and inserting “provides”;

7 (D) in paragraph (5)(B), by striking “Ad-
8 ministrative Hearing Officer or Administrative
9 Law Judge” and inserting “administrative hear-
10 ing officer or administrative law judge”; and

11 (E) in paragraph (7), by striking “its” and
12 inserting “the Secretary’s or the Federal Rail-
13 road Administrator’s”.

14 (5) Section 20151(d)(1) is amended by striking
15 “to drive around a grade crossing gate” and inserting
16 “to drive through, around, or under a grade crossing
17 gate”.

18 (6) Section 20152(b) is amended by striking
19 “rail carriers” and inserting “railroad carriers”.

20 (7) Section 20156 is amended—

21 (A) in subsection (c), by inserting a comma
22 after “In developing its railroad safety risk re-
23 duction program”; and

24 (B) in subsection (g)(1), by striking “non-
25 profit” and inserting “nonprofit”.

1 (8) *Section 20157(a)(1) is amended—*

2 (A) *by striking “Class I railroad carrier”*
3 *and inserting “Class I railroad”; and*

4 (B) *by striking “parts” and inserting “sec-*
5 *tions”.*

6 (9) *Section 20158(b)(3) is amended by striking*
7 *“20156(e)(2)” and inserting “20156(e)”.*

8 (10) *Section 20159 is amended by inserting “of*
9 *Transportation” after “the Secretary”.*

10 (11) *Section 20160 is amended—*

11 (A) *in subsection (a)(1), by striking “or*
12 *with respect to” and inserting “with respect to”;*

13 (B) *in subsection (b)(1), by striking “On a*
14 *periodic basis beginning not” and inserting*
15 *“Not”; and*

16 (C) *in subsection (b)(1)(A), by striking “or*
17 *with respect to” and inserting “with respect to”.*

18 (12) *Section 20162(a)(3) is amended by striking*
19 *“railroad compliance with Federal standards” and*
20 *inserting “railroad carrier compliance with Federal*
21 *standards”.*

22 (13) *Section 20164(a) is amended by striking*
23 *“Railroad Safety Enhancement Act of 2008” and in-*
24 *serting “Rail Safety Improvement Act of 2008”.*

1 (14) Section 21102(c)(4) is amended by redesignig-
2 nating subparagraphs (C) and (D) as subparagraphs
3 (B) and (C), respectively.

4 (15) Section 22106(b) is amended by striking
5 “interest thereof” and inserting “interest thereon”.

6 (16) Section 24101(b) is amended by striking
7 “subsection (d)” and inserting “subsection (c)”.

8 (17) Section 24316 is amended by striking sub-
9 section (g).

10 (18) The item relating to section 24316 in the
11 table of contents for chapter 243 is amended by strik-
12 ing “assist” and inserting “address needs of”.

13 (19) Section 24702(a) is amended by striking
14 “not included in the national rail passenger transpor-
15 tation system”.

16 (20) Section 24706 is amended—

17 (A) in subsection (a)(1), by striking “a dis-
18 continuance under section 24704 or or”;

19 (B) in subsection (a)(2), by striking “sec-
20 tion 24704 or”; and

21 (C) in subsection (b), by striking “section
22 24704 or”.

23 (21) Section 24709 is amended by striking “The
24 Secretary of the Treasury and the Attorney General,”

1 and inserting “The Secretary of Homeland Security,”
2 rity,”.

3 **SEC. 35502. CONDEMNATION AUTHORITY.**

4 Section 24311(c) is amended—

5 (1) in paragraph (1), by striking “Interstate
6 Commerce Commission” and inserting “Surface
7 Transportation Board”;

8 (2) in paragraph (2), by striking “Commis-
9 sion’s” and inserting “Board’s”; and

10 (3) by striking “Commission” each place it ap-
11 pears and inserting “Board”.

12 **Subtitle F—Licensing and Insur-**
13 **ance Requirements for Pas-**
14 **senger Rail Carriers**

15 **SEC. 35601. CERTIFICATION OF PASSENGER RAIL CAR-**
16 **RIERS.**

17 (a) Section 10901 is amended by adding at the end
18 the following:

19 “(e) Not later than 2 years after the date of enactment
20 of the National Rail System Preservation, Expansion, and
21 Development Act of 2012, the Board shall establish a certifi-
22 cation process to authorize a person to provide passenger
23 rail transportation over a railroad line that is subject to
24 the jurisdiction of the Board, except that such certification
25 shall not be required for or apply to a freight railroad pro-

1 *viding or hosting passenger rail transportation over its own*
2 *railroad line.*

3 “(f) *After the certification process is established under*
4 *subsection (e), no person may provide passenger rail trans-*
5 *portation over a railroad line subject to the jurisdiction of*
6 *the Board unless the person is granted a certificate under*
7 *subsection (e).*

8 “(g) *The certification process under subsection (e)*
9 *shall—*

10 “(1) *permit a person to initiate a proceeding for*
11 *a certificate by filing an application with the Board;*
12 *and*

13 “(2) *require the Board to provide reasonable*
14 *public notice that a proceeding was initiated, includ-*
15 *ing notice to the Governor of any affected State, not*
16 *later than 30 days after receipt of the application*
17 *under paragraph (1).*

18 “(h) *The Board may grant a certificate under sub-*
19 *section (e) if the Board determines after consultation with*
20 *the Secretary of Transportation or the Secretary of Home-*
21 *land Security, as appropriate, that the applicant—*

22 “(1) *has or will have in effect a voluntary agree-*
23 *ment with the infrastructure owner over which the*
24 *passenger rail transportation will be provided or con-*

1 *tractual or statutory authority that provides for ac-*
2 *cess to such infrastructure;*

3 *“(2) demonstrates sufficient financial capacity*
4 *and operating experience to provide passenger rail*
5 *transportation;*

6 *“(3) meets all applicable safety and security re-*
7 *quirements under the law;*

8 *“(4) maintains a total minimum liability cov-*
9 *erage for claims through insurance and self-insurance*
10 *of not less than the amount required by section*
11 *28103(a)(2) per accident or incident; and*

12 *“(5) complies with any additional requirements*
13 *the Board determines are appropriate, including re-*
14 *porting requirements to ensure continued compliance*
15 *with this section.*

16 *“(i) A certificate granted under subsection (e) shall*
17 *specify the person to provide or authorized to provide pas-*
18 *senger rail transportation, if different from the applicant.*

19 *“(j) The Board may promulgate regulations—*

20 *“(1) for determining the adequacy of liability in-*
21 *surance coverage, including self-insurance; and*

22 *“(2) for suspending or canceling a certificate if*
23 *the person to provide or authorized to provide pas-*
24 *senger rail transportation fails to comply with sub-*
25 *section (h).*

1 “(k) *This section shall not apply to tourist, historical,*
2 *or excursion passenger rail transportation or other rail car-*
3 *rier that has already obtained construction or operating au-*
4 *thority from the Board.*”.

5 (b) *Section 24301(c) is amended by adding*
6 *“10901(e),” after “sections” in the first sentence.*

7 (c) *Section 10501(c)(3)(A) is amended—*

8 (1) *in clause (ii), by striking “and”;*

9 (2) *in clause (iii), by striking the period at the*
10 *end and inserting “ ; and”; and*

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

12 *“(iv) section 10901(e).”.*

13 (d) *Section 14901 is amended—*

14 (1) *by redesignating subsections (f) and (g) as*
15 *subsections (g) and (h), respectively;*

16 (2) *by inserting after subsection (e) the following:*

17 *“(f) CERTIFICATION REQUIRED.—A person shall be*
18 *subject to a penalty of \$300 for each passenger transported*
19 *if the person—*

20 *“(1) provides passenger rail transportation sub-*
21 *ject to jurisdiction under section 10501(a); and*

22 *“(2) does not hold a certificate required under*
23 *section 10901(e).”;* and

24 (3) *in subsection (g), as redesignated, by striking*
25 *“through (e)” and inserting “through (f)”.*

1 (e) Section 10502(g) is amended to read as follows:

2 “(g) The Board may not exercise its authority under
3 this section to relieve a rail carrier of its obligation to pro-
4 tect the interests of employees as required by this part, or
5 of the requirements of section 10901(g).”.

6 **TITLE VI—SPORT FISH RESTORA-**
7 **TION AND RECREATIONAL**
8 **BOATING SAFETY ACT OF 2012**

9 **SEC. 36001. SHORT TITLE.**

10 This title may be cited as the “Sport Fish Restoration
11 and Recreational Boating Safety Act of 2012”.

12 **SEC. 36002. AMENDMENT OF FEDERAL AID IN SPORT FISH**
13 **RESTORATION ACT.**

14 Section 4 of the Federal Aid in Fish Restoration Act
15 (16 U.S.C. 777c) is amended—

16 (1) in subsection (a), by striking “of fiscal years
17 2006 through 2011 and for the period beginning on
18 October 1, 2011, and ending on March 31, 2012,” and
19 inserting “fiscal year through 2013,”; and

20 (2) in subsection (b)(1)(A), by striking “of fiscal
21 years 2006 through 2011 and for the period beginning
22 on October 1, 2011, and ending on March 31, 2012,”
23 and inserting “fiscal year through 2013,”.

1 **TITLE VII—MISCELLANEOUS**

2 **SEC. 37001. AIRCRAFT NOISE ABATEMENT.**

3 (a) *IN GENERAL.*—Section 3(b)(2) of Public Law 100–
4 91 (16 U.S.C. 1a–1 note) is amended by adding at the end
5 the following: “The plan shall not apply to or otherwise af-
6 fect the regulation of flights over the Grand Canyon at alti-
7 tudes above the Special Flight Rules Area for the Grand
8 Canyon in effect as of the date of the enactment of the MAP–
9 21, or as subsequently modified by mutual agreement of the
10 Secretary and the Administrator.”.

11 (b) *SAVINGS PROVISIONS.*—

12 (1) *JURISDICTION OF NATIONAL AIRSPACE.*—
13 None of the recommendations required under section
14 3(b)(1) of Public Law 100–91 (16 U.S.C. 1a–1 note),
15 including recommendations to raise the flight-free
16 zone altitude ceilings, shall adversely affect the na-
17 tional airspace system, as determined by the Admin-
18 istrator of the Federal Aviation Administration. If
19 the Administrator determines that implementing the
20 recommendations would adversely affect the national
21 airspace system, the Administrator shall consult with
22 the Secretary of the Interior to eliminate the adverse
23 effects.

24 (2) *EFFECT OF NEPA DETERMINATIONS.*—None
25 of the environmental thresholds, analyses, impact de-

1 *terminations, or conditions prepared or used by the*
2 *Secretary to develop recommendations regarding the*
3 *substantial restoration of natural quiet and experi-*
4 *ence for the Grand Canyon National Park required*
5 *under section 3(b)(1) of Public Law 100–91 shall*
6 *have broader application or be given deference with*
7 *respect to the Administrator’s compliance with the*
8 *National Environmental Policy Act for proposed*
9 *aviation actions and decisions. Nothing in this sec-*
10 *tion may be construed to limit the ability of the Na-*
11 *tional Park Service to use its own methods of analysis*
12 *and impact determinations for air tour management*
13 *planning within its purview under the National*
14 *Parks Air Tour Management Act of 2000 (title VIII*
15 *of Public Law 106–181).*

16 *(c) CONVERSION TO QUIET TECHNOLOGY AIRCRAFT.—*

17 *(1) IN GENERAL.—Not later than 15 years after*
18 *the date of the enactment of this Act, all commercial*
19 *air tour aircraft operating in the Grand Canyon Na-*
20 *tional Park Special Flight Rules Area shall be re-*
21 *quired to fully convert to quiet aircraft technology (as*
22 *determined in accordance with regulations in effect*
23 *on the day before the date of the enactment of this*
24 *Act).*

1 (2) *CONVERSION INCENTIVES.*—*Not later than 60*
2 *days after the date of the enactment of this Act, the*
3 *Secretary and the Administrator of the Federal Avia-*
4 *tion Administration shall provide incentives for com-*
5 *mercial air tour operators that convert to quiet air-*
6 *craft technology (as determined in accordance with*
7 *the regulations in effect on the day before the date of*
8 *the enactment of this Act) before the date specified in*
9 *paragraph (1), such as increasing the flight alloca-*
10 *tions for such operators on a net basis consistent with*
11 *section 804(c) of the National Park Air Tours Man-*
12 *agement Act of 2000 (title VIII of Public Law 106-*
13 *181), provided that the cumulative impact of such op-*
14 *erations does not increase noise at Grand Canyon Na-*
15 *tional Park.*

16 ***DIVISION D—FINANCE***

17 ***SEC. 40001. SHORT TITLE.***

18 *This division may be cited as the “Highway Invest-*
19 *ment, Job Creation, and Economic Growth Act of 2012”.*

1 **TITLE I—EXTENSION OF HIGH-**
2 **WAY TRUST FUND EXPENDI-**
3 **TURE AUTHORITY AND RE-**
4 **LATED TAXES**

5 **SEC. 40101. EXTENSION OF TRUST FUND EXPENDITURE AU-**
6 **THORITY.**

7 (a) *HIGHWAY TRUST FUND.*—Section 9503 of the In-
8 *ternal Revenue Code of 1986 is amended—*

9 (1) *by striking “April 1, 2012” in subsections*
10 *(b)(6)(B), (c)(1), and (e)(3) and inserting “October 1,*
11 *2013”; and*

12 (2) *by striking “Surface Transportation Exten-*
13 *sion Act of 2011, Part II” in subsections (c)(1) and*
14 *(e)(3) and inserting “Moving Ahead for Progress in*
15 *the 21st Century Act”.*

16 (b) *SPORT FISH RESTORATION AND BOATING TRUST*
17 *FUND.*—Section 9504 of the Internal Revenue Code of 1986
18 *is amended—*

19 (1) *by striking “Surface Transportation Exten-*
20 *sion Act of 2011, Part II” each place it appears in*
21 *subsection (b)(2) and inserting “Moving Ahead for*
22 *Progress in the 21st Century Act”; and*

23 (2) *by striking “April 1, 2012” in subsection*
24 *(d)(2) and inserting “October 1, 2013”.*

1 (c) *LEAKING UNDERGROUND STORAGE TANK TRUST*
2 *FUND.*—Paragraph (2) of section 9508(e) of the Internal
3 Revenue Code of 1986 is amended by striking “April 1,
4 2012” and inserting “October 1, 2013”.

5 (d) *ESTABLISHMENT OF SOLVENCY ACCOUNT.*—Sec-
6 tion 9503 of the Internal Revenue Code of 1986 is amended
7 by adding at the end the following new subsection:

8 “(g) *ESTABLISHMENT OF SOLVENCY ACCOUNT.*—

9 “(1) *CREATION OF ACCOUNT.*—There is estab-
10 lished in the Highway Trust Fund a separate account
11 to be known as the ‘Solvency Account’ consisting of
12 such amounts as may be transferred or credited to the
13 Solvency Account as provided in this section or sec-
14 tion 9602(b).

15 “(2) *TRANSFERS TO SOLVENCY ACCOUNT.*—The
16 Secretary of the Treasury shall transfer to the Sol-
17 vency Account the excess of—

18 “(A) any amount appropriated to the High-
19 way Trust Fund before October 1, 2013, by rea-
20 son of the provisions of, and amendments made
21 by, the Highway Investment, Job Creation, and
22 Economic Growth Act of 2012, over

23 “(B) the amount necessary to meet the re-
24 quired expenditures from the Highway Trust

1 *Fund under subsection (c) for the period ending*
2 *before October 1, 2013.*

3 “(3) *EXPENDITURES FROM ACCOUNT.—Amounts*
4 *in the Solvency Account shall be available for trans-*
5 *fers to the Highway Account (as defined in subsection*
6 *(e)(5)(B)) and the Mass Transit Account in such*
7 *amounts as determined necessary by the Secretary to*
8 *ensure that each account has a surplus balance of*
9 *\$2,800,000,000 on September 30, 2013.*

10 “(4) *TERMINATION OF ACCOUNT.—The Solvency*
11 *Account shall terminate on September 30, 2013, and*
12 *the Secretary shall transfer any remaining balance in*
13 *the Account on such date to the Highway Trust*
14 *Fund.”.*

15 “(e) *EFFECTIVE DATE.—The amendments made by this*
16 *section shall take effect on April 1, 2012.*

17 **SEC. 40102. EXTENSION OF HIGHWAY-RELATED TAXES.**

18 “(a) *IN GENERAL.—*

19 “(1) *Each of the following provisions of the Inter-*
20 *nal Revenue Code of 1986 is amended by striking*
21 *“March 31, 2012” and inserting “September 30,*
22 *2015”:*

23 “(A) *Section 4041(a)(1)(C)(iii)(I).*

24 “(B) *Section 4041(m)(1)(B).*

25 “(C) *Section 4081(d)(1).*

1 (2) *Each of the following provisions of such Code*
2 *is amended by striking “April 1, 2012” and inserting*
3 *“October 1, 2015”:*

4 (A) *Section 4041(m)(1)(A).*

5 (B) *Section 4051(c).*

6 (C) *Section 4071(d).*

7 (D) *Section 4081(d)(3).*

8 (b) *EXTENSION OF TAX, ETC., ON USE OF CERTAIN*
9 *HEAVY VEHICLES.—Each of the following provisions of the*
10 *Internal Revenue Code of 1986 is amended by striking*
11 *“2012” and inserting “2015”:*

12 (1) *Section 4481(f).*

13 (2) *Subsections (c)(4) and (d) of section 4482.*

14 (c) *FLOOR STOCKS REFUNDS.—Section 6412(a)(1) of*
15 *the Internal Revenue Code of 1986 is amended—*

16 (1) *by striking “April 1, 2012” each place it ap-*
17 *pears and inserting “October 1, 2015”;*

18 (2) *by striking “September 30, 2012” each place*
19 *it appears and inserting “March 31, 2016”; and*

20 (3) *by striking “July 1, 2012” and inserting*
21 *“January 1, 2016”.*

22 (d) *EXTENSION OF CERTAIN EXEMPTIONS.—Sections*
23 *4221(a) and 4483(i) of the Internal Revenue Code of 1986*
24 *are each amended by striking “April 1, 2012” and inserting*
25 *“October 1, 2015”.*

1 (e) *EXTENSION OF TRANSFERS OF CERTAIN TAXES.*—

2 (1) *IN GENERAL.*—Section 9503 of the Internal
3 Revenue Code of 1986 is amended—

4 (A) in subsection (b)—

5 (i) by striking “April 1, 2012” each
6 place it appears in paragraphs (1) and (2)
7 and inserting “October 1, 2015”;

8 (ii) by striking “APRIL 1, 2012” in the
9 heading of paragraph (2) and inserting
10 “OCTOBER 1, 2015”;

11 (iii) by striking “March 31, 2012” in
12 paragraph (2) and inserting “September
13 30, 2015”; and

14 (iv) by striking “January 1, 2013” in
15 paragraph (2) and inserting “July 1,
16 2016”; and

17 (B) in subsection (c)(2), by striking “Janu-
18 ary 1, 2013” and inserting “July 1, 2016”.

19 (2) *MOTORBOAT AND SMALL-ENGINE FUEL TAX*
20 *TRANSFERS.*—

21 (A) *IN GENERAL.*—Paragraphs (3)(A)(i)
22 and (4)(A) of section 9503(c) of such Code are
23 each amended by striking “April 1, 2012” and
24 inserting “October 1, 2015”.

1 (B) *CONFORMING AMENDMENTS TO LAND*
 2 *AND WATER CONSERVATION FUND.*—Section
 3 201(b) of the *Land and Water Conservation*
 4 *Fund Act of 1965 (16 U.S.C. 460l–11(b))* is
 5 amended—

6 (i) by striking “April 1, 2013” each
 7 place it appears and inserting “October 1,
 8 2016”; and

9 (ii) by striking “April 1, 2012” and
 10 inserting “October 1, 2015”.

11 (f) *EFFECTIVE DATE.*—The amendments made by this
 12 section shall take effect on April 1, 2012.

13 **TITLE II—OTHER PROVISIONS**

14 **SEC. 40201. TEMPORARY INCREASE IN SMALL ISSUER EX-** 15 **CEPTION TO TAX-EXEMPT INTEREST EX-** 16 **PENSE ALLOCATION RULES FOR FINANCIAL** 17 **INSTITUTIONS.**

18 (a) *IN GENERAL.*—Subparagraph (G) of section
 19 265(b)(3) of the *Internal Revenue Code of 1986* is amend-
 20 ed—

21 (1) by striking “2009 or 2010” each place it ap-
 22 pears in clauses (i), (ii), and (iii) and inserting
 23 “2009, 2010, or the period beginning after June 30,
 24 2012, and before July 1, 2013”, and

1 (2) by striking “2009 AND 2010” in the heading
2 and inserting “2009, 2010, 2012, AND 2013”.

3 (b) *EFFECTIVE DATE.*—The amendments made by this
4 section shall apply to obligations issued after June 30,
5 2012.

6 **SEC. 40202. TEMPORARY MODIFICATION OF ALTERNATIVE**
7 **MINIMUM TAX LIMITATIONS ON TAX-EXEMPT**
8 **BONDS.**

9 (a) *INTEREST ON PRIVATE ACTIVITY BONDS NOT*
10 *TREATED AS TAX PREFERENCE ITEMS.*—Clause (vi) of sec-
11 tion 57(a)(5)(C) of the Internal Revenue Code of 1986 is
12 amended—

13 (1) in subclause (I) by inserting “, or after the
14 date of enactment of the Highway Investment, Job
15 Creation, and Economic Growth Act of 2012 and be-
16 fore January 1, 2013” after “January 1, 2011”;

17 (2) in subclause (III) by inserting “before Janu-
18 ary 1, 2011” after “which is issued”; and

19 (3) by striking “AND 2010” in the heading and
20 inserting “, 2010, AND PORTIONS OF 2012”.

21 (b) *NO ADJUSTMENT TO ADJUSTED CURRENT EARN-*
22 *INGS.*—Clause (iv) of section 56(g)(4)(B) of the Internal
23 Revenue Code of 1986 is amended—

24 (1) in subclause (I) by inserting “, or after the
25 date of enactment of the Highway Investment, Job

1 *Creation, and Economic Growth Act of 2012 and be-*
 2 *fore January 1, 2013” after “January 1, 2011”;*

3 *(2) in subclause (III) by inserting “before Janu-*
 4 *ary 1, 2011” after “which is issued”; and*

5 *(3) by striking “AND 2010” in the heading and*
 6 *inserting “, 2010, AND PORTIONS OF 2012”.*

7 *(c) EFFECTIVE DATE.—The amendments made by this*
 8 *section shall apply to obligations issued after the date of*
 9 *enactment of this Act.*

10 **SEC. 40203. ISSUANCE OF TRIP BONDS BY STATE INFRA-**
 11 **STRUCTURE BANKS.**

12 *Section 610(d) of title 23, United States Code, is*
 13 *amended—*

14 *(1) by redesignating paragraphs (4), (5), and (6)*
 15 *as paragraphs (5), (6), and (7), respectively,*

16 *(2) by inserting after paragraph (3) the fol-*
 17 *lowing new paragraph:*

18 *“(4) TRIP BOND ACCOUNT.—*

19 *“(A) IN GENERAL.—A State, through a*
 20 *State infrastructure bank, may issue TRIP*
 21 *bonds and deposit proceeds from such issuance*
 22 *into the TRIP bond account of the bank.*

23 *“(B) TRIP BOND.—For purposes of this*
 24 *section, the term ‘TRIP bond’ means any bond*
 25 *issued as part of an issue if—*

1 “(i) 100 percent of the available project
2 proceeds of such issue are to be used for ex-
3 penditures incurred after the date of the en-
4 actment of this paragraph for 1 or more
5 qualified projects pursuant to an allocation
6 of such proceeds to such project or projects
7 by a State infrastructure bank,

8 “(ii) the bond is issued by a State in-
9 frastructure bank and is in registered form
10 (within the meaning of section 149(a) of the
11 Internal Revenue Code of 1986),

12 “(iii) the State infrastructure bank
13 designates such bond for purposes of this
14 section, and

15 “(iv) the term of each bond which is
16 part of such issue does not exceed 30 years.

17 “(C) QUALIFIED PROJECT.—For purposes of
18 this subparagraph, the term ‘qualified project’
19 means the capital improvements to any trans-
20 portation infrastructure project of any govern-
21 mental unit or other person, including roads,
22 bridges, rail and transit systems, ports, and in-
23 land waterways proposed and approved by a
24 State infrastructure bank, but does not include

1 *costs of operations or maintenance with respect*
2 *to such project.”,*

3 *(3) by adding at the end of paragraph (5), as re-*
4 *designated by paragraph (1), the following new sub-*
5 *paragraph:*

6 “(D) *TRIP BOND ACCOUNT.—Funds depos-*
7 *ited into the TRIP bond account shall constitute*
8 *for purposes of this section a capitalization*
9 *grant for the TRIP bond account of the bank.”,*
10 *and*

11 *(4) by adding at the end the following new para-*
12 *graph:*

13 “(8) *SPECIAL RULES FOR TRIP BOND ACCOUNT*
14 *FUNDS.—*

15 “(A) *IN GENERAL.—The State shall develop*
16 *a transparent competitive process for the award*
17 *of funds deposited into the TRIP bond account*
18 *that considers the impact of qualified projects on*
19 *the economy, the environment, state of good re-*
20 *pair, and equity.*

21 “(B) *APPLICABILITY OF FEDERAL LAW.—*
22 *The requirements of any Federal law, including*
23 *this title and titles 40 and 49, which would oth-*
24 *erwise apply to projects to which the United*
25 *States is a party or to funds made available*

1 *under such law and projects assisted with those*
 2 *funds shall apply to—*

3 “(i) *funds made available under the*
 4 *TRIP bond account for similar qualified*
 5 *projects, and*

6 “(ii) *similar qualified projects assisted*
 7 *through the use of such funds.”.*

8 **SEC. 40204. EXTENSION OF PARITY FOR EXCLUSION FROM**
 9 **INCOME FOR EMPLOYER-PROVIDED MASS**
 10 **TRANSIT AND PARKING BENEFITS.**

11 *(a) IN GENERAL.—Paragraph (2) of section 132(f) of*
 12 *the Internal Revenue Code of 1986 is amended by striking*
 13 *“January 1, 2012” and inserting “January 1, 2013”.*

14 *(b) EFFECTIVE DATE.—The amendment made by this*
 15 *section shall apply to months after December 31, 2011.*

16 **SEC. 40205. EXEMPT-FACILITY BONDS FOR SEWAGE AND**
 17 **WATER SUPPLY FACILITIES.**

18 *(a) BONDS FOR WATER AND SEWAGE FACILITIES*
 19 *TEMPORARILY EXEMPT FROM VOLUME CAP ON PRIVATE*
 20 *ACTIVITY BONDS.—Subsection (g) of section 146 of the In-*
 21 *ternal Revenue Code of 1986 is amended—*

22 *(1) by striking “and” at the end of paragraph*
 23 *(3),*

24 *(2) by striking the period at the end of para-*
 25 *graph (4) and inserting “, and”, and*

1 (3) *by inserting after paragraph (4) the fol-*
 2 *lowing new paragraph:*

3 “*(5) any exempt facility bonds issued before Jan-*
 4 *uary 1, 2018, as part of an issue described in para-*
 5 *graph (4) or (5) of section 142(a).”.*

6 **(b) CONFORMING CHANGE.**—*Paragraphs (2) and*
 7 **(3)(B) of section 146(k) of the Internal Revenue Code of**
 8 **1986 are both amended by striking “paragraph (4), (5), (6),**
 9 **or (10) of section 142(a)” and inserting “paragraph (4) or**
 10 **(5) of section 142(a) with respect to bonds issued after De-**
 11 **cember 31, 2017, or paragraph (6) or (10) of section**
 12 **142(a).”.**

13 **(c) EFFECTIVE DATE.**—*The amendments made by this*
 14 *section shall apply to obligations issued after the date of*
 15 *the enactment of this Act.*

16 **TITLE III—REVENUE**
 17 **PROVISIONS**

18 **SEC. 40301. TRANSFER FROM LEAKING UNDERGROUND**
 19 **STORAGE TANK TRUST FUND TO HIGHWAY**
 20 **TRUST FUND.**

21 **(a) IN GENERAL.**—*Subsection (c) of section 9508 of*
 22 *the Internal Revenue Code of 1986 is amended—*

23 **(1) by striking “Amounts” and inserting:**

24 “*(1) IN GENERAL.—Except as provided in para-*
 25 *graph (2), amounts”, and*

1 (2) *by adding at the end the following new para-*
2 *graph:*

3 “(2) *TRANSFER TO HIGHWAY TRUST FUND.—Out*
4 *of amounts in the Leaking Underground Storage*
5 *Tank Trust Fund there is hereby appropriated*
6 *\$3,000,000,000 to be transferred under section*
7 *9503(f)(3) to the Highway Trust Fund.”.*

8 **(b) TRANSFER TO HIGHWAY TRUST FUND.—**

9 (1) *IN GENERAL.—Subsection (f) of section 9503*
10 *of the Internal Revenue Code of 1986 is amended by*
11 *inserting after paragraph (2) the following new para-*
12 *graph:*

13 “(3) *INCREASE IN FUND BALANCE.—There is*
14 *hereby transferred to the Highway Trust Fund*
15 *amounts appropriated from the Leaking Underground*
16 *Storage Tank Trust Fund under section 9508(c)(2).”.*

17 (2) *CONFORMING AMENDMENTS.—Paragraph (4)*
18 *of section 9503(f) of such Code is amended—*

19 (A) *by inserting “or transferred” after “ap-*
20 *propriated”, and*

21 (B) *by striking “APPROPRIATED” in the*
22 *heading thereof.*

1 **SEC. 40302. PORTION OF LEAKING UNDERGROUND STOR-**
2 **AGE TANK TRUST FUND FINANCING RATE**
3 **TRANSFERRED TO HIGHWAY TRUST FUND.**

4 (a) *IN GENERAL.*—Subsection (b) of section 9503 of
5 the Internal Revenue Code of 1986 is amended by inserting
6 after paragraph (2) the following new paragraph:

7 “(3) *PORTION OF LEAKING UNDERGROUND STOR-*
8 *AGE TANK TRUST FUND FINANCING RATE.*—There are
9 hereby appropriated to the Highway Trust Fund
10 amounts equivalent to one-third of the taxes received
11 in the Treasury under—

12 “(A) section 4041(d) (relating to additional
13 taxes on motor fuels),

14 “(B) section 4081 (relating to tax on gaso-
15 line, diesel fuel, and kerosene) to the extent at-
16 tributable to the Leaking Underground Storage
17 Tank Trust Fund financing rate under such sec-
18 tion, and

19 “(C) section 4042 (relating to tax on fuel
20 used in commercial transportation on inland
21 waterways) to the extent attributable to the
22 Leaking Underground Storage Tank Trust Fund
23 financing rate under such section.

24 For purposes of this paragraph, there shall not be
25 taken into account the taxes imposed by sections 4041

1 *and 4081 on diesel fuel sold for use or used as fuel*
2 *in a diesel-powered boat.”.*

3 **(b) CONFORMING AMENDMENTS.—**

4 *(1) Paragraphs (1), (2), and (3) of section*
5 *9508(b) of the Internal Revenue Code of 1986 are*
6 *each amended by inserting “two-thirds of the” before*
7 *“taxes”.*

8 *(2) Paragraph (4) of section 9503(b) of such*
9 *Code is amended by striking subparagraphs (A) and*
10 *(B) and by redesignating subparagraphs (C) and (D)*
11 *as subparagraphs (A) and (B), respectively.*

12 **(c) EFFECTIVE DATE.—***The amendments made by this*
13 *section shall apply to taxes received after the date of the*
14 *enactment of this Act.*

15 **SEC. 40303. TRANSFER OF GAS GUZZLER TAXES TO HIGH-**
16 **WAY TRUST FUND.**

17 **(a) IN GENERAL.—***Paragraph (1) of section 9503(b)*
18 *of the Internal Revenue Code of 1986 is amended by redesignig-*
19 *nating subparagraphs (C), (D), and (E) as subparagraphs*
20 *(D), (E), and (F), respectively, and by inserting after sub-*
21 *paragraph (B) the following new subparagraph:*

22 *“(B) section 4064 (relating to gas guzzler*
23 *tax),”.*

1 (b) *EFFECTIVE DATE.*—*The amendments made by this*
2 *section shall apply to taxes received after the date of the*
3 *enactment of this Act.*

4 **SEC. 40304. REVOCATION OR DENIAL OF PASSPORT IN CASE**
5 **OF CERTAIN UNPAID TAXES.**

6 (a) *IN GENERAL.*—*Subchapter D of chapter 75 of the*
7 *Internal Revenue Code of 1986 is amended by adding at*
8 *the end the following new section:*

9 **“SEC. 7345. REVOCATION OR DENIAL OF PASSPORT IN CASE**
10 **OF CERTAIN TAX DELINQUENCIES.**

11 “(a) *IN GENERAL.*—*If the Secretary receives certifi-*
12 *cation by the Commissioner of Internal Revenue that any*
13 *individual has a seriously delinquent tax debt in an*
14 *amount in excess of \$50,000, the Secretary shall transmit*
15 *such certification to the Secretary of State for action with*
16 *respect to denial, revocation, or limitation of a passport*
17 *pursuant to section 4 of the Act entitled ‘An Act to regulate*
18 *the issue and validity of passports, and for other purposes’,*
19 *approved July 3, 1926 (22 U.S.C. 211a et seq.), commonly*
20 *known as the ‘Passport Act of 1926’.*

21 “(b) *SERIOUSLY DELINQUENT TAX DEBT.*—*For pur-*
22 *poses of this section, the term ‘seriously delinquent tax debt’*
23 *means an outstanding debt under this title for which a no-*
24 *tice of lien has been filed in public records pursuant to sec-*

1 *tion 6323 or a notice of levy has been filed pursuant to*
 2 *section 6331, except that such term does not include—*

3 “(1) *a debt that is being paid in a timely man-*
 4 *ner pursuant to an agreement under section 6159 or*
 5 *7122, and*

6 “(2) *a debt with respect to which collection is*
 7 *suspended because a collection due process hearing*
 8 *under section 6330, or relief under subsection (b), (c),*
 9 *or (f) of section 6015, is requested or pending.*

10 “(c) *ADJUSTMENT FOR INFLATION.—In the case of a*
 11 *calendar year beginning after 2012, the dollar amount in*
 12 *subsection (a) shall be increased by an amount equal to—*

13 “(1) *such dollar amount, multiplied by*

14 “(2) *the cost-of-living adjustment determined*
 15 *under section 1(f)(3) for the calendar year, deter-*
 16 *mined by substituting ‘calendar year 2011’ for ‘cal-*
 17 *endar year 1992’ in subparagraph (B) thereof.*

18 *If any amount as adjusted under the preceding sentence is*
 19 *not a multiple of \$1,000, such amount shall be rounded to*
 20 *the next highest multiple of \$1,000.”.*

21 “(b) *CLERICAL AMENDMENT.—The table of sections for*
 22 *subchapter D of chapter 75 of the Internal Revenue Code*
 23 *of 1986 is amended by adding at the end the following new*
 24 *item:*

“Sec. 7345. *Revocation or denial of passport in case of certain tax delinquencies.*”.

1 (c) *AUTHORITY FOR INFORMATION SHARING.*—

2 (1) *IN GENERAL.*—Subsection (l) of section 6103
3 of the Internal Revenue Code of 1986 is amended by
4 adding at the end the following new paragraph:

5 “(23) *DISCLOSURE OF RETURN INFORMATION TO*
6 *DEPARTMENT OF STATE FOR PURPOSES OF PASSPORT*
7 *REVOCAION UNDER SECTION 7345.*—

8 “(A) *IN GENERAL.*—The Secretary shall,
9 upon receiving a certification described in sec-
10 tion 7345, disclose to the Secretary of State re-
11 turn information with respect to a taxpayer who
12 has a seriously delinquent tax debt described in
13 such section. Such return information shall be
14 limited to—

15 “(i) the taxpayer identity information
16 with respect to such taxpayer, and

17 “(ii) the amount of such seriously de-
18 linquent tax debt.

19 “(B) *RESTRICTION ON DISCLOSURE.*—Re-
20 turn information disclosed under subparagraph
21 (A) may be used by officers and employees of the
22 Department of State for the purposes of, and to
23 the extent necessary in, carrying out the require-
24 ments of section 4 of the Act entitled ‘An Act to
25 regulate the issue and validity of passports, and

1 *for other purposes*, approved July 3, 1926 (22
2 U.S.C. 211a *et seq.*), commonly known as the
3 ‘Passport Act of 1926’.”.

4 (2) *CONFORMING AMENDMENT.*—Paragraph (4)
5 of section 6103(p) of such Code is amended by strik-
6 ing “or (22)” each place it appears in subparagraph
7 (F)(ii) and in the matter preceding subparagraph (A)
8 and inserting “(22), or (23)”.

9 (d) *REVOCATION AUTHORIZATION.*—The Act entitled
10 “An Act to regulate the issue and validity of passports, and
11 for other purposes”, approved July 3, 1926 (22 U.S.C. 211a
12 *et seq.*), commonly known as the “Passport Act of 1926”,
13 is amended by adding at the end the following:

14 **“SEC. 4. AUTHORITY TO DENY OR REVOKE PASSPORT.**

15 “(a) *INELIGIBILITY.*—

16 “(1) *ISSUANCE.*—Except as provided under sub-
17 section (b), upon receiving a certification described in
18 section 7345 of the Internal Revenue Code of 1986
19 from the Secretary of the Treasury, the Secretary of
20 State may not issue a passport or passport card to
21 any individual who has a seriously delinquent tax
22 debt described in such section.

23 “(2) *REVOCATION.*—The Secretary of State shall
24 revoke a passport or passport card previously issued
25 to any individual described in subparagraph (A).

1 “(b) *EXCEPTIONS.*—

2 “(1) *EMERGENCY AND HUMANITARIAN SITUA-*
 3 *TIONS.*—*Notwithstanding subsection (a), the Sec-*
 4 *retary of State may issue a passport or passport*
 5 *card, in emergency circumstances or for humani-*
 6 *tarian reasons, to an individual described in sub-*
 7 *section (a)(1).*

8 “(2) *LIMITATION FOR RETURN TO UNITED*
 9 *STATES.*—*Notwithstanding subsection (a)(2), the Sec-*
 10 *retary of State, before revocation, may—*

11 “(A) *limit a previously issued passport or*
 12 *passport card only for return travel to the*
 13 *United States; or*

14 “(B) *issue a limited passport or passport*
 15 *card that only permits return travel to the*
 16 *United States.”.*

17 (e) *EFFECTIVE DATE.*—*The amendments made by this*
 18 *section shall take effect on January 1, 2013.*

19 **SEC. 40305. 100 PERCENT CONTINUOUS LEVY ON PAYMENTS**
 20 **TO MEDICARE PROVIDERS AND SUPPLIERS.**

21 (a) *IN GENERAL.*—*Paragraph (3) of section 6331(h)*
 22 *of the Internal Revenue Code of 1986 is amended by strik-*
 23 *ing the period at the end and inserting “, or to a Medicare*
 24 *provider or supplier under title XVIII of the Social Secu-*
 25 *rity Act.”.*

1 **(b) EFFECTIVE DATE.**—*The amendment made by this*
2 *section shall apply to payments made after the date of the*
3 *enactment of this Act.*

4 **SEC. 40306. TRANSFER OF AMOUNTS ATTRIBUTABLE TO**
5 **CERTAIN DUTIES ON IMPORTED VEHICLES**
6 **INTO THE HIGHWAY TRUST FUND.**

7 *Section 9503(b) of the Internal Revenue Code of 1986,*
8 *as amended by this Act, is amended by adding at the end*
9 *the following new paragraph:*

10 “(8) **CERTAIN DUTIES ON IMPORTED VEHI-**
11 **CLES.**—*There are hereby appropriated to the High-*
12 *way Trust Fund amounts equivalent to the amounts*
13 *received in the Treasury that are attributable to du-*
14 *ties collected on or after October 1, 2011, and before*
15 *October 1, 2016, on articles classified under sub-*
16 *heading 8703.22.00 or 8703.24.00 of the Harmonized*
17 *Tariff Schedule of the United States.”.*

18 **SEC. 40307. TREATMENT OF SECURITIES OF A CONTROLLED**
19 **CORPORATION EXCHANGED FOR ASSETS IN**
20 **CERTAIN REORGANIZATIONS.**

21 **(a) IN GENERAL.**—*Section 361 of the Internal Revenue*
22 *Code of 1986 is amended by adding at the end the following*
23 *new subsection:*

24 “(d) **SPECIAL RULES FOR TRANSACTIONS INVOLVING**
25 **SECTION 355 DISTRIBUTIONS.**—*In the case of a reorganiza-*

1 *tion described in section 368(a)(1)(D) with respect to which*
2 *stock or securities of the corporation to which the assets are*
3 *transferred are distributed in a transaction which qualifies*
4 *under section 355—*

5 “(1) *this section shall be applied by substituting*
6 *‘stock other than nonqualified preferred stock (as de-*
7 *defined in section 351(g)(2))’ for ‘stock or securities’ in*
8 *subsections (a) and (b)(1), and*

9 “(2) *the first sentence of subsection (b)(3) shall*
10 *apply only to the extent that the sum of the money*
11 *and the fair market value of the other property trans-*
12 *ferred to such creditors does not exceed the adjusted*
13 *bases of such assets transferred (reduced by the*
14 *amount of the liabilities assumed (within the mean-*
15 *ing of section 357(c)).”.*

16 **(b) CONFORMING AMENDMENT.**—*Paragraph (3) of sec-*
17 *tion 361(b) is amended by striking the last sentence.*

18 **(c) EFFECTIVE DATE.**—

19 **(1) IN GENERAL.**—*Except as provided in para-*
20 *graph (2), the amendments made by this section shall*
21 *apply to exchanges after the date of the enactment of*
22 *this Act.*

23 **(2) TRANSITION RULE.**—*The amendments made*
24 *by this section shall not apply to any exchange pursu-*
25 *ant to a transaction which is—*

1 (A) made pursuant to a written agreement
2 which was binding on February 6, 2012, and at
3 all times thereafter;

4 (B) described in a ruling request submitted
5 to the Internal Revenue Service on or before Feb-
6 ruary 6, 2012; or

7 (C) described on or before February 6, 2012,
8 in a public announcement or in a filing with the
9 Securities and Exchange Commission.

10 **SEC. 40308. INTERNAL REVENUE SERVICE LEVIES AND**
11 **THRIFT SAVINGS PLAN ACCOUNTS.**

12 Section 8437(e)(3) of title 5, United States Code, is
13 amended by inserting “, the enforcement of a Federal tax
14 levy as provided in section 6331 of the Internal Revenue
15 Code of 1986,” after “(42 U.S.C. 659)”.

16 **SEC. 40309. DEPRECIATION AND AMORTIZATION RULES FOR**
17 **HIGHWAY AND RELATED PROPERTY SUBJECT**
18 **TO LONG-TERM LEASES.**

19 (a) **ACCELERATED COST RECOVERY.**—

20 (1) **IN GENERAL.**—Section 168(g)(1) of the Inter-
21 nal Revenue Code of 1986 is amended by striking
22 “and” at the end of subparagraph (D), by redesignig-
23 nating subparagraph (E) as subparagraph (F), and
24 by inserting after subparagraph (D) the following
25 new subparagraph:

1 “(E) any applicable leased highway prop-
2 erty,”.

3 (2) *RECOVERY PERIOD.*—The table contained in
4 subparagraph (C) of section 168(g)(2) of such Code is
5 amended by redesignating clause (iv) as clause (v)
6 and by inserting after clause (iii) the following new
7 clause:

“(iv) Applicable leased highway property 45 years.”.

8 (3) *APPLICABLE LEASED HIGHWAY PROPERTY*
9 *DEFINED.*—

10 (A) *IN GENERAL.*—Section 168(g) of such
11 Code is amended by redesignating paragraph (7)
12 as paragraph (8) and by inserting after para-
13 graph (6) the following new paragraph:

14 “(7) *APPLICABLE LEASED HIGHWAY PROP-*
15 *ERTY.*—For purposes of paragraph (1)(E)—

16 “(A) *IN GENERAL.*—The term ‘applicable
17 leased highway property’ means property to
18 which this section otherwise applies which—

19 “(i) is subject to an applicable lease,
20 and

21 “(ii) is placed in service before the date
22 of such lease.

1 “(B) *APPLICABLE LEASE*.—The term ‘appli-
2 cable lease’ means a lease or other arrange-
3 ment—

4 “(i) which is between the taxpayer and
5 a State or political subdivision thereof, or
6 any agency or instrumentality of either,
7 and

8 “(ii) under which the taxpayer—

9 “(I) leases a highway and associ-
10 ated improvements,

11 “(II) receives a right-of-way on
12 the public lands underlying such high-
13 way and improvements, and

14 “(III) receives a grant of a fran-
15 chise or other intangible right permit-
16 ting the taxpayer to receive funds re-
17 lating to the operation of such high-
18 way.”.

19 (B) *CONFORMING AMENDMENT*.—Subpara-
20 graph (F) of section 168(g)(1) (as redesignated
21 by subsection (a)(1)) is amended by striking
22 “paragraph (7)” and inserting “paragraph (8)”.

23 (b) *AMORTIZATION OF INTANGIBLES*.—Section 197(f)
24 of the Internal Revenue Code of 1986 is amended by adding
25 at the end the following new paragraph:

1 “(11) *INTANGIBLES RELATING TO APPLICABLE*
2 *LEASED HIGHWAY PROPERTY.*—*In the case of any*
3 *amortizable section 197 intangible property which is*
4 *acquired in connection with an applicable lease (as*
5 *defined in section 168(g)(7)(B)), the amortization pe-*
6 *riod under this section shall not be less than the term*
7 *of the applicable lease. For purposes of the preceding*
8 *sentence, rules similar to the rules of section*
9 *168(i)(3)(A) shall apply in determining the term of*
10 *the applicable lease.”.*

11 *(c) NO PRIVATE ACTIVITY BOND FINANCING OF APPLI-*
12 *CABLE LEASED HIGHWAY PROPERTY.*—*Section 147(e) of*
13 *the Internal Revenue Code of 1986 is amended by inserting*
14 *“, or to finance any applicable leased highway property (as*
15 *defined in section 168(g)(7)(A))” after “premises”.*

16 *(d) EFFECTIVE DATES.*—

17 *(1) IN GENERAL.*—*Except as provided in para-*
18 *graph (2), the amendments made by this section shall*
19 *apply to leases entered into after the date of the enact-*
20 *ment of this Act.*

21 *(2) NO PRIVATE ACTIVITY BOND FINANCING.*—
22 *The amendment made by subsection (c) shall apply to*
23 *bonds issued after the date of the enactment of this*
24 *Act.*

1 **SEC. 40310. EXTENSION FOR TRANSFERS OF EXCESS PEN-**
2 **SION ASSETS TO RETIREE HEALTH AC-**
3 **COUNTS.**

4 (a) *IN GENERAL.*—Paragraph (5) of section 420(b) of
5 the Internal Revenue Code of 1986 is amended by striking
6 “December 31, 2013” and inserting “December 31, 2021”.

7 (b) *CONFORMING ERISA AMENDMENTS.*—

8 (1) Sections 101(e)(3), 403(c)(1), and 408(b)(13)
9 of the Employee Retirement Income Security Act of
10 1974 are each amended by striking “Pension Protec-
11 tion Act of 2006” and inserting “Highway Invest-
12 ment, Job Creation, and Economic Growth Act of
13 2012”.

14 (2) Section 408(b)(13) of such Act (29 U.S.C.
15 1108(b)(13)) is amended by striking “January 1,
16 2014” and inserting “January 1, 2022”.

17 (c) *EFFECTIVE DATE.*—The amendments made by this
18 Act shall take effect on the date of the enactment of this
19 Act.

20 **SEC. 40311. TRANSFER OF EXCESS PENSION ASSETS TO RE-**
21 **TIREE GROUP TERM LIFE INSURANCE AC-**
22 **COUNTS.**

23 (a) *IN GENERAL.*—Subsection (a) of section 420 of the
24 Internal Revenue Code of 1986 is amended by inserting “,
25 or an applicable life insurance account,” after “health bene-
26 fits account”.

1 **(b) APPLICABLE LIFE INSURANCE ACCOUNT DE-**
2 **FINED.**—

3 **(1) IN GENERAL.**—*Subsection (e) of section 420*
4 *of the Internal Revenue Code of 1986 is amended by*
5 *redesignating paragraphs (4) and (5) as paragraphs*
6 *(5) and (6), respectively, and by inserting after para-*
7 *graph (3) the following new paragraph:*

8 **“(4) APPLICABLE LIFE INSURANCE ACCOUNT.**—
9 *The term ‘applicable life insurance account’ means a*
10 *separate account established and maintained for*
11 *amounts transferred under this section for qualified*
12 *current retiree liabilities based on premiums for ap-*
13 *plicable life insurance benefits.”.*

14 **(2) APPLICABLE LIFE INSURANCE BENEFITS DE-**
15 **FINED.**—*Paragraph (1) of section 420(e) of such Code*
16 *is amended by redesignating subparagraph (D) as*
17 *subparagraph (E) and by inserting after subpara-*
18 *graph (C) the following new subparagraph:*

19 **“(D) APPLICABLE LIFE INSURANCE BENE-**
20 **FITS.**—*The term ‘applicable life insurance bene-*
21 *fits’ means group-term life insurance coverage*
22 *provided to retired employees who, immediately*
23 *before the qualified transfer, are entitled to re-*
24 *ceive such coverage by reason of retirement and*
25 *who are entitled to pension benefits under the*

1 *plan, but only to the extent that such coverage is*
2 *provided under a policy for retired employees*
3 *and the cost of such coverage is excludable from*
4 *the retired employee's gross income under section*
5 *79."*

6 (3) *COLLECTIVELY BARGAINED LIFE INSURANCE*
7 *BENEFITS DEFINED.—*

8 (A) *IN GENERAL.—Paragraph (6) of section*
9 *420(f) of such Code is amended by redesignating*
10 *subparagraph (D) as subparagraph (E) and by*
11 *inserting after subparagraph (C) the following*
12 *new subparagraph:*

13 “(D) *COLLECTIVELY BARGAINED LIFE IN-*
14 *SURANCE BENEFITS.—The term ‘collectively bar-*
15 *gained life insurance benefits’ means, with re-*
16 *spect to any collectively bargained transfer—*

17 “(i) *applicable life insurance benefits*
18 *which are provided to retired employees*
19 *who, immediately before the transfer, are*
20 *entitled to receive such benefits by reason of*
21 *retirement, and*

22 “(ii) *if specified by the provisions of*
23 *the collective bargaining agreement gov-*
24 *erning the transfer, applicable life insur-*
25 *ance benefits which will be provided at re-*

1 *tirement to employees who are not retired*
2 *employees at the time of the transfer.”.*

3 *(B) CONFORMING AMENDMENTS.—*

4 *(i) Clause (i) of section 420(e)(1)(C) of*
5 *such Code is amended by striking “upon re-*
6 *tirement” and inserting “by reason of re-*
7 *tirement”.*

8 *(ii) Subparagraph (C) of section*
9 *420(f)(6) of such Code is amended—*

10 *(I) by striking “which are pro-*
11 *vided to” in the matter preceding*
12 *clause (i),*

13 *(II) by inserting “which are pro-*
14 *vided to” before “retired employees” in*
15 *clause (i),*

16 *(III) by striking “upon retire-*
17 *ment” in clause (i) and inserting “by*
18 *reason of retirement”, and*

19 *(IV) by striking “active employees*
20 *who, following their retirement,” and*
21 *inserting “which will be provided at*
22 *retirement to employees who are not*
23 *retired employees at the time of the*
24 *transfer and who”.*

25 *(c) MAINTENANCE OF EFFORT.—*

1 (1) *IN GENERAL.*—Subparagraph (A) of section
2 420(c)(3) of the Internal Revenue Code of 1986 is
3 amended by inserting “, and each group-term life in-
4 surance plan under which applicable life insurance
5 benefits are provided,” after “health benefits are pro-
6 vided”.

7 (2) *CONFORMING AMENDMENTS.*—

8 (A) Subparagraph (B) of section 420(c)(3)
9 of such Code is amended—

10 (i) by redesignating subclauses (I) and
11 (II) of clause (i) as subclauses (II) and
12 (III) of such clause, respectively, and by in-
13 serting before subclause (II) of such clause,
14 as so redesignated, the following new sub-
15 clause:

16 “(I) separately with respect to ap-
17 plicable health benefits and applicable
18 life insurance benefits,” and

19 (ii) by striking “for applicable health
20 benefits” and all that follows in clause (ii)
21 and inserting “was provided during such
22 taxable year for the benefits with respect to
23 which the determination under clause (i) is
24 made.”.

1 (B) Subparagraph (C) of section 420(c)(3)
2 of such Code is amended—

3 (i) by inserting “for applicable health
4 benefits” after “applied separately”, and

5 (ii) by inserting “, and separately for
6 applicable life insurance benefits with re-
7 spect to individuals age 65 or older at any
8 time during the taxable year and with re-
9 spect to individuals under age 65 during
10 the taxable year” before the period.

11 (C) Subparagraph (E) of section 420(c)(3)
12 of such Code is amended—

13 (i) in clause (i), by inserting “or re-
14 tiree life insurance coverage, as the case
15 may be,” after “retiree health coverage”,
16 and

17 (ii) in clause (ii), by inserting “FOR
18 RETIREE HEALTH COVERAGE” after “COST
19 REDUCTIONS” in the heading thereof, and

20 (iii) in clause (ii)(II), by inserting
21 “with respect to applicable health benefits”
22 after “liabilities of the employer”.

23 (D) Paragraph (2) of section 420(f) of such
24 Code is amended by striking “collectively bar-
25 gained retiree health liabilities” each place it oc-

1 *curs and inserting “collectively bargained retiree*
2 *liabilities”.*

3 *(E) Clause (i) of section 420(f)(2)(D) of*
4 *such Code is amended—*

5 *(i) by inserting “, and each group-term*
6 *life insurance plan or arrangement under*
7 *which applicable life insurance benefits are*
8 *provided,” in subclause (I) after “applicable*
9 *health benefits are provided”,*

10 *(ii) by inserting “or applicable life in-*
11 *surance benefits, as the case may be,” in*
12 *subclause (I) after “provides applicable*
13 *health benefits”,*

14 *(iii) by striking “group health” in sub-*
15 *clause (II), and*

16 *(iv) by inserting “or collectively bar-*
17 *gained life insurance benefits” in subclause*
18 *(II) after “collectively bargained health ben-*
19 *efits”.*

20 *(F) Clause (ii) of section 420(f)(2)(D) of*
21 *such Code is amended—*

22 *(i) by inserting “with respect to appli-*
23 *cable health benefits or applicable life insur-*
24 *ance benefits” after “requirements of sub-*
25 *section (c)(3)”, and*

1 (ii) by adding at the end the following:
2 “Such election may be made separately
3 with respect to applicable health benefits
4 and applicable life insurance benefits. In
5 the case of an election with respect to appli-
6 cable life insurance benefits, the first sen-
7 tence of this clause shall be applied as if
8 subsection (c)(3) as in effect before the
9 amendments made by such Act applied to
10 such benefits.”

11 (G) Clause (iii) of section 420(f)(2)(D) of
12 such Code is amended—

13 (i) by striking “retiree” each place it
14 occurs, and

15 (ii) by inserting “, collectively bar-
16 gained life insurance benefits, or both, as
17 the case may be,” after “health benefits”
18 each place it occurs.

19 (d) COORDINATION WITH SECTION 79.—Section 79 of
20 the Internal Revenue Code of 1986 is amended by adding
21 at the end the following new subsection:

22 “(f) EXCEPTION FOR LIFE INSURANCE PURCHASED IN
23 CONNECTION WITH QUALIFIED TRANSFER OF EXCESS
24 PENSION ASSETS.—Subsection (b)(3) and section 72(m)(3)
25 shall not apply in the case of any cost paid (whether di-

1 *rectly or indirectly) with assets held in an applicable life*
2 *insurance account (as defined in section 420(e)(4)) under*
3 *a defined benefit plan.”.*

4 *(e) CONFORMING AMENDMENTS.—*

5 *(1) Section 420 of the Internal Revenue Code of*
6 *1986 is amended by striking “qualified current retiree*
7 *health liabilities” each place it appears and inserting*
8 *“qualified current retiree liabilities”.*

9 *(2) Section 420 of such Code is amended by in-*
10 *serting “, or an applicable life insurance account,”*
11 *after “a health benefits account” each place it appears*
12 *in subsection (b)(1)(A), subparagraphs (A), (B)(i),*
13 *and (C) of subsection (c)(1), subsection (d)(1)(A), and*
14 *subsection (f)(2)(E)(ii).*

15 *(3) Section 420(b) of such Code is amended—*

16 *(A) by adding the following at the end of*
17 *paragraph (2)(A): “If there is a transfer from a*
18 *defined benefit plan to both a health benefits ac-*
19 *count and an applicable life insurance account*
20 *during any taxable year, such transfers shall be*
21 *treated as 1 transfer for purposes of this para-*
22 *graph.”, and*

23 *(B) by inserting “to an account” after*
24 *“may be transferred” in paragraph (3).*

1 (4) *The heading for section 420(c)(1)(B) of such*
2 *Code is amended by inserting “OR LIFE INSURANCE”*
3 *after “HEALTH BENEFITS”.*

4 (5) *Paragraph (1) of section 420(e) of such Code*
5 *is amended—*

6 (A) *by inserting “and applicable life insur-*
7 *ance benefits” in subparagraph (A) after “appli-*
8 *cable health benefits”, and*

9 (B) *by striking “HEALTH” in the heading*
10 *thereof.*

11 (6) *Subparagraph (B) of section 420(e)(1) of*
12 *such Code is amended—*

13 (A) *in the matter preceding clause (i), by*
14 *inserting “(determined separately for applicable*
15 *health benefits and applicable life insurance ben-*
16 *efits)” after “shall be reduced by the amount”,*

17 (B) *in clause (i), by inserting “or applica-*
18 *ble life insurance accounts” after “health benefit*
19 *accounts”, and*

20 (C) *in clause (i), by striking “qualified cur-*
21 *rent retiree health liability” and inserting*
22 *“qualified current retiree liability”.*

23 (7) *The heading for subsection (f) of section 420*
24 *of such Code is amended by striking “HEALTH” each*
25 *place it occurs.*

1 (8) *Subclause (II) of section 420(f)(2)(B)(ii) of*
2 *such Code is amended by inserting “or applicable life*
3 *insurance account, as the case may be,” after “health*
4 *benefits account”.*

5 (9) *Subclause (III) of section 420(f)(2)(E)(i) of*
6 *such Code is amended—*

7 (A) *by inserting “defined benefit” before*
8 *“plan maintained by an employer”, and*

9 (B) *by inserting “health” before “benefit*
10 *plans maintained by the employer”.*

11 (10) *Paragraphs (4) and (6) of section 420(f) of*
12 *such Code are each amended by striking “collectively*
13 *bargained retiree health liabilities” each place it oc-*
14 *curs and inserting “collectively bargained retiree li-*
15 *abilities”.*

16 (11) *Subparagraph (A) of section 420(f)(6) of*
17 *such Code is amended—*

18 (A) *in clauses (i) and (ii), by inserting “,*
19 *in the case of a transfer to a health benefits ac-*
20 *count,” before “his covered spouse and depend-*
21 *ents”, and*

22 (B) *in clause (ii), by striking “health plan”*
23 *and inserting “plan”.*

24 (12) *Subparagraph (B) of section 420(f)(6) of*
25 *such Code is amended—*

1 (A) in clause (i), by inserting “, and collec-
2 tively bargained life insurance benefits,” after
3 “collectively bargained health benefits”,

4 (B) in clause (ii)—

5 (i) by adding at the end the following:

6 “The preceding sentence shall be applied
7 separately for collectively bargained health
8 benefits and collectively bargained life in-
9 surance benefits.”, and

10 (ii) by inserting “, applicable life in-
11 surance accounts,” after “health benefit ac-
12 counts”, and

13 (C) by striking “HEALTH” in the heading
14 thereof.

15 (13) Subparagraph (E) of section 420(f)(6) of
16 such Code, as redesignated by subsection (b), is
17 amended—

18 (A) by striking “bargained health” and in-
19 serting “bargained”,

20 (B) by inserting “, or a group-term life in-
21 surance plan or arrangement for retired employ-
22 ees,” after “dependents”, and

23 (C) by striking “HEALTH” in the heading
24 thereof.

1 (14) *Section 101(e) of the Employee Retirement*
2 *Income Security Act of 1974 (29 U.S.C. 1021(e)) is*
3 *amended—*

4 (A) *in paragraphs (1) and (2), by inserting*
5 *“or applicable life insurance account” after*
6 *“health benefits account” each place it appears,*
7 *and*

8 (B) *in paragraph (1), by inserting “or ap-*
9 *licable life insurance benefit liabilities” after*
10 *“health benefits liabilities”.*

11 (f) *TECHNICAL CORRECTION.—Clause (iii) of section*
12 *420(f)(6)(B) is amended by striking “416(I)(1)” and insert-*
13 *ing “416(i)(1)”.*

14 (g) *REPEAL OF DEADWOOD.—*

15 (1) *Subparagraph (A) of section 420(b)(1) of the*
16 *Internal Revenue Code of 1986 is amended by strik-*
17 *ing “in a taxable year beginning after December 31,*
18 *1990”.*

19 (2) *Subsection (b) of section 420 of such Code is*
20 *amended by striking paragraph (4) and by redesign-*
21 *ating paragraph (5), as amended by this Act, as*
22 *paragraph (4).*

23 (3) *Paragraph (2) of section 420(b) of such Code,*
24 *as amended by this section, is amended—*

25 (A) *by striking subparagraph (B), and*

1 (B) by striking “PER YEAR.—” and all that
2 follows through “No more than” and inserting
3 “PER YEAR.—No more than”.

4 (4) Paragraph (2) of section 420(c) of such Code
5 is amended—

6 (A) by striking subparagraph (B),

7 (B) by moving subparagraph (A) two ems
8 to the left, and

9 (C) by striking “BEFORE TRANSFER.—”
10 and all that follows through “The requirements
11 of this paragraph” and inserting the following:
12 “BEFORE TRANSFER.—The requirements of this
13 paragraph”.

14 (5) Paragraph (2) of section 420(d) of such Code
15 is amended by striking “after December 31, 1990”.

16 (h) EFFECTIVE DATE.—

17 (1) IN GENERAL.—The amendments made by
18 this section shall apply to transfers made after the
19 date of the enactment of this Act.

20 (2) CONFORMING AMENDMENTS RELATING TO
21 PENSION PROTECTION ACT.—The amendments made
22 by subsections (b)(3)(B) and (f) shall take effect as if
23 included in the amendments made by section 841(a)
24 of the Pension Protection Act of 2006.

1 **SEC. 40312. PENSION FUNDING STABILIZATION.**

2 (a) *AMENDMENTS TO INTERNAL REVENUE CODE OF*
3 *1986.*—

4 (1) *IN GENERAL.*—*Subparagraph (C) of section*
5 *430(h)(2) of the Internal Revenue Code of 1986 is*
6 *amended by adding at the end the following new*
7 *clause:*

8 “(iv) *SEGMENT RATE STABILIZA-*
9 *TION.*—

10 “(I) *IN GENERAL.*—*If a segment*
11 *rate described in clause (i), (ii), or*
12 *(iii) with respect to any applicable*
13 *month (determined without regard to*
14 *this clause) is less than the applicable*
15 *minimum percentage, or more than the*
16 *applicable maximum percentage, of the*
17 *average of the segment rates described*
18 *in such clause for years in the 25-year*
19 *period ending with September 30 of the*
20 *calendar year preceding the calendar*
21 *year in which the plan year begins,*
22 *then the segment rate described in such*
23 *clause with respect to the applicable*
24 *month shall be equal to the applicable*
25 *minimum percentage or the applicable*
26 *maximum percentage of such average,*

1 *whichever is closest. The Secretary*
 2 *shall determine such average on an an-*
 3 *nuual basis and may prescribe equiva-*
 4 *lent rates for years in any such 25-*
 5 *year period for which the rates de-*
 6 *scribed in any such clause are not*
 7 *available.*

8 “(II) *APPLICABLE MINIMUM PER-*
 9 *CENTAGE; APPLICABLE MAXIMUM PER-*
 10 *CENTAGE.—For purposes of subclause*
 11 *(I), the applicable minimum percent-*
 12 *age and the applicable maximum per-*
 13 *centage for a plan year beginning in a*
 14 *calendar year shall be determined in*
 15 *accordance with the following table:*

<i>“If the calendar year is:</i>	<i>The appli-</i> <i>cable min-</i> <i>imum per-</i> <i>centage is:</i>	<i>The appli-</i> <i>cable max-</i> <i>imum per-</i> <i>centage is:</i>
<i>2012</i>	<i>90%</i>	<i>110%</i>
<i>2013</i>	<i>85%</i>	<i>115%</i>
<i>2014</i>	<i>80%</i>	<i>120%</i>
<i>2015</i>	<i>75%</i>	<i>125%</i>
<i>After 2015</i>	<i>70%</i>	<i>130%.”.</i>

16 (2) *CONFORMING AMENDMENTS.—*

17 (A) *Paragraph (6) of section 404(o) of such*
 18 *Code is amended by inserting “(determined by*
 19 *not taking into account any adjustment under*

1 *clause (iv) of subsection (h)(2)(C) thereof” before*
 2 *the period.*

3 *(B) Subparagraph (F) of section 430(h)(2)*
 4 *of such Code is amended by inserting “and the*
 5 *averages determined under subparagraph*
 6 *(C)(iv)” after “subparagraph (C)”.*

7 *(C) Subparagraphs (C) and (D) of section*
 8 *417(e)(3) of such Code are each amended by*
 9 *striking “section 430(h)(2)(C)” and inserting*
 10 *“section 430(h)(2)(C) (determined by not taking*
 11 *into account any adjustment under clause (iv)*
 12 *thereof”.*

13 *(b) AMENDMENTS TO EMPLOYEE RETIREMENT INCOME*
 14 *SECURITY ACT OF 1974.—*

15 *(1) IN GENERAL.—Subparagraph (C) of section*
 16 *303(h)(2) of the Employee Retirement Income Secu-*
 17 *rity Act of 1974 (29 U.S.C. 1083(h)(2)) is amended*
 18 *by adding at the end the following new clause:*

19 *“(iv) SEGMENT RATE STABILIZA-*
 20 *TION.—*

21 *“(I) IN GENERAL.—If a segment*
 22 *rate described in clause (i), (ii), or*
 23 *(iii) with respect to any applicable*
 24 *month (determined without regard to*
 25 *this clause) is less than the applicable*

1 *minimum percentage, or more than the*
2 *applicable maximum percentage, of the*
3 *average of the segment rates described*
4 *in such clause for years in the 25-year*
5 *period ending with September 30 of the*
6 *calendar year preceding the calendar*
7 *year in which the plan year begins,*
8 *then the segment rate described in such*
9 *clause with respect to the applicable*
10 *month shall be equal to the applicable*
11 *minimum percentage or the applicable*
12 *maximum percentage of such average,*
13 *whichever is closest. The Secretary of*
14 *the Treasury shall determine such av-*
15 *erage on an annual basis and may*
16 *prescribe equivalent rates for years in*
17 *any such 25-year period for which the*
18 *rates described in any such clause are*
19 *not available.*

20 *“(II) APPLICABLE MINIMUM PER-*
21 *CENTAGE; APPLICABLE MAXIMUM PER-*
22 *CENTAGE.—For purposes of subclause*
23 *(I), the applicable minimum percent-*
24 *age and the applicable maximum per-*
25 *centage for a plan year beginning in a*

1 *calendar year shall be determined in*
 2 *accordance with the following table:*

<i>“If the calendar year is:</i>	<i>The appli- cable min- imum per- centage is:</i>	<i>The appli- cable max- imum per- centage is:</i>
<i>2012</i>	<i>90%</i>	<i>110%</i>
<i>2013</i>	<i>85%</i>	<i>115%</i>
<i>2014</i>	<i>80%</i>	<i>120%</i>
<i>2015</i>	<i>75%</i>	<i>125%</i>
<i>After 2015</i>	<i>70%</i>	<i>130%.”.</i>

3 (2) *CONFORMING AMENDMENTS.—*

4 (A) *Subparagraph (F) of section 303(h)(2)*
 5 *of such Act (29 U.S.C. 1083(h)(2)) is amended*
 6 *by inserting “and the averages determined under*
 7 *subparagraph (C)(iv)” after “subparagraph*
 8 *(C)”.*

9 (B) *Clauses (ii) and (iii) of section*
 10 *205(g)(3)(B) of such Act (29 U.S.C.*
 11 *1055(g)(3)(B)) are each amended by striking*
 12 *“section 303(h)(2)(C)” and inserting “section*
 13 *303(h)(2)(C) (determined by not taking into ac-*
 14 *count any adjustment under clause (iv) there-*
 15 *of)”.*

16 (C) *Clause (iv) of section 4006(a)(3)(E) of*
 17 *such Act (29 U.S.C. 1306(a)(3)(E)) is amended*
 18 *by striking “section 303(h)(2)(C)” and inserting*
 19 *“section 303(h)(2)(C) (notwithstanding any reg-*
 20 *ulations issued by the corporation, determined*

1 *by not taking into account any adjustment*
2 *under clause (iv) thereof)*”.

3 (c) *EFFECTIVE DATE.*—

4 (1) *IN GENERAL.*—*The amendments made by*
5 *this section shall apply with respect to plan years be-*
6 *ginning after December 31, 2011.*

7 (2) *EXCEPTION.*—*A plan sponsor may elect not*
8 *to have the amendments made by this section apply*
9 *to any plan year beginning on or before the date of*
10 *the enactment of this Act solely for purposes of deter-*
11 *mining the adjusted funding target attainment per-*
12 *centage under sections 436 of the Internal Revenue*
13 *Code of 1986 and 206(g) of the Employee Retirement*
14 *Income Security Act of 1974 for such plan year. A*
15 *plan shall not be treated as failing to meet the re-*
16 *quirements of sections 411(d)(6) of such Code and*
17 *204(g) of such Act solely by reason of an election*
18 *under this paragraph.*

19 **SEC. 40313. ADDITIONAL TRANSFERS TO HIGHWAY TRUST**
20 **FUND.**

21 *Subsection (f) of section 9503 of the Internal Revenue*
22 *Code of 1986, as amended by this Act, is amended by redес-*
23 *ignating paragraph (4) as paragraph (5) and by inserting*
24 *after paragraph (3) the following new paragraph:*

1 “(4) *ADDITIONAL APPROPRIATIONS TO TRUST*
2 *FUND.—Out of money in the Treasury not otherwise*
3 *appropriated, there is hereby appropriated to the*
4 *Highway Trust Fund—*

5 “(A) *for fiscal year 2012, \$2,183,000,000,*

6 “(B) *for fiscal year 2013, \$2,277,000,000,*

7 *and*

8 “(C) *for fiscal year 2014, \$510,000,000.*”.

9 **SEC. 40314. TRANSFERS TO FEDERAL OLD-AGE AND SUR-**
10 **VIVORS INSURANCE TRUST FUND AND FED-**
11 **ERAL DISABILITY INSURANCE TRUST FUND.**

12 *Out of money in the Treasury not otherwise appro-*
13 *priated, there is hereby appropriated—*

14 (1) *for fiscal year 2012, \$27,000,000, and*

15 (2) *for fiscal year 2014, \$82,000,000,*

16 *to the Federal Old-Age and Survivors Trust Fund and the*
17 *Federal Disability Insurance Trust Fund established under*
18 *section 201 of the Social Security Act (42 U.S.C. 401). The*
19 *Secretary of the Treasury shall allocate such amounts be-*
20 *tween such Trust Funds in the ratio in which amounts are*
21 *appropriated to such Trust Funds under clause (3) of sec-*
22 *tion 201(a) and clause (1) of section 201(b) of such Act.*

1 ***DIVISION E—RESEARCH AND***
2 ***EDUCATION***

3 ***SEC. 50001. SHORT TITLE.***

4 *This division may be cited as the “Transportation Re-*
5 *search and Innovative Technology Act of 2012”.*

6 ***TITLE I—FUNDING***

7 ***SEC. 51001. AUTHORIZATION OF APPROPRIATIONS.***

8 *(a) IN GENERAL.—The following amounts are author-*
9 *ized to be appropriated out of the Highway Trust Fund*
10 *(other than the Mass Transit Account):*

11 (1) *HIGHWAY RESEARCH AND DEVELOPMENT*
12 *PROGRAM.—To carry out sections 503(b), 503(d), and*
13 *509 of title 23, United States Code, \$90,000,000 for*
14 *each of fiscal years 2012 and 2013.*

15 (2) *TECHNOLOGY AND INNOVATION DEPLOYMENT*
16 *PROGRAM.—To carry out section 503(c) of title 23,*
17 *United States Code, \$90,000,000 for each of fiscal*
18 *years 2012 and 2013.*

19 (3) *TRAINING AND EDUCATION.—To carry out*
20 *section 504 of title 23, United States Code,*
21 *\$24,000,000 for each of fiscal years 2012 and 2013.*

22 (4) *INTELLIGENT TRANSPORTATION SYSTEMS*
23 *PROGRAM.—To carry out sections 512 through 518 of*
24 *title 23, United States Code, \$100,000,000 for each of*
25 *fiscal years 2012 and 2013.*

1 (5) *UNIVERSITY TRANSPORTATION CENTERS PRO-*
2 *GRAM.—To carry out section 5505 of title 49, United*
3 *States Code, \$70,000,000 for each of fiscal years 2012*
4 *and 2013.*

5 (6) *BUREAU OF TRANSPORTATION STATISTICS.—*
6 *To carry out chapter 65 of title 49, United States*
7 *Code, \$26,000,000 for each of fiscal years 2012 and*
8 *2013.*

9 (b) *APPLICABILITY OF TITLE 23, UNITED STATES*
10 *CODE.—Funds authorized to be appropriated by subsection*
11 *(a) shall—*

12 (1) *be available for obligation in the same man-*
13 *ner as if those funds were apportioned under chapter*
14 *1 of title 23, United States Code, except that the Fed-*
15 *eral share of the cost of a project or activity carried*
16 *out using those funds shall be 80 percent, unless oth-*
17 *erwise expressly provided by this Act (including the*
18 *amendments by this Act) or otherwise determined by*
19 *the Secretary; and*

20 (2) *remain available until expended and not be*
21 *transferable.*

1 **TITLE II—RESEARCH,**
2 **TECHNOLOGY, AND EDUCATION**

3 **SEC. 52001. RESEARCH, TECHNOLOGY, AND EDUCATION.**

4 *Section 501 of title 23, United States Code, is amend-*
5 *ed—*

6 (1) *by redesignating paragraph (2) as para-*
7 *graph (8);*

8 (2) *by inserting after paragraph (1) the fol-*
9 *lowing:*

10 “(2) *INCIDENT.—The term ‘incident’ means a*
11 *crash, natural disaster, workzone activity, special*
12 *event, or other emergency road user occurrence that*
13 *adversely affects or impedes the normal flow of traffic.*

14 “(3) *INNOVATION LIFECYCLE.—The term ‘inno-*
15 *vation lifecycle’ means the process of innovating*
16 *through—*

17 “(A) *the identification of a need;*

18 “(B) *the establishment of the scope of re-*
19 *search to address that need;*

20 “(C) *setting an agenda;*

21 “(D) *carrying out research, development,*
22 *deployment, and testing of the resulting tech-*
23 *nology or innovation; and*

24 “(E) *carrying out an evaluation of the im-*
25 *pact of the resulting technology or innovation.*

1 “(4) *INTELLIGENT TRANSPORTATION INFRA-*
2 *STRUCTURE.*—*The term ‘intelligent transportation in-*
3 *frastructure’ means fully integrated public sector in-*
4 *telligent transportation system components, as defined*
5 *by the Secretary.*

6 “(5) *INTELLIGENT TRANSPORTATION SYSTEM.*—
7 *The terms ‘intelligent transportation system’ and*
8 *‘ITS’ mean electronics, photonics, communications, or*
9 *information processing used singly or in combination*
10 *to improve the efficiency or safety of a surface trans-*
11 *portation system.*

12 “(6) *NATIONAL ARCHITECTURE.*—*For purposes*
13 *of this chapter, the term ‘national architecture’ means*
14 *the common framework for interoperability that de-*
15 *fines—*

16 “(A) *the functions associated with intel-*
17 *ligent transportation system user services;*

18 “(B) *the physical entities or subsystems*
19 *within which the functions reside;*

20 “(C) *the data interfaces and information*
21 *flows between physical subsystems; and*

22 “(D) *the communications requirements as-*
23 *sociated with the information flows.*

24 “(7) *PROJECT.*—*The term ‘project’ means an un-*
25 *dertaking to research, develop, or operationally test*

1 *intelligent transportation systems or any other under-*
2 *taking eligible for assistance under this chapter.”; and*

3 *(3) by inserting after paragraph (8) (as so redes-*
4 *ignated) the following:*

5 *“(9) STANDARD.—The term ‘standard’ means a*
6 *document that—*

7 *“(A) contains technical specifications or*
8 *other precise criteria for intelligent transpor-*
9 *tation systems that are to be used consistently as*
10 *rules, guidelines, or definitions of characteristics*
11 *so as to ensure that materials, products, proc-*
12 *esses, and services are fit for the intended pur-*
13 *poses of the materials, products, processes, and*
14 *services; and*

15 *“(B) may support the national architecture*
16 *and promote—*

17 *“(i) the widespread use and adoption*
18 *of intelligent transportation system tech-*
19 *nology as a component of the surface trans-*
20 *portation systems of the United States; and*

21 *“(ii) interoperability among intelligent*
22 *transportation system technologies imple-*
23 *mented throughout the States.”.*

1 **SEC. 52002. SURFACE TRANSPORTATION RESEARCH, DEVELOP-**
2 **MENT, AND TECHNOLOGY.**

3 (a) *SURFACE TRANSPORTATION RESEARCH, DEVELOP-*
4 *MENT, AND TECHNOLOGY.*—Section 502 of title 23, United
5 States Code, is amended—

6 (1) in the section heading by inserting “, devel-

7 opment, and technology” after “surface transportation

8 research”;

9 (2) in subsection (a)—

10 (A) by redesignating paragraphs (1)

11 through (8) as paragraphs (2) through (9), re-

12 spectively;

13 (B) by inserting before paragraph (2) (as

14 redesignated by subparagraph (A)) the following:

15 “(1) *APPLICABILITY.*—The research, develop-

16 ment, and technology provisions of this section shall

17 apply throughout this chapter.”;

18 (C) in paragraph (2) (as redesignated by

19 subparagraph (A))—

20 (i) by inserting “within the innovation

21 lifecycle” after “activities”; and

22 (ii) by inserting “marketing and com-

23 munications, impact analysis,” after

24 “training,”;

25 (D) in paragraph (3) (as redesignated by

26 subparagraph (A))—

1 (i) in subparagraph (B) by striking
2 “supports research in which there is a clear
3 public benefit and” and inserting “delivers
4 a clear public benefit and occurs where”;

5 (ii) in subparagraph (C) by striking
6 “or” after the semicolon;

7 (iii) by redesignating subparagraph
8 (D) as subparagraph (H); and

9 (iv) by inserting after subparagraph
10 (C) the following:

11 “(D) meets and addresses current or emerg-
12 ing needs;

13 “(E) presents the best means to align re-
14 sources with multiyear plans and priorities;

15 “(F) ensures the coordination of highway
16 research and technology transfer activities, in-
17 cluding through activities performed by univer-
18 sity transportation centers;

19 “(G) educates current and future transpor-
20 tation professionals; or”;

21 (E) in paragraph (4) (as redesignated by
22 subparagraph (A)) by striking subparagraphs
23 (B) through (D) and inserting the following:

24 “(B) partner with State highway agencies
25 and other stakeholders as appropriate, including

1 *international entities, to facilitate research and*
2 *technology transfer activities;*

3 “(C) *communicate the results of ongoing*
4 *and completed research;*

5 “(D) *lead efforts to coordinate national em-*
6 *phasis areas of highway research, technology,*
7 *and innovation deployment;*

8 “(E) *leverage partnerships with industry,*
9 *academia, and international entities; and*

10 “(F) *conduct, facilitate, and support train-*
11 *ing and education of current and future trans-*
12 *portation professionals.”;*

13 “(F) *in paragraph (5)(C) (as redesignated by*
14 *subparagraph (A)) by striking “policy and plan-*
15 *ning” and inserting “all highway objectives seek-*
16 *ing to improve the performance of the transpor-*
17 *tation system”;*

18 “(G) *in paragraph (6) (as redesignated by*
19 *subparagraph (A)) in the second sentence, by in-*
20 *serting “tribal governments,” after “local govern-*
21 *ments,”; and*

22 “(H) *in paragraph (8) (as redesignated by*
23 *subparagraph (A))—*

1 (i) *in the first sentence, by striking*
2 *“To the maximum” and inserting the fol-*
3 *lowing:*

4 *“(A) IN GENERAL.—To the maximum”;*

5 (ii) *in the second sentence, by striking*
6 *“Performance measures” and inserting the*
7 *following:*

8 *“(B) PERFORMANCE MEASURES.—Perform-*
9 *ance measures”;*

10 (iii) *in the third sentence, by striking*
11 *“All evaluations” and inserting the fol-*
12 *lowing:*

13 *“(D) AVAILABILITY OF EVALUATIONS.—All*
14 *evaluations under this paragraph”;* and

15 (iv) *by inserting after subparagraph*
16 *(B) the following:*

17 *“(C) PROGRAM PLAN.—To the maximum*
18 *extent practicable, each program pursued under*
19 *this chapter shall be part of a data-driven, out-*
20 *come-oriented program plan.”;*

21 (3) *in subsection (b)—*

22 (A) *in paragraph (4) by striking “surface*
23 *transportation research and technology develop-*
24 *ment strategic plan developed under section 508”*

1 and inserting “the transportation research and
2 development strategic plan of the Secretary”;

3 (B) in paragraph (5) by striking “section”
4 each place it appears and inserting “chapter”;

5 (C) in paragraph (6) by adding at the end
6 the following:

7 “(C) *TRANSFER OF AMOUNTS AMONG*
8 *STATES OR TO FEDERAL HIGHWAY ADMINISTRA-*
9 *TION.—The Secretary may, at the request of a*
10 *State, transfer amounts apportioned or allocated*
11 *to that State under this chapter to another State*
12 *or the Federal Highway Administration to fund*
13 *research, development, and technology transfer*
14 *activities of mutual interest on a pooled funds*
15 *basis.*

16 “(D) *TRANSFER OF OBLIGATION AUTHOR-*
17 *ITY.—Obligation authority for amounts trans-*
18 *ferred under this subsection shall be disbursed in*
19 *the same manner and for the same amount as*
20 *provided for the project being transferred.”; and*

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

22 “(7) *PRIZE COMPETITIONS.—*

23 “(A) *IN GENERAL.—The Secretary may*
24 *carry out prize competitions to award competi-*
25 *tive prizes for surface transportation innovations*

1 *that have the potential for application to the re-*
2 *search and technology objectives and activities of*
3 *the Federal Highway Administration to improve*
4 *system performance.*

5 “(B) *REQUIREMENTS.*—

6 “(i) *IN GENERAL.*—*The Secretary shall*
7 *use a competitive process for the selection of*
8 *prize recipients and shall widely advertise*
9 *and solicit participation in prize competi-*
10 *tions under this paragraph.*

11 “(ii) *REGISTRATION REQUIRED.*—*No*
12 *individual or entity shall participate in a*
13 *prize competition under this paragraph un-*
14 *less the individual or entity has registered*
15 *with the Secretary in accordance with the*
16 *eligibility requirements established by the*
17 *Secretary under clause (iii).*

18 “(iii) *MINIMUM REQUIREMENTS.*—*The*
19 *Secretary shall establish eligibility require-*
20 *ments for participation in each prize com-*
21 *petition under this paragraph, which, at a*
22 *minimum, shall—*

23 “(I) *limit participation in the*
24 *prize competition to—*

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“(aa) individuals who are citizens of the United States;

“(bb) entities organized or existing under the laws of the United States or of a State; and

“(cc) entities organized or existing under the laws of a foreign country, if the controlling interest, as defined by the Secretary, is held by an individual or entity described in item (aa) or (bb);

“(II) require any individual or entity that registers for a prize competition—

“(aa) to assume all risks arising from participation in the competition; and

“(bb) to waive all claims against the Federal Government for any damages arising out of participation in the competition, including all claims, whether through negligence or otherwise, except in the case of willful misconduct, for—

1 “(AA) injury, death,
2 damage, or loss of property;
3 or

4 “(BB) loss of revenue or
5 profits, whether direct, indi-
6 rect, or consequential; and

7 “(III) require any individual or
8 entity that registers for a prize com-
9 petition to waive all claims against
10 any non-Federal entity operating or
11 managing the prize competition, such
12 as a private contractor managing com-
13 petition activities, to the extent that
14 the Secretary believes is necessary to
15 protect the interests of the Federal Gov-
16 ernment.

17 “(C) *RELATIONSHIP TO OTHER AUTHOR-*
18 *ITY.—The Secretary may exercise the authority*
19 *in this section in conjunction with, or in addi-*
20 *tion to, any other authority of the Secretary to*
21 *acquire, support, or stimulate innovations with*
22 *the potential for application to the Federal high-*
23 *way research technology and education pro-*
24 *gram.”;*

25 (4) in subsection (c)—

1 (A) in paragraph (3)(A)—

2 (i) by striking “subsection” and insert-
3 ing “chapter”; and

4 (ii) by striking “50” and inserting
5 “80”; and

6 (B) in paragraph (4) by striking “sub-
7 section” and inserting “chapter”; and

8 (5) by striking subsections (d) through (j).

9 (b) *CONFORMING AMENDMENT.*—The analysis for
10 chapter 5 of title 23, United States Code, is amended by
11 striking the item relating to section 502 and inserting the
12 following:

“502. Surface transportation research, development, and technology.”.

13 **SEC. 52003. RESEARCH AND TECHNOLOGY DEVELOPMENT**
14 **AND DEPLOYMENT.**

15 (a) *IN GENERAL.*—Section 503 of title 23, United
16 States Code, is amended to read as follows:

17 **“§ 503. Research and technology development and de-**
18 **ployment**

19 “(a) *IN GENERAL.*—The Secretary shall—

20 “(1) carry out research, development, and de-
21 ployment activities that encompass the entire innova-
22 tion lifecycle; and

23 “(2) ensure that all research carried out under
24 this section aligns with the transportation research
25 and development strategic plan of the Secretary.

1 “(b) *HIGHWAY RESEARCH AND DEVELOPMENT PRO-*
2 *GRAM.*—

3 “(1) *OBJECTIVES.*—*In carrying out the highway*
4 *research and development program, the Secretary, to*
5 *address current and emerging highway transportation*
6 *needs, shall—*

7 “(A) *identify research topics;*

8 “(B) *coordinate domestic and international*
9 *research and development activities;*

10 “(C) *carry out research, testing, and eval-*
11 *uation activities; and*

12 “(D) *provide technology transfer and tech-*
13 *nical assistance.*

14 “(2) *CONTENTS.*—*Research and development ac-*
15 *tivities carried out under this section may include*
16 *any of the following activities:*

17 “(A) *IMPROVING HIGHWAY SAFETY.*—

18 “(i) *IN GENERAL.*—*The Secretary shall*
19 *carry out research and development activi-*
20 *ties from an integrated perspective to estab-*
21 *lish and implement systematic measures to*
22 *improve highway safety.*

23 “(ii) *OBJECTIVES.*—*In carrying out*
24 *this subparagraph the Secretary shall carry*
25 *out research and development activities—*

1 “(I) to achieve greater long-term
2 safety gains;

3 “(II) to reduce the number of fa-
4 talities and serious injuries on public
5 roads;

6 “(III) to fill knowledge gaps that
7 limit the effectiveness of research;

8 “(IV) to support the development
9 and implementation of State strategic
10 highway safety plans;

11 “(V) to advance improvements in,
12 and use of, performance prediction
13 analysis for decisionmaking; and

14 “(VI) to expand technology trans-
15 fer to partners and stakeholders.

16 “(iii) CONTENTS.—Research and tech-
17 nology activities carried out under this sub-
18 paragraph may include—

19 “(I) safety assessments and deci-
20 sionmaking tools;

21 “(II) data collection and analysis;

22 “(III) crash reduction projections;

23 “(IV) low-cost safety counter-
24 measures;

1 “(V) innovative operational im-
2 provements and designs of roadway
3 and roadside features;

4 “(VI) evaluation of counter-
5 measure costs and benefits;

6 “(VII) development of tools for
7 projecting impacts of safety counter-
8 measures;

9 “(VIII) rural road safety meas-
10 ures;

11 “(IX) safety measures for vulner-
12 able road users, including bicyclists
13 and pedestrians;

14 “(X) safety policy studies;

15 “(XI) human factors studies and
16 measures;

17 “(XII) safety technology deploy-
18 ment;

19 “(XIII) safety workforce profes-
20 sional capacity building initiatives;

21 “(XIV) safety program and proc-
22 ess improvements; and

23 “(XV) tools and methods to en-
24 hance safety performance, including

1 *achievement of statewide safety per-*
2 *formance targets.*

3 “(B) *IMPROVING INFRASTRUCTURE INTEG-*
4 *RITY.—*

5 “(i) *IN GENERAL.—The Secretary shall*
6 *carry out and facilitate highway and bridge*
7 *infrastructure research and development ac-*
8 *tivities—*

9 “(I) *to maintain infrastructure*
10 *integrity;*

11 “(II) *to meet user needs; and*

12 “(III) *to link Federal transpor-*
13 *tation investments to improvements in*
14 *system performance.*

15 “(ii) *OBJECTIVES.—In carrying out*
16 *this subparagraph, the Secretary shall carry*
17 *out research and development activities—*

18 “(I) *to reduce the number of fa-*
19 *talities attributable to infrastructure*
20 *design characteristics and work zones;*

21 “(II) *to improve the safety and se-*
22 *curity of highway infrastructure;*

23 “(III) *to increase the reliability of*
24 *lifecycle performance predictions used*

1 *in infrastructure design, construction,*
2 *and management;*

3 *“(IV) to improve the ability of*
4 *transportation agencies to deliver*
5 *projects that meet expectations for*
6 *timeliness, quality, and cost;*

7 *“(V) to reduce user delay attrib-*
8 *utable to infrastructure system per-*
9 *formance, maintenance, rehabilitation,*
10 *and construction;*

11 *“(VI) to improve highway condi-*
12 *tion and performance through in-*
13 *creased use of design, materials, con-*
14 *struction, and maintenance innova-*
15 *tions;*

16 *“(VII) to reduce the lifecycle envi-*
17 *ronmental impacts of highway infra-*
18 *structure through innovations in de-*
19 *sign, construction, operation, preserva-*
20 *tion, and maintenance; and*

21 *“(VIII) to study vulnerabilities of*
22 *the transportation system to seismic*
23 *activities and extreme events and*
24 *methods to reduce those vulnerabilities.*

1 “(iii) *CONTENTS.—Research and tech-*
2 *nology activities carried out under this sub-*
3 *paragraph may include—*

4 “(I) *long-term infrastructure per-*
5 *formance programs addressing pave-*
6 *ments, bridges, tunnels, and other*
7 *structures;*

8 “(II) *short-term and accelerated*
9 *studies of infrastructure performance;*

10 “(III) *research to develop more*
11 *durable infrastructure materials and*
12 *systems;*

13 “(IV) *advanced infrastructure de-*
14 *sign methods;*

15 “(V) *accelerated highway and*
16 *bridge construction;*

17 “(VI) *performance-based specifica-*
18 *tions;*

19 “(VII) *construction and materials*
20 *quality assurance;*

21 “(VIII) *comprehensive and inte-*
22 *grated infrastructure asset manage-*
23 *ment;*

24 “(IX) *infrastructure safety assur-*
25 *ance;*

1 “(X) highway infrastructure secu-
2 rity;

3 “(XI) sustainable infrastructure
4 design and construction;

5 “(XII) infrastructure rehabilita-
6 tion and preservation techniques, in-
7 cluding techniques to rehabilitate and
8 preserve historic infrastructure;

9 “(XIII) hydraulic, geotechnical,
10 and aerodynamic aspects of infrastruc-
11 ture;

12 “(XIV) improved highway con-
13 struction technologies and practices;

14 “(XV) improved tools, tech-
15 nologies, and models for infrastructure
16 management, including assessment and
17 monitoring of infrastructure condition;

18 “(XVI) studies to improve flexi-
19 bility and resiliency of infrastructure
20 systems to withstand climate varia-
21 bility;

22 “(XVII) studies on the effective-
23 ness of fiber-based additives to improve
24 the durability of surface transportation

1 *materials in various geographic re-*
2 *gions;*

3 *“(XVIII) studies of infrastructure*
4 *resilience and other adaptation meas-*
5 *ures;*

6 *“(XIX) maintenance of seismic re-*
7 *search activities, including research*
8 *carried out in conjunction with other*
9 *Federal agencies to study the vulner-*
10 *ability of the transportation system to*
11 *seismic activity and methods to reduce*
12 *that vulnerability; and*

13 *“(XX) technology transfer and*
14 *adoption of permeable, pervious, or po-*
15 *rous paving materials, practices, and*
16 *systems that are designed to minimize*
17 *environmental impacts, stormwater*
18 *runoff, and flooding and to treat or re-*
19 *move pollutants by allowing*
20 *stormwater to infiltrate through the*
21 *pavement in a manner similar to*
22 *predevelopment hydrologic conditions.*

23 *“(iv) LIFECYCLE COSTS ANALYSIS*
24 *STUDY.—*

1 “(I) *IN GENERAL.*—*In this clause,*
2 *the term ‘lifecycle costs analysis’ means*
3 *a process for evaluating the total eco-*
4 *nomie worth of a usable project seg-*
5 *ment by analyzing initial costs and*
6 *discounted future costs, such as main-*
7 *tenance, user, reconstruction, rehabili-*
8 *tation, restoring, and resurfacing costs,*
9 *over the life of the project segment.*

10 “(II) *STUDY.*—*The Comptroller*
11 *General shall conduct a study of the*
12 *best practices for calculating lifecycle*
13 *costs for federally funded highway*
14 *projects. At a minimum, this study*
15 *shall include a thorough literature re-*
16 *view and a survey of current lifecycle*
17 *cost practices of State departments of*
18 *transportation.*

19 “(III) *CONSULTATION.*—*In car-*
20 *rying out this study, the Comptroller*
21 *shall consult with, at a minimum—*

22 “(aa) *the American Associa-*
23 *tion of State Highway and Trans-*
24 *portation Officials;*

1 “(bb) appropriate experts in
2 the field of lifecycle cost analysis;
3 and

4 “(cc) appropriate industry
5 experts and research centers.

6 “(IV) REPORT.—Not later than 1
7 year after the date of enactment of the
8 Transportation Research and Innova-
9 tive Technology Act of 2012, the Comp-
10 troller General shall submit to the
11 Committee on Environment and Public
12 Works of the Senate and the Committee
13 on Transportation and Infrastructure
14 of the House of Representatives a re-
15 port on the results of the study which
16 shall include, but is not limited to—

17 “(aa) a summary of the lat-
18 est research on lifecycle cost anal-
19 ysis; and

20 “(bb) recommendations on
21 the appropriate—

22 “(AA) period of anal-
23 ysis;

24 “(BB) design period;

1 “(CC) discount rates;
 2 and
 3 “(DD) use of actual ma-
 4 terial life and maintenance
 5 cost data.

6 “(C) *STRENGTHENING TRANSPORTATION*
 7 *PLANNING AND ENVIRONMENTAL DECISION-*
 8 *MAKING.—*

9 “(i) *IN GENERAL.—The Secretary shall*
 10 *carry out research—*

11 “(I) *to improve transportation*
 12 *planning and environmental decision-*
 13 *making processes; and*

14 “(II) *to minimize the impact of*
 15 *surface transportation on the environ-*
 16 *ment and quality of life.*

17 “(ii) *OBJECTIVES.—In carrying out*
 18 *this subparagraph the Secretary shall carry*
 19 *out research and development activities—*

20 “(I) *to reduce the impact of high-*
 21 *way infrastructure and operations on*
 22 *the natural and human environment;*

23 “(II) *to advance improvements in*
 24 *environmental analyses and processes*

1 *and context sensitive solutions for*
2 *transportation decisionmaking;*

3 *“(III) to improve construction*
4 *techniques;*

5 *“(IV) to accelerate construction to*
6 *reduce congestion and related emis-*
7 *sions;*

8 *“(V) to reduce the impact of high-*
9 *way runoff on the environment;*

10 *“(VI) to maintain sustainability*
11 *of biological communities and eco-*
12 *systems adjacent to highway corridors;*

13 *“(VII) to improve understanding*
14 *and modeling of the factors that con-*
15 *tribute to the demand for transpor-*
16 *tation;*

17 *“(VIII) to improve transportation*
18 *planning decisionmaking and coordi-*
19 *nation; and*

20 *“(IX) to reduce the environmental*
21 *impacts of freight movement.*

22 *“(iii) CONTENTS.—Research and tech-*
23 *nology activities carried out under this sub-*
24 *paragraph may include—*

1 “(I) creation of models and tools
2 for evaluating transportation measures
3 and transportation system designs;

4 “(II) congestion reduction efforts;

5 “(III) transportation and eco-
6 nomic development planning in rural
7 areas and small communities;

8 “(IV) improvement of State, local,
9 and tribal capabilities relating to sur-
10 face transportation planning and the
11 environment;

12 “(V) environmental stewardship
13 and sustainability activities;

14 “(VI) streamlining of project de-
15 livery processes;

16 “(VII) development of effective
17 strategies and techniques to analyze
18 and minimize impacts to the natural
19 and human environment and provide
20 environmentally beneficial mitigation;

21 “(VIII) comprehensive multi-
22 national planning;

23 “(IX) multistate transportation
24 corridor planning;

1 “(X) improvement of transpor-
2 tation choices, including walking, bicy-
3 cling, and linkages to public transpor-
4 tation;

5 “(XI) ecosystem sustainability;

6 “(XII) wildlife and plant popu-
7 lation connectivity and interaction
8 across and along highway corridors;

9 “(XIII) analysis, measurement,
10 and reduction of air pollution from
11 transportation sources;

12 “(XIV) advancement in the under-
13 standing of health impact analyses in
14 transportation planning and project
15 development;

16 “(XV) transportation planning
17 professional development;

18 “(XVI) research on improving the
19 cooperation and integration of trans-
20 portation planning with other regional
21 plans, including land use, energy,
22 water infrastructure, economic develop-
23 ment, and housing plans;

1 “(XVII) *reducing the environ-*
2 *mental impacts of freight movement;*
3 *and*

4 “(XVIII) *alternative transpor-*
5 *tation fuels research.*

6 “(D) *REDUCING CONGESTION, IMPROVING*
7 *HIGHWAY OPERATIONS, AND ENHANCING*
8 *FREIGHT PRODUCTIVITY.—*

9 “(i) *IN GENERAL.—The Secretary shall*
10 *carry out research under this subparagraph*
11 *with the goals of—*

12 “(I) *addressing congestion prob-*
13 *lems;*

14 “(II) *reducing the costs of conges-*
15 *tion;*

16 “(III) *improving freight move-*
17 *ment;*

18 “(IV) *increasing productivity;*
19 *and*

20 “(V) *improving the economic com-*
21 *petitiveness of the United States.*

22 “(ii) *OBJECTIVES.—In carrying out*
23 *this subparagraph, the Secretary shall carry*
24 *out research and development activities to*

1 *identify, develop, and assess innovations*
2 *that have the potential—*

3 “(I) *to reduce traffic congestion;*

4 “(II) *to improve freight move-*
5 *ment; and*

6 “(III) *to reduce freight-related*
7 *congestion throughout the transpor-*
8 *tation network.*

9 “(iii) *CONTENTS.—Research and tech-*
10 *nology activities carried out under this sub-*
11 *paragraph may include—*

12 “(I) *active traffic and demand*
13 *management;*

14 “(II) *acceleration of the imple-*
15 *mentation of Intelligent Transpor-*
16 *tation Systems technology;*

17 “(III) *advanced transportation*
18 *concepts and analysis;*

19 “(IV) *arterial management and*
20 *traffic signal operation;*

21 “(V) *congestion pricing;*

22 “(VI) *corridor management;*

23 “(VII) *emergency operations;*

24 “(VIII) *research relating to ena-*
25 *bling technologies and applications;*

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“(IX) freeway management;

“(X) evaluation of enabling technologies;

“(XI) freight industry professional development;

“(XII) impacts of vehicle size and weight on congestion;

“(XIII) freight operations and technology;

“(XIV) operations and freight performance measurement and management;

“(XV) organization and planning for operations;

“(XVI) planned special events management;

“(XVII) real-time transportation information;

“(XVIII) road weather management;

“(XIX) traffic and freight data and analysis tools;

“(XX) traffic control devices;

“(XXI) traffic incident management;

1 “(XXII) work zone management;
2 “(XXIII) communication of trav-
3 el, roadway, and emergency informa-
4 tion to persons with disabilities; and
5 “(XXIV) research on enhanced
6 mode choice and intermodal
7 connectivity.

8 “(E) ASSESSING POLICY AND SYSTEM FI-
9 NANCING ALTERNATIVES.—

10 “(i) IN GENERAL.—The Secretary shall
11 carry out research and technology on emerg-
12 ing issues in the domestic and international
13 transportation community from a policy
14 perspective.

15 “(ii) OBJECTIVES.—Research and tech-
16 nology activities carried out under this sub-
17 paragraph shall provide information to pol-
18 icy and decisionmakers on current and
19 emerging transportation issues.

20 “(iii) RESEARCH ACTIVITIES.—Activi-
21 ties carried out under this subparagraph
22 shall include—

23 “(I) the planning and integration
24 of a coordinated program related to the
25 possible design, interoperability, and

1 *institutional roles of future sustainable*
2 *transportation revenue mechanisms;*

3 *“(II) field trials to research poten-*
4 *tial alternative revenue mechanisms,*
5 *and the Secretary may partner with*
6 *individual States, groups of States, or*
7 *other entities to implement such trials;*
8 *and*

9 *“(III) other activities to study*
10 *new methods which preserve a user-fee*
11 *structure to maintain the long-term*
12 *solvency of the Highway Trust Fund.*

13 *“(iv) CONTENTS.—Research and tech-*
14 *nology activities carried out under this sub-*
15 *paragraph may include—*

16 *“(I) highway needs and invest-*
17 *ment analysis;*

18 *“(II) a motor fuel tax evasion*
19 *program;*

20 *“(III) advancing innovations in*
21 *revenue generation, financing, and*
22 *procurement for project delivery;*

23 *“(IV) improving the accuracy of*
24 *project cost analyses;*

1 “(V) *highway performance meas-*
2 *urement;*

3 “(VI) *travel demand performance*
4 *measurement;*

5 “(VII) *highway finance perform-*
6 *ance measurement;*

7 “(VIII) *international technology*
8 *exchange initiatives;*

9 “(IX) *infrastructure investment*
10 *needs reports;*

11 “(X) *promotion of the tech-*
12 *nologies, products, and best practices of*
13 *the United States; and*

14 “(XI) *establishment of partner-*
15 *ships among the United States, foreign*
16 *agencies, and transportation experts.*

17 “(v) *FUNDING.—Of the funds author-*
18 *ized to carry out this subsection, no less*
19 *than 50 percent shall be used to carry out*
20 *clause (iii).*

21 “(F) *INFRASTRUCTURE INVESTMENT NEEDS*
22 *REPORT.—*

23 “(i) *IN GENERAL.—Not later than July*
24 *31, 2012, and July 31 of every second year*
25 *thereafter, the Secretary shall submit to the*

1 *Committee on Transportation and Infra-*
2 *structure of the House of Representatives*
3 *and the Committee on Environment and*
4 *Public Works of the Senate a report that de-*
5 *scribes estimates of the future highway and*
6 *bridge needs of the United States and the*
7 *backlog of current highway and bridge*
8 *needs.*

9 “(ii) *COMPARISONS.—Each report*
10 *under clause (i) shall include all informa-*
11 *tion necessary to relate and compare the*
12 *conditions and service measures used in the*
13 *previous biennial reports to conditions and*
14 *service measures used in the current report.*

15 “(iii) *INCLUSIONS.—Each report under*
16 *clause (i) shall provide recommendations to*
17 *Congress on changes to the Highway Per-*
18 *formance Monitoring System that address—*

19 “(I) *improvements to the quality*
20 *and standardization of data collection*
21 *on all functional classifications of Fed-*
22 *eral-aid highways for accurate system*
23 *length, lane length, and vehicle-mile of*
24 *travel; and*

1 “(II) changes to the reporting re-
2 quirements authorized under section
3 315, to reflect recommendations under
4 this paragraph for collection, storage,
5 analysis, reporting, and display of
6 data for Federal-aid highways and, to
7 the maximum extent practical, all pub-
8 lic roads.

9 “(G) *EXPLORING NEXT GENERATION SOLU-*
10 *TIONS AND CAPITALIZING ON THE HIGHWAY RE-*
11 *SEARCH CENTER.*—

12 “(i) *IN GENERAL.*—*The Secretary shall*
13 *carry out research and development activi-*
14 *ties relating to exploratory advanced re-*
15 *search—*

16 “(I) *to leverage the targeted capa-*
17 *bilities of the Turner-Fairbank High-*
18 *way Research Center to develop tech-*
19 *nologies and innovations of national*
20 *importance; and*

21 “(II) *to develop potentially trans-*
22 *formational solutions to improve the*
23 *durability, efficiency, environmental*
24 *impact, productivity, and safety as-*

1 *pects of highway and intermodal*
2 *transportation systems.*

3 “(ii) *CONTENTS.—Research and tech-*
4 *nology activities carried out under this sub-*
5 *paragraph may include—*

6 “(I) *long-term, high-risk research*
7 *to improve the materials used in high-*
8 *way infrastructure;*

9 “(II) *exploratory research to as-*
10 *sess the effects of transportation deci-*
11 *sions on human health;*

12 “(III) *advanced development of*
13 *surrogate measures for highway safety;*

14 “(IV) *transformational research to*
15 *affect complex environmental and high-*
16 *way system relationships;*

17 “(V) *development of economical*
18 *and environmentally sensitive designs,*
19 *efficient and quality-controlled con-*
20 *struction practices, and durable mate-*
21 *rials;*

22 “(VI) *development of advanced*
23 *data acquisition techniques for system*
24 *condition and performance monitoring;*

1 “(VII) *inclusive research for hour-*
2 *to-hour operational decisionmaking*
3 *and simulation forecasting;*

4 “(VIII) *understanding current*
5 *and emerging phenomena to inform*
6 *next generation transportation policy*
7 *decisionmaking; and*

8 “(IX) *continued improvement and*
9 *advancement of the Turner-Fairbank*
10 *Highway Research Center.*

11 “(H) *ALIGNING NATIONAL CHALLENGES AND*
12 *DISSEMINATING INFORMATION.—*

13 “(i) *IN GENERAL.—The Secretary shall*
14 *conduct research and development activi-*
15 *ties—*

16 “(I) *to establish a nationally co-*
17 *ordinated highway research agenda*
18 *that—*

19 “(aa) *focuses on topics of na-*
20 *tional significance;*

21 “(bb) *addresses current gaps*
22 *in research;*

23 “(cc) *encourages collabora-*
24 *tion;*

1 “(dd) reduces unnecessary
2 duplication of effort; and

3 “(ee) accelerates innovation
4 delivery; and

5 “(II) to provide relevant informa-
6 tion to researchers and highway and
7 transportation practitioners to im-
8 prove the performance of the transpor-
9 tation system.

10 “(ii) CONTENTS.—Research and tech-
11 nology activities carried out under this sub-
12 paragraph may include—

13 “(I) coordination, development,
14 and implementation of a national
15 highway research agenda;

16 “(II) collaboration on national
17 emphasis areas of highway research
18 and coordination among international,
19 Federal, State, and university research
20 programs;

21 “(III) development and delivery of
22 research reports and innovation deliv-
23 ery messages;

1 “(IV) identification of market-
2 ready technologies and innovations;
3 and

4 “(V) provision of access to data
5 developed under this subparagraph to
6 the public, including researchers, stake-
7 holders, and customers, through a pub-
8 licly accessible Internet site.

9 “(c) *TECHNOLOGY AND INNOVATION DEPLOYMENT*
10 *PROGRAM.*—

11 “(1) *IN GENERAL.*—*The Secretary shall carry*
12 *out a technology and innovation deployment program*
13 *relating to all aspects of highway transportation, in-*
14 *cluding planning, financing, operation, structures,*
15 *materials, pavements, environment, construction, and*
16 *the duration of time between project planning and*
17 *project delivery, with the goals of—*

18 “(A) *significantly accelerating the adoption*
19 *of innovative technologies by the surface trans-*
20 *portation community;*

21 “(B) *providing leadership and incentives to*
22 *demonstrate and promote state-of-the-art tech-*
23 *nologies, elevated performance standards, and*
24 *new business practices in highway construction*
25 *processes that result in improved safety, faster*

1 *construction, reduced congestion from construc-*
2 *tion, and improved quality and user satisfaction;*

3 *“(C) constructing longer-lasting highways*
4 *through the use of innovative technologies and*
5 *practices that lead to faster construction of effi-*
6 *cient and safe highways and bridges;*

7 *“(D) improving highway efficiency, safety,*
8 *mobility, reliability, service life, environmental*
9 *protection, and sustainability; and*

10 *“(E) developing and deploying new tools,*
11 *techniques, and practices to accelerate the adop-*
12 *tion of innovation in all aspects of highway*
13 *transportation.*

14 *“(2) IMPLEMENTATION.—*

15 *“(A) IN GENERAL.—The Secretary shall*
16 *promote, facilitate, and carry out the program*
17 *established under paragraph (1) to distribute the*
18 *products, technologies, tools, methods, or other*
19 *findings that result from highway research and*
20 *development activities, including research and*
21 *development activities carried out under this*
22 *chapter.*

23 *“(B) ACCELERATED INNOVATION DEPLOY-*
24 *MENT.—In carrying out the program established*
25 *under paragraph (1), the Secretary shall—*

1 “(i) *establish and carry out demonstra-*
2 *tion programs;*

3 “(ii) *provide incentives, technical as-*
4 *sistance, and training to researchers and*
5 *developers; and*

6 “(iii) *develop improved tools and meth-*
7 *ods to accelerate the adoption of proven in-*
8 *novative practices and technologies as*
9 *standard practices.*

10 “(C) *IMPLEMENTATION OF FUTURE STRA-*
11 *TEGIC HIGHWAY RESEARCH PROGRAM FINDINGS*
12 *AND RESULTS.—*

13 “(i) *IN GENERAL.—The Secretary, in*
14 *consultation with the American Association*
15 *of State Highway and Transportation Offi-*
16 *cial and the Transportation Research*
17 *Board of the National Academy of Sciences,*
18 *shall implement the findings and rec-*
19 *ommendations developed under the future*
20 *strategic highway research program estab-*
21 *lished under section 510.*

22 “(ii) *BASIS FOR FINDINGS.—The ac-*
23 *tivities carried out under this subparagraph*
24 *shall be based on the report submitted to*
25 *Congress by the Transportation Research*

1 *Board of the National Academy of Sciences*
2 *under section 510(e).*

3 “(iii) *PERSONNEL.—The Secretary*
4 *may use funds made available to carry out*
5 *this subsection for administrative costs*
6 *under this subparagraph, which funds shall*
7 *be used in addition to any other funds*
8 *made available for that purpose.*

9 “(iv) *FEEES.—*

10 “(I) *IN GENERAL.—The Secretary*
11 *may impose and collect fees to recover*
12 *costs associated with special data or*
13 *analysis requests relating to safety nat-*
14 *uralistic driving databases developed*
15 *under the future of strategic highway*
16 *research program.*

17 “(II) *USE OF FEE AMOUNTS.—*

18 “(aa) *IN GENERAL.—Any*
19 *fees collected under this clause*
20 *shall be made available to the Sec-*
21 *retary to carry out this section*
22 *and shall remain available for ex-*
23 *penditure until expended.*

24 “(bb) *SUPPLEMENT, NOT*
25 *SUPPLANT.—Any fee amounts col-*

1 lected under this clause shall sup-
2 plement, but not supplant,
3 amounts made available to the
4 Secretary to carry out this title.

5 “(3) ACCELERATED IMPLEMENTATION AND DE-
6 PLOYMENT OF PAVEMENT TECHNOLOGIES.—

7 “(A) IN GENERAL.—The Secretary shall es-
8 tablish and implement a program under the
9 technology and innovation deployment program
10 to promote, implement, deploy, demonstrate,
11 showcase, support, and document the application
12 of innovative pavement technologies, practices,
13 performance, and benefits.

14 “(B) GOALS.—The goals of the accelerated
15 implementation and deployment of pavement
16 technologies program shall include—

17 “(i) the deployment of new, cost-effec-
18 tive designs, materials, recycled materials,
19 and practices to extend the pavement life
20 and performance and to improve user satis-
21 faction;

22 “(ii) the reduction of initial costs and
23 lifecycle costs of pavements, including the
24 costs of new construction, replacement,
25 maintenance, and rehabilitation;

1 “(iii) the deployment of accelerated
2 construction techniques to increase safety
3 and reduce construction time and traffic
4 disruption and congestion;

5 “(iv) the deployment of engineering de-
6 sign criteria and specifications for new and
7 efficient practices, products, and materials
8 for use in highway pavements;

9 “(v) the deployment of new non-
10 destructive and real-time pavement evalua-
11 tion technologies and construction tech-
12 niques; and

13 “(vi) effective technology transfer and
14 information dissemination to accelerate im-
15 plementation of new technologies and to im-
16 prove life, performance, cost effectiveness,
17 safety, and user satisfaction.

18 “(C) FUNDING.—The Secretary shall obli-
19 gate for each of fiscal years 2012 through 2013
20 from funds made available to carry out this sub-
21 section—

22 “(i) \$6,000,000 to accelerate the de-
23 ployment and implementation of asphalt
24 pavement technology; and

1 “(ii) \$6,000,000 to accelerate the de-
2 ployment and implementation of concrete
3 pavement technology used in highways on
4 the national highway system.

5 “(D) ADMINISTRATION.—

6 “(i) IN GENERAL.—The implementa-
7 tion and deployment activities to be carried
8 out under this paragraph shall be identified
9 and conducted in collaboration with indus-
10 try, State departments of transportation,
11 the Federal Highway Administration, the
12 National Academy of Sciences, and other
13 appropriate entities, using the respective
14 road maps (the Concrete Pavement Road
15 Map and National Asphalt Roadmap) as a
16 guide.

17 “(ii) COLLABORATION.—The Federal
18 Highway Administration shall collaborate
19 with organizations that have a proven track
20 record of effective technology deployment on
21 a national scale, stakeholder involvement,
22 and leveraging of public sector investment.

23 “(iii) ADVISORY COMMITTEE.—A pave-
24 ment technology implementation advisory
25 committee comprised of key stakeholders, in-

1 cluding the Federal Highway Administra-
2 tion, State departments of transportation,
3 and the pavement industry, shall be estab-
4 lished to oversee and advise the program ef-
5 forts.

6 “(iv) *REPORT.*—The Secretary shall
7 annually submit to the Committee on Envi-
8 ronment and Public Works of the Senate
9 and the Committee on Transportation and
10 Infrastructure of the House of Representa-
11 tives a report that details the progress and
12 results of the activities carried out under
13 this paragraph.

14 “(d) *AIR QUALITY AND CONGESTION MITIGATION*
15 *MEASURE OUTCOMES ASSESSMENT RESEARCH.*—

16 “(1) *IN GENERAL.*—The Secretary, in consulta-
17 tion with the Administrator of the Environmental
18 Protection Agency, shall carry out a research pro-
19 gram to examine the outcomes of actions funded
20 under the congestion mitigation and air quality im-
21 provement program since the enactment of the
22 *SAFETEA-LU* (Public Law 109–59).

23 “(2) *GOALS.*—The goals of the program shall in-
24 clude—

1 “(A) *the assessment and documentation,*
2 *through outcomes research conducted on a rep-*
3 *resentative sample of cases, of—*

4 “(i) *the emission reductions achieved*
5 *by federally supported surface transpor-*
6 *tation actions intended to reduce emissions*
7 *or lessen traffic congestion; and*

8 “(ii) *the air quality and human health*
9 *impacts of those actions, including potential*
10 *unrecognized or indirect consequences, at-*
11 *tributable to those actions;*

12 “(B) *an expanded base of empirical evi-*
13 *dence on the air quality and human health im-*
14 *pacts of actions described in paragraph (1); and*

15 “(C) *an increase in knowledge of—*

16 “(i) *the factors determining the air*
17 *quality and human health changes associ-*
18 *ated with transportation emission reduction*
19 *actions; and*

20 “(ii) *other information to more accu-*
21 *rately understand the validity of current es-*
22 *timation and modeling routines and ways*
23 *to improve those routines.*

24 “(3) *ADMINISTRATIVE ELEMENTS.—To carry out*
25 *this subsection, the Secretary shall—*

1 “(A) make a grant for the coordination, se-
2 lection, management, and reporting of compo-
3 nent studies to an independent scientific research
4 organization with the necessary experience in
5 successfully conducting accountability and other
6 studies on mobile source air pollutants and asso-
7 ciated health effects;

8 “(B) ensure that case studies are identified
9 and conducted by teams selected through a com-
10 petitive solicitation overseen by an independent
11 committee of unbiased experts; and

12 “(C) ensure that all findings and reports
13 are peer-reviewed and published in a form that
14 presents the findings together with reviewer com-
15 ments.

16 “(4) REPORT.—The Secretary shall submit to the
17 Committee on Environment and Public Works of the
18 Senate and the Committee on Transportation and In-
19 frastructure of the House of Representatives—

20 “(A) not later than 1 year after the date of
21 enactment of the MAP–21, and for the following
22 year, a report providing an initial scoping and
23 plan, and status updates, respectively, for the
24 program under this subsection; and

1 “(B) not later than 2 years after the date
2 of enactment of the MAP-21, a final report that
3 describes the findings of, and recommendations
4 resulting from, the program under this sub-
5 section.

6 “(5) FUNDING.—Of the amounts made available
7 to carry out this section, the Secretary shall make
8 available to carry out this subsection not more than
9 \$1,000,000 for each fiscal year.”.

10 (b) CONFORMING AMENDMENT.—The analysis for
11 chapter 5 of title 23, United States Code, is amended by
12 striking the item relating to section 503 and inserting the
13 following:

 “503. Research and technology development and deployment.”.

14 **SEC. 52004. TRAINING AND EDUCATION.**

15 Section 504 of title 23, United States Code, is amend-
16 ed—

17 (1) in subsection (a)—

18 (A) in paragraph (2)(A) by inserting “and
19 the employees of any other applicable Federal
20 agency” before the semicolon at the end;

21 (B) in paragraph (3)(A)(ii)(V) by striking
22 “expediting” and inserting “reducing the
23 amount of time required for”;

24 (C) by striking paragraph (4);

1 (D) by redesignating paragraphs (5)
2 through (8) as paragraphs (4) through (7), re-
3 spectively; and

4 (E) in paragraph (7) (as redesignated by
5 subparagraph (D)) by striking “paragraph (7)”
6 and inserting “paragraph (6)”;

7 (2) in subsection (b) by striking paragraph (3)
8 and inserting the following:

9 “(3) *FEDERAL SHARE.*—

10 “(A) *LOCAL TECHNICAL ASSISTANCE CEN-*
11 *TERS.*—

12 “(i) *IN GENERAL.*—Subject to subpara-
13 graph (B), the Federal share of the cost of
14 an activity carried out by a local technical
15 assistance center under paragraphs (1) and
16 (2) shall be 50 percent.

17 “(ii) *NON-FEDERAL SHARE.*—The non-
18 Federal share of the cost of an activity de-
19 scribed in clause (i) may consist of amounts
20 provided to a recipient under subsection (e)
21 or section 505, up to 100 percent of the non-
22 Federal share.

23 “(B) *TRIBAL TECHNICAL ASSISTANCE CEN-*
24 *TERS.*—The Federal share of the cost of an activ-
25 ity carried out by a tribal technical assistance

1 center under paragraph (2)(D)(ii) shall be 100
2 percent.”;

3 (3) in subsection (c)(2)—

4 (A) by striking “The Secretary” and insert-
5 ing the following:

6 “(A) IN GENERAL.—The Secretary”;

7 (B) in subparagraph (A) (as designated by
8 subparagraph (A)) by striking “. The program”
9 and inserting “, which program”; and

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

11 “(B) USE OF AMOUNTS.—Amounts provided
12 to institutions of higher education to carry out
13 this paragraph shall be used to provide direct
14 support of student expenses.”;

15 (4) in subsection (e)(1)—

16 (A) in the matter preceding subparagraph
17 (A) by striking “sections 104(b)(1), 104(b)(2),
18 104(b)(3), 104(b)(4), and 144(e)” and inserting
19 “paragraphs (1) through (4) of section 104(b)”;

20 (B) in subparagraph (D) by striking “and”
21 at the end;

22 (C) in subparagraph (E) by striking the pe-
23 riod and inserting a semicolon; and

24 (D) by adding at the end the following:

1 “(F) meetings of transportation profes-
2 sionals that include education and professional
3 development activities;

4 “(G) activities carried out by the National
5 Highway Institute under subsection (a); and

6 “(H) local technical assistance programs
7 under subsection (b).”;

8 (5) in subsection (f) in the heading, by striking
9 “PILOT”;

10 (6) in subsection (g)(4)(F) by striking “excel-
11 lence” and inserting “stewardship”; and

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

13 “(h) CENTERS FOR SURFACE TRANSPORTATION EX-
14 CELLENCE.—

15 “(1) IN GENERAL.—The Secretary may make
16 grants under this section to establish and maintain
17 centers for surface transportation excellence.

18 “(2) GOALS.—The goals of a center referred to in
19 paragraph (1) shall be to promote and support stra-
20 tegic national surface transportation programs and
21 activities relating to the work of State departments of
22 transportation in the areas of environment, surface
23 transportation safety, rural safety, and project fi-
24 nance.”.

1 **SEC. 52005. STATE PLANNING AND RESEARCH.**

2 *Section 505 of title 23, United States Code, is amend-*
3 *ed—*

4 *(1) in subsection (a)—*

5 *(A) in the matter preceding paragraph (1)*
6 *by striking “section 104 (other than sections*
7 *104(f) and 104(h)) and under section 144” and*
8 *inserting “paragraphs (1) through (5) of section*
9 *104(b)”;* and

10 *(B) in paragraph (3) by striking “under*
11 *section 303” and inserting “, plans, and proc-*
12 *esses under sections 119, 148, 149, and 167”;*

13 *(2) in subsection (b)—*

14 *(A) in paragraph (1) by striking “25” and*
15 *inserting “24”;* and

16 *(B) in paragraph (2) by striking “75 per-*
17 *cent of the funds described in paragraph (1)”*
18 *and inserting “70 percent of the funds described*
19 *in subsection (a)”;*

20 *(3) by redesignating subsections (c) and (d) as*
21 *subsections (d) and (e), respectively;*

22 *(4) by inserting after subsection (b) the fol-*
23 *lowing:*

24 *“(c) IMPLEMENTATION OF FUTURE STRATEGIC HIGH-*
25 *WAY RESEARCH PROGRAM FINDINGS AND RESULTS.—*

1 “(1) *FUNDS.*—Not less than 6 percent of the
2 funds subject to subsection (a) that are apportioned to
3 a State for a fiscal year shall be made available to
4 the Secretary to carry out section 503(c)(2)(C).

5 “(2) *TREATMENT OF FUNDS.*—Funds expended
6 under paragraph (1) shall not be considered to be
7 part of the extramural budget of the agency for the
8 purpose of section 9 of the Small Business Act (15
9 U.S.C. 638).”; and

10 (5) in paragraph (e) (as so redesignated) by
11 striking “section 118(b)(2)” and inserting “section
12 118(b)”.

13 **SEC. 52006. INTERNATIONAL HIGHWAY TRANSPORTATION**
14 **PROGRAM.**

15 Section 506 of title 23, United States Code, is repealed.

16 **SEC. 52007. SURFACE TRANSPORTATION ENVIRONMENTAL**
17 **COOPERATIVE RESEARCH PROGRAM.**

18 Section 507 of title 23, United States Code, is repealed.

19 **SEC. 52008. NATIONAL COOPERATIVE FREIGHT RESEARCH.**

20 Section 509(d) of title 23, United States Code, is
21 amended by adding at the end the following:

22 “(6) *COORDINATION OF COOPERATIVE RE-*
23 *SEARCH.*—The National Academy of Sciences shall
24 coordinate research agendas, research project selec-
25 tions, and competitions across all transportation-re-

1 *lated cooperative research programs carried out by the*
2 *National Academy of Sciences to ensure program effi-*
3 *ciency, effectiveness, and the dissemination of research*
4 *findings.”.*

5 **SEC. 52009. PRIZE AUTHORITY.**

6 *(a) IN GENERAL.—Chapter 3 of title 49, United States*
7 *Code, is amended by inserting before section 336 the fol-*
8 *lowing:*

9 **“§ 335. Prize authority**

10 *“(a) IN GENERAL.—The Secretary of Transportation*
11 *may carry out a program, in accordance with this section,*
12 *to competitively award cash prizes to stimulate innovation*
13 *in basic and applied research, technology development, and*
14 *prototype demonstration that have the potential for appli-*
15 *cation to the national transportation system.*

16 *“(b) TOPICS.—In selecting topics for prize competi-*
17 *tions under this section, the Secretary shall—*

18 *“(1) consult with a wide variety of Government*
19 *and nongovernment representatives; and*

20 *“(2) give consideration to prize goals that dem-*
21 *onstrate innovative approaches and strategies to im-*
22 *prove the safety, efficiency, and sustainability of the*
23 *national transportation system.*

1 “(c) *ADVERTISING.*—*The Secretary shall encourage*
2 *participation in the prize competitions through extensive*
3 *advertising.*

4 “(d) *REQUIREMENTS AND REGISTRATION.*—*For each*
5 *prize competition, the Secretary shall publish a notice on*
6 *a public website that describes—*

7 “(1) *the subject of the competition;*

8 “(2) *the eligibility rules for participation in the*
9 *competition;*

10 “(3) *the amount of the prize; and*

11 “(4) *the basis on which a winner will be selected.*

12 “(e) *ELIGIBILITY.*—*An individual or entity may not*
13 *receive a prize under this section unless the individual or*
14 *entity—*

15 “(1) *has registered to participate in the competi-*
16 *tion pursuant to any rules promulgated by the Sec-*
17 *retary under this section;*

18 “(2) *has complied with all the requirements*
19 *under this section;*

20 “(3)(A) *in the case of a private entity, is incor-*
21 *porated in, and maintains a primary place of busi-*
22 *ness in, the United States; or*

23 “(B) *in the case of an individual, whether*
24 *participating singly or in a group, is a citizen*
25 *or permanent resident of the United States; and*

1 “(4) *is not a Federal entity or Federal employee*
2 *acting within the scope of his or her employment.*

3 “(f) *LIABILITY.—*

4 “(1) *ASSUMPTION OF RISK.—*

5 “(A) *IN GENERAL.—A registered partici-*
6 *part shall agree to assume any and all risks and*
7 *waive claims against the Federal Government*
8 *and its related entities, except in the case of will-*
9 *ful misconduct, for any injury, death, damage,*
10 *or loss of property, revenue, or profits, whether*
11 *direct, indirect, or consequential, arising from*
12 *participation in a competition, whether such in-*
13 *jury, death, damage, or loss arises through neg-*
14 *ligence or otherwise.*

15 “(B) *RELATED ENTITY.—In this paragraph,*
16 *the term ‘related entity’ means a contractor, sub-*
17 *contractor (at any tier), supplier, user, customer,*
18 *cooperating party, grantee, investigator, or*
19 *detailee.*

20 “(2) *FINANCIAL RESPONSIBILITY.—A partici-*
21 *part shall obtain liability insurance or demonstrate*
22 *financial responsibility, in amounts determined by*
23 *the Secretary, for claims by—*

24 “(A) *a third party for death, bodily injury,*
25 *or property damage, or loss resulting from an*

1 *activity carried out in connection with partici-*
2 *ipation in a competition, with the Federal Gov-*
3 *ernment named as an additional insured under*
4 *the registered participant's insurance policy and*
5 *registered participants agreeing to indemnify the*
6 *Federal Government against third party claims*
7 *for damages arising from or related to competi-*
8 *tion activities; and*

9 *“(B) the Federal Government for damage or*
10 *loss to Government property resulting from such*
11 *an activity.*

12 “(g) *JUDGES.—*

13 “(1) *SELECTION.—For each prize competition,*
14 *the Secretary, either directly or through an agreement*
15 *under subsection (h), shall assemble a panel of quali-*
16 *fied judges to select the winner or winners of the prize*
17 *competition on the basis described in subsection (d).*
18 *Judges for each competition shall include individuals*
19 *from outside the Administration, including the pri-*
20 *vate sector.*

21 “(2) *LIMITATIONS.—A judge selected under this*
22 *subsection may not—*

23 “(A) *have personal or financial interests in,*
24 *or be an employee, officer, director, or agent of,*

1 *any entity that is a registered participant in a*
2 *prize competition under this section; or*

3 “(B) *have a familial or financial relation-*
4 *ship with an individual who is a registered par-*
5 *ticipant.*

6 “(h) *ADMINISTERING THE COMPETITION.—The Sec-*
7 *retary may enter into an agreement with a private, non-*
8 *profit entity to administer the prize competition, subject to*
9 *the provisions of this section.*

10 “(i) *FUNDING.—*

11 “(1) *PRIVATE SECTOR FUNDING.—A cash prize*
12 *under this section may consist of funds appropriated*
13 *by the Federal Government and funds provided by the*
14 *private sector. The Secretary may accept funds from*
15 *other Federal agencies, State and local governments,*
16 *and metropolitan planning organizations for the cash*
17 *prizes. The Secretary may not give any special con-*
18 *sideration to any private sector entity in return for*
19 *a donation under this paragraph.*

20 “(2) *AVAILABILITY OF FUNDS.—Notwithstanding*
21 *any other provision of law, amounts appropriated for*
22 *prize awards under this section—*

23 “(A) *shall remain available until expended;*
24 *and*

1 “(B) may not be transferred, repro-
2 grammed, or expended for other purposes until
3 after the expiration of the 10-year period begin-
4 ning on the last day of the fiscal year for which
5 the funds were originally appropriated.

6 “(3) SAVINGS PROVISION.—Nothing in this sub-
7 section may be construed to permit the obligation or
8 payment of funds in violation of the Anti-Deficiency
9 Act (31 U.S.C. 1341).

10 “(4) PRIZE ANNOUNCEMENT.—A prize may not
11 be announced under this section until all the funds
12 needed to pay out the announced amount of the prize
13 have been appropriated or committed in writing by
14 a private source.

15 “(5) PRIZE INCREASES.—The Secretary may in-
16 crease the amount of a prize after the initial an-
17 nouncement of the prize under this section if—

18 “(A) notice of the increase is provided in
19 the same manner as the initial notice of the
20 prize; and

21 “(B) the funds needed to pay out the an-
22 nounced amount of the increase have been appro-
23 priated or committed in writing by a private
24 source.

1 “(6) *CONGRESSIONAL NOTIFICATION.*—A prize
2 *competition under this section may offer a prize in*
3 *an amount greater than \$1,000,000 only after 30*
4 *days have elapsed after written notice has been trans-*
5 *mitted to the Committee on Commerce, Science, and*
6 *Transportation of the Senate and the Committee on*
7 *Science, Space, and Technology of the House of Rep-*
8 *resentatives.*

9 “(7) *AWARD LIMIT.*—A prize competition under
10 *this section may not result in the award of more than*
11 *\$25,000 in cash prizes without the approval of the*
12 *Secretary.*

13 “(j) *USE OF DEPARTMENT NAME AND INSIGNIA.*—A
14 *registered participant in a prize competition under this sec-*
15 *tion may use the Department’s name, initials, or insignia*
16 *only after prior review and written approval by the Sec-*
17 *retary.*

18 “(k) *COMPLIANCE WITH EXISTING LAW.*—The Federal
19 *Government shall not, by virtue of offering or providing a*
20 *prize under this section, be responsible for compliance by*
21 *registered participants in a prize competition with Federal*
22 *law, including licensing, export control, and non-prolifera-*
23 *tion laws, and related regulations.”.*

24 “(b) *CONFORMING AMENDMENT.*—The analysis for
25 *chapter 3 of title 49, United States Code, is amended by*

1 *inserting before the item relating to section 336 the fol-*
 2 *lowing:*

“335. Prize authority”.

3 **SEC. 52010. UNIVERSITY TRANSPORTATION CENTERS PRO-**
 4 **GRAM.**

5 *(a) IN GENERAL.—Section 5505 of title 49, United*
 6 *States Code, is amended to read as follows:*

7 **“§ 5505. University transportation centers program**

8 *“(a) UNIVERSITY TRANSPORTATION CENTERS PRO-*
 9 *GRAM.—*

10 *“(1) ESTABLISHMENT AND OPERATION.—The*
 11 *Secretary shall make grants under this section to eli-*
 12 *gible nonprofit institutions of higher education to es-*
 13 *tablish and operate university transportation centers.*

14 *“(2) ROLE OF CENTERS.—The role of each uni-*
 15 *versity transportation center referred to in paragraph*
 16 *(1) shall be—*

17 *“(A) to advance transportation expertise*
 18 *and technology in the varied disciplines that*
 19 *comprise the field of transportation through edu-*
 20 *cation, research, and technology transfer activi-*
 21 *ties;*

22 *“(B) to provide for a critical transportation*
 23 *knowledge base outside of the Department of*
 24 *Transportation; and*

1 “(C) *to address critical workforce needs and*
2 *educate the next generation of transportation*
3 *leaders.*

4 “(b) *COMPETITIVE SELECTION PROCESS.—*

5 “(1) *APPLICATIONS.—To receive a grant under*
6 *this section, a nonprofit institution of higher edu-*
7 *cation shall submit to the Secretary an application*
8 *that is in such form and contains such information*
9 *as the Secretary may require.*

10 “(2) *RESTRICTION.—Institutions may not apply*
11 *for both a national transportation center and a re-*
12 *gional transportation center.*

13 “(3) *GENERAL SELECTION CRITERIA.—*

14 “(A) *IN GENERAL.—Except as otherwise*
15 *provided by this section, the Secretary shall*
16 *award grants under this section in nonexclusive*
17 *candidate topic areas established by the Sec-*
18 *retary that address the research priorities identi-*
19 *fied in section 503 of title 23.*

20 “(B) *CRITERIA.—The Secretary, in con-*
21 *junction with the Administrators of the Federal*
22 *Highway Administration and the Federal Tran-*
23 *sit Administration, shall select each recipient of*
24 *a grant under this section through a competitive*

1 *process based on the assessment of the Secretary*
2 *relating to—*

3 “(i) *the demonstrated ability of the re-*
4 *ipient to address each specific topic area*
5 *described in the research and strategic plans*
6 *of the recipient;*

7 “(ii) *the demonstrated research, tech-*
8 *nology transfer, and education resources*
9 *available to the recipient to carry out this*
10 *section;*

11 “(iii) *the ability of the recipient to*
12 *provide leadership in solving immediate*
13 *and long-range national and regional trans-*
14 *portation problems;*

15 “(iv) *the ability of the recipient to*
16 *carry out research, education, and tech-*
17 *nology transfer activities that are*
18 *multimodal and multidisciplinary in scope;*

19 “(v) *the demonstrated commitment of*
20 *the recipient to carry out transportation*
21 *workforce development programs through—*

22 “(I) *degree-granting programs;*

23 “(II) *training seminars for prac-*
24 *ticing professionals;*

1 “(III) outreach activities to at-
2 tract new entrants into the transpor-
3 tation field, including women, minori-
4 ties, and persons from disadvantaged
5 communities; and

6 “(IV) primary and secondary
7 school transportation workforce out-
8 reach;

9 “(vi) the demonstrated ability of the
10 recipient to disseminate results and spur
11 the implementation of transportation re-
12 search and education programs through na-
13 tional or statewide continuing education
14 programs;

15 “(vii) the demonstrated commitment of
16 the recipient to the use of peer review prin-
17 ciples and other research best practices in
18 the selection, management, and dissemina-
19 tion of research projects;

20 “(viii) the strategic plan submitted by
21 the recipient describing the proposed re-
22 search to be carried out by the recipient and
23 the performance metrics to be used in as-
24 sessing the performance of the recipient in

1 *meeting the stated research, technology*
2 *transfer, education, and outreach goals; and*
3 *“(ix) the ability of the recipient to im-*
4 *plement the proposed program in a cost-effi-*
5 *cient manner, such as through cost sharing*
6 *and overall reduced overhead, facilities, and*
7 *administrative costs.*

8 “(c) *GRANTS.—*

9 *“(1) IN GENERAL.—Not later than 1 year after*
10 *the date of enactment of the Transportation Research*
11 *and Innovative Technology Act of 2012, the Secretary,*
12 *in conjunction with the Administrators of the Federal*
13 *Highway Administration and the Federal Transit*
14 *Administration, shall select grant recipients under*
15 *subsection (b) and make grant amounts available to*
16 *the selected recipients.*

17 “(2) *NATIONAL TRANSPORTATION CENTERS.—*

18 “(A) *IN GENERAL.—For each of fiscal years*
19 *2012 and 2013, and subject to subparagraph*
20 *(B), the Secretary shall provide grants to 5 re-*
21 *ipients that the Secretary determines best meet*
22 *the criteria described in subsection (b)(3).*

23 “(B) *RESTRICTIONS.—*

24 “(i) *IN GENERAL.—For each fiscal*
25 *year, a grant made available under this*

1 *paragraph shall not exceed \$3,250,000 per*
2 *recipient.*

3 “(i) *FOCUSED RESEARCH.*—*The grant*
4 *recipients under this paragraph shall focus*
5 *research on national transportation issues,*
6 *as determined by the Secretary.*

7 “(C) *MATCHING REQUIREMENT.*—

8 “(i) *IN GENERAL.*—*As a condition of*
9 *receiving a grant under this paragraph, a*
10 *grant recipient shall match 100 percent of*
11 *the amounts made available under the*
12 *grant.*

13 “(ii) *SOURCES.*—*The matching*
14 *amounts referred to in clause (i) may in-*
15 *clude amounts made available to the recipi-*
16 *ent under—*

17 “(I) *section 504(b) or 505 of title*
18 *23; and*

19 “(II) *a transportation-related*
20 *grant from the National Science Foun-*
21 *ation subject to prior approval by the*
22 *Secretary.*

23 “(3) *REGIONAL UNIVERSITY TRANSPORTATION*
24 *CENTERS.*—

1 “(A) *LOCATION OF REGIONAL CENTERS.*—
2 *One regional university transportation center*
3 *shall be located in each of the 10 Federal regions*
4 *that comprise the Standard Federal Regions es-*
5 *tablished by the Office of Management and*
6 *Budget in the document entitled ‘Standard Fed-*
7 *eral Regions’ and dated April, 1974 (circular A-*
8 *105).*

9 “(B) *SELECTION CRITERIA.*—*In conducting*
10 *a competition under subsection (b), the Secretary*
11 *shall provide grants to 10 recipients on the basis*
12 *of—*

13 “(i) *the criteria described in subsection*
14 *(b)(3);*

15 “(ii) *the location of the center within*
16 *the Federal region to be served; and*

17 “(iii) *whether the institution (or, in*
18 *the case of consortium of institutions, the*
19 *lead institution) demonstrates that the in-*
20 *stitution has a well-established, nationally*
21 *recognized program in transportation re-*
22 *search and education, as evidenced by—*

23 “(I) *recent expenditures by the in-*
24 *stitution in highway or public trans-*
25 *portation research;*

1 “(II) a historical track record of
2 awarding graduate degrees in profes-
3 sional fields closely related to highways
4 and public transportation; and

5 “(III) an experienced faculty who
6 specialize in professional fields closely
7 related to highways and public trans-
8 portation.

9 “(C) *RESTRICTIONS.*—For each fiscal year,
10 a grant made available under this paragraph
11 shall not exceed \$2,750,000 for each recipient.

12 “(D) *MATCHING REQUIREMENTS.*—

13 “(i) *IN GENERAL.*—As a condition of
14 receiving a grant under this paragraph, a
15 grant recipient shall match 100 percent of
16 the amounts made available under the
17 grant.

18 “(ii) *SOURCES.*—The matching
19 amounts referred to in the clause (i) may
20 include amounts made available to the re-
21 cipient under—

22 “(I) section 504(b) or 505 of title
23 23; and

24 “(II) a transportation-related
25 grant from the National Science Foun-

1 *dation subject to prior approval by the*
2 *Secretary.*

3 “(4) *TIER 1 UNIVERSITY TRANSPORTATION CEN-*
4 *TERS.—*

5 “(A) *IN GENERAL.—For each of fiscal years*
6 *2012 and 2013, the Secretary shall provide*
7 *grants of not more than \$1,500,000 each to not*
8 *more than 20 recipients to carry out this section.*

9 “(B) *RESTRICTION.—A grant recipient*
10 *under paragraph (2) or (3) shall not be eligible*
11 *to receive a grant under this paragraph.*

12 “(C) *MATCHING REQUIREMENT.—*

13 “(i) *IN GENERAL.—Subject to clause*
14 *(iii), as a condition of receiving a grant*
15 *under this paragraph, a grant recipient*
16 *shall match 50 percent of the amounts made*
17 *available under the grant.*

18 “(ii) *SOURCES.—The matching*
19 *amounts referred to in clause (i) may in-*
20 *clude amounts made available to the recipi-*
21 *ent under—*

22 “(I) *section 504(b) or 505 of title*
23 *23; and*

24 “(II) *a transportation-related*
25 *grant from the National Science Foun-*

1 *dation subject to prior approval by the*
2 *Secretary.*

3 “(iii) *EXEMPTION.—This subpara-*
4 *graph shall not apply on a demonstration*
5 *of financial hardship by the applicant in-*
6 *stitution.*

7 “(D) *FOCUSED RESEARCH.—*

8 “(i) *IN GENERAL.—In awarding*
9 *grants under this paragraph, consideration*
10 *shall be given to minority institutions, as*
11 *defined by section 365 of the Higher Edu-*
12 *cation Act of 1965 (20 U.S.C. 1067k), or*
13 *consortia that include such institutions that*
14 *have demonstrated an ability in transpor-*
15 *tation-related research.*

16 “(ii) *PUBLIC TRANSPORTATION*
17 *ISSUES.—At least 2 of the recipients award-*
18 *ed a grant under this paragraph shall have*
19 *expertise in, and focus research on, public*
20 *transportation issues.*

21 “(d) *PROGRAM COORDINATION.—*

22 “(1) *IN GENERAL.—The Secretary shall—*

23 “(A) *coordinate the research, education, and*
24 *technology transfer activities carried out by*
25 *grant recipients under this section; and*

1 “(B) disseminate the results of that research
2 through the establishment and operation of an
3 information clearinghouse.

4 “(2) ANNUAL REVIEW AND EVALUATION.—Not
5 less frequently than annually, and consistent with the
6 plan developed under section 508 of title 23, the Sec-
7 retary shall review and evaluate the programs carried
8 out under this section by grant recipients.

9 “(3) PROGRAM EVALUATION AND OVERSIGHT.—
10 For each of fiscal years 2012 and 2013, the Secretary
11 shall expend not more than 1½ percent of the
12 amounts made available to the Secretary to carry out
13 this section for any coordination, evaluation, and
14 oversight activities of the Secretary under this section
15 and section 5506.

16 “(e) LIMITATION ON AVAILABILITY OF AMOUNTS.—
17 Amounts made available to the Secretary to carry out this
18 section shall remain available for obligation by the Sec-
19 retary for a period of 3 years after the last day of the fiscal
20 year for which the amounts are appropriated.

21 “(f) INFORMATION COLLECTION.—Any survey, ques-
22 tionnaire, or interview that the Secretary determines to be
23 necessary to carry out reporting requirements relating to
24 any program assessment or evaluation activity under this

1 *section, including customer satisfaction assessments, shall*
 2 *not be subject to chapter 35 of title 44.”.*

3 (b) *CONFORMING AMENDMENT.—The analysis for*
 4 *chapter 55 of title 49, United States Code, is amended by*
 5 *striking the item relating to section 5505 and inserting the*
 6 *following:*

“Sec. 5505. University transportation centers program.”.

7 **SEC. 52011. BUREAU OF TRANSPORTATION STATISTICS.**

8 (a) *IN GENERAL.—Subtitle III of title 49, United*
 9 *States Code, is amended by adding at the end the following:*

10 **“CHAPTER 63—BUREAU OF**
 11 **TRANSPORTATION STATISTICS**

“Sec.

“6301. Definitions.

“6302. Bureau of Transportation Statistics.

“6303. Intermodal transportation database.

“6305. Advisory council on transportation statistics.

“6306. Transportation statistical collection, analysis, and dissemination.

“6307. Furnishing of information, data, or reports by Federal agencies.

“6308. Proceeds of data product sales.

“6309. Information collection.

“6310. National transportation atlas database.

“6311. Limitations on statutory construction.

“6312. Research and development grants.

“6313. Transportation statistics annual report.

“6314. Mandatory response authority for freight data collection.

12 **“§ 6301. Definitions**

13 *“In this chapter, the following definitions apply:*

14 *“(1) BUREAU.—The term ‘Bureau’ means the*
 15 *Bureau of Transportation Statistics established by*
 16 *section 6302(a).*

17 *“(2) DEPARTMENT.—The term ‘Department’*
 18 *means the Department of Transportation.*

1 “(3) *DIRECTOR*.—*The term ‘Director’ means the*
2 *Director of the Bureau.*

3 “(4) *LIBRARY*.—*The term ‘Library’ means the*
4 *National Transportation Library established by sec-*
5 *tion 6304(a).*

6 “(5) *SECRETARY*.—*The term ‘Secretary’ means*
7 *the Secretary of Transportation.*

8 **“§ 6302. Bureau of Transportation Statistics**

9 “(a) *ESTABLISHMENT*.—*There is established in the Re-*
10 *search and Innovative Technology Administration the Bu-*
11 *reau of Transportation Statistics.*

12 “(b) *DIRECTOR*.—

13 “(1) *APPOINTMENT*.—*The Bureau shall be head-*
14 *ed by a Director, who shall be appointed in the com-*
15 *petitive service by the Secretary.*

16 “(2) *QUALIFICATIONS*.—*The Director shall be*
17 *appointed from among individuals who are qualified*
18 *to serve as the Director by virtue of their training*
19 *and experience in the collection, analysis, and use of*
20 *transportation statistics.*

21 “(3) *DUTIES*.—

22 “(A) *IN GENERAL*.—*The Director shall—*

23 “(i) *serve as the senior advisor to the*
24 *Secretary on data and statistics; and*

1 “(ii) be responsible for carrying out the
2 duties described in subparagraph (B).

3 “(B) DUTIES.—The Director shall—

4 “(i) ensure that the statistics compiled
5 under clause (vi) are designed to support
6 transportation decisionmaking by—

7 “(I) the Federal Government;

8 “(II) State and local governments;

9 “(III) metropolitan planning or-
10 ganizations;

11 “(IV) transportation-related asso-
12 ciations;

13 “(V) the private sector, including
14 the freight community; and

15 “(VI) the public;

16 “(ii) establish on behalf of the Sec-
17 retary a program—

18 “(I) to effectively integrate safety
19 data across modes; and

20 “(II) to address gaps in existing
21 safety data programs of the Depart-
22 ment;

23 “(iii) work with the operating admin-
24 istrations of the Department—

1 “(I) to establish and implement
2 the data programs of the Bureau; and

3 “(II) to improve the coordination
4 of information collection efforts with
5 other Federal agencies;

6 “(iv) continually improve surveys and
7 data collection methods of the Department
8 to improve the accuracy and utility of
9 transportation statistics;

10 “(v) encourage the standardization of
11 data, data collection methods, and data
12 management and storage technologies for
13 data collected by—

14 “(I) the Bureau;

15 “(II) the operating administra-
16 tions of the Department;

17 “(III) State and local govern-
18 ments;

19 “(IV) metropolitan planning or-
20 ganizations; and

21 “(V) private sector entities;

22 “(vi) collect, compile, analyze, and
23 publish a comprehensive set of transpor-
24 tation statistics on the performance and im-

1 *pacts of the national transportation system,*
2 *including statistics on—*

3 “*(I) transportation safety across*
4 *all modes and intermodally;*

5 “*(II) the state of good repair of*
6 *United States transportation infra-*
7 *structure;*

8 “*(III) the extent, connectivity,*
9 *and condition of the transportation*
10 *system, building on the national trans-*
11 *portation atlas database developed*
12 *under section 6310;*

13 “*(IV) economic efficiency across*
14 *the entire transportation sector;*

15 “*(V) the effects of the transpor-*
16 *tation system on global and domestic*
17 *economic competitiveness;*

18 “*(VI) demographic, economic, and*
19 *other variables influencing travel be-*
20 *havior, including choice of transpor-*
21 *tation mode and goods movement;*

22 “*(VII) transportation-related*
23 *variables that influence the domestic*
24 *economy and global competitiveness;*

1 “(VIII) economic costs and im-
2 pacts for passenger travel and freight
3 movement;

4 “(IX) intermodal and multimodal
5 passenger movement;

6 “(X) intermodal and multimodal
7 freight movement; and

8 “(XI) consequences of transpor-
9 tation for the human and natural en-
10 vironment;

11 “(vii) build and disseminate the trans-
12 portation layer of the National Spatial
13 Data Infrastructure developed under Execu-
14 tive Order 12906 (59 Fed. Reg. 17671) (or
15 a successor Executive Order), including by
16 coordinating the development of transpor-
17 tation geospatial data standards, compiling
18 intermodal geospatial data, and collecting
19 geospatial data that is not being collected
20 by other entities;

21 “(viii) issue guidelines for the collec-
22 tion of information by the Department that
23 the Director determines necessary to develop
24 transportation statistics and carry out
25 modeling, economic assessment, and pro-

1 *gram assessment activities to ensure that*
2 *such information is accurate, reliable, rel-*
3 *evant, uniform, and in a form that permits*
4 *systematic analysis by the Department;*

5 *“(ix) review and report to the Sec-*
6 *retary on the sources and reliability of—*

7 *“(I) the statistics proposed by the*
8 *heads of the operating administrations*
9 *of the Department to measure outputs*
10 *and outcomes as required by the Gov-*
11 *ernment Performance and Results Act*
12 *of 1993 (Public Law 103–62;107 Stat.*
13 *285); and*

14 *“(II) at the request of the Sec-*
15 *retary, any other data collected or sta-*
16 *tistical information published by the*
17 *heads of the operating administrations*
18 *of the Department; and*

19 *“(x) ensure that the statistics published*
20 *under this section are readily accessible to*
21 *the public, consistent with applicable secu-*
22 *rity constraints and confidentiality inter-*
23 *ests.*

24 *“(c) ACCESS TO FEDERAL DATA.—In carrying out*
25 *subsection (b)(3)(B)(ii), the Director shall be given access*

1 *to all safety data that the Director determines necessary to*
2 *carry out that subsection that is held by the Department*
3 *or any other Federal agency upon written request and sub-*
4 *ject to any statutory or regulatory restrictions.*

5 **“§ 6303. Intermodal transportation database**

6 “(a) *IN GENERAL.*—*In consultation with the Under*
7 *Secretary Transportation for Policy, the Assistant Secre-*
8 *taries of the Department, and the heads of the operating*
9 *administrations of the Department, the Director shall estab-*
10 *lish and maintain a transportation database for all modes*
11 *of transportation.*

12 “(b) *USE.*—*The database established under this section*
13 *shall be suitable for analyses carried out by the Federal*
14 *Government, the States, and metropolitan planning organi-*
15 *zations.*

16 “(c) *CONTENTS.*—*The database established under this*
17 *section shall include—*

18 “(1) *information on the volumes and patterns of*
19 *movement of goods, including local, interregional, and*
20 *international movement, by all modes of transpor-*
21 *tation, intermodal combinations, and relevant classi-*
22 *fication;*

23 “(2) *information on the volumes and patterns of*
24 *movement of people, including local, interregional,*
25 *and international movements, by all modes of trans-*

1 *portation (including bicycle and pedestrian modes),*
2 *intermodal combinations, and relevant classification;*

3 *“(3) information on the location and*
4 *connectivity of transportation facilities and services;*
5 *and*

6 *“(4) a national accounting of expenditures and*
7 *capital stocks on each mode of transportation and*
8 *intermodal combination.*

9 **“§ 6304. National transportation library**

10 *“(a) PURPOSE AND ESTABLISHMENT.—To support the*
11 *information management and decisionmaking needs of*
12 *transportation officials at the Federal, State, and local lev-*
13 *els, there is established in the Bureau a National Transpor-*
14 *tation Library which shall—*

15 *“(1) be headed by an individual who is highly*
16 *qualified in library and information science;*

17 *“(2) acquire, preserve, and manage transpor-*
18 *tation information and information products and*
19 *services for use by the Department, other Federal*
20 *agencies, and the general public;*

21 *“(3) provide reference and research assistance;*

22 *“(4) serve as a central depository for research re-*
23 *sults and technical publications of the Department;*

1 “(5) provide a central clearinghouse for trans-
2 portation data and information of the Federal Gov-
3 ernment;

4 “(6) serve as coordinator and policy lead for
5 transportation information access;

6 “(7) provide transportation information and in-
7 formation products and services to—

8 “(A) the Department;

9 “(B) other Federal agencies;

10 “(C) public and private organizations; and

11 “(D) individuals, within the United States
12 and internationally;

13 “(8) coordinate efforts among, and cooperate
14 with, transportation libraries, information providers,
15 and technical assistance centers, in conjunction with
16 private industry and other transportation library
17 and information centers, with the goal of developing
18 a comprehensive transportation information and
19 knowledge network that supports the activities de-
20 scribed in section 6302(b)(3)(B)(vi); and

21 “(9) engage in such other activities as the Direc-
22 tor determines to be necessary and as the resources of
23 the Library permit.

24 “(b) ACCESS.—The Director shall publicize, facilitate,
25 and promote access to the information products and services

1 *described in subsection (a), to improve the ability of the*
2 *transportation community to share information and the*
3 *ability of the Director to make statistics and other informa-*
4 *tion readily accessible as required under section*
5 *6302(b)(3)(B)(x).*

6 “(c) *AGREEMENTS.—*

7 “(1) *IN GENERAL.—To carry out this section, the*
8 *Director may enter into agreements with, award*
9 *grants to, and receive amounts from, any—*

10 “(A) *State or local government;*

11 “(B) *organization;*

12 “(C) *business; or*

13 “(D) *individual.*

14 “(2) *CONTRACTS, GRANTS, AND AGREEMENTS.—*

15 *The Library may initiate and support specific infor-*
16 *mation and data management, access, and exchange*
17 *activities in connection with matters relating to the*
18 *Department’s strategic goals, knowledge networking,*
19 *and national and international cooperation, by enter-*
20 *ing into contracts or other agreements or awarding*
21 *grants for the conduct of such activities.*

22 “(3) *AMOUNTS.—Any amounts received by the*
23 *Library as payment for library products and services*
24 *or other activities shall be made available to the Di-*
25 *rector to carry out this section, deposited in the Re-*

1 *search and Innovative Technology Administration's*
2 *general fund account, and remain available until ex-*
3 *pended.*

4 **“§ 6305. Advisory council on transportation statistics**

5 “(a) *IN GENERAL.*—*The Director shall establish and*
6 *consult with an advisory council on transportation statis-*
7 *tics.*

8 “(b) *FUNCTION.*—*The advisory council established*
9 *under this section shall advise the Director on—*

10 “(1) *the quality, reliability, consistency, objec-*
11 *tivity, and relevance of transportation statistics and*
12 *analyses collected, supported, or disseminated by the*
13 *Bureau and the Department; and*

14 “(2) *methods to encourage cooperation and inter-*
15 *operability of transportation data collected by the Bu-*
16 *reau, the operating administrations of the Depart-*
17 *ment, States, local governments, metropolitan plan-*
18 *ning organizations, and private sector entities.*

19 “(c) *MEMBERSHIP.*—

20 “(1) *IN GENERAL.*—*The advisory council shall be*
21 *composed of not fewer than 9 and not more than 11*
22 *members appointed by the Director.*

23 “(2) *SELECTION.*—*In selecting members for the*
24 *advisory council, the Director shall appoint individ-*
25 *uals who—*

1 “(A) are not officers or employees of the
2 United States;

3 “(B) possess expertise in—

4 “(i) transportation data collection,
5 analysis, or application;

6 “(ii) economics; or

7 “(iii) transportation safety; and

8 “(C) represent a cross section of transpor-
9 tation stakeholders, to the greatest extent pos-
10 sible.

11 “(d) *TERMS OF APPOINTMENT.*—

12 “(1) *IN GENERAL.*—Except as provided in para-
13 graph (2), members of the advisory council shall be
14 appointed to staggered terms not to exceed 3 years.

15 “(2) *ADDITIONAL TERMS.*—A member may be re-
16 nominated for 1 additional 3-year term.

17 “(3) *CURRENT MEMBERS.*—A member serving on
18 an advisory council on transportation statistics on
19 the day before the date of enactment of the *Transpor-*
20 *tation Research and Innovative Technology Act of*
21 *2012 shall serve until the end of the appointed term*
22 *of the member.*

23 “(e) *APPLICABILITY OF FEDERAL ADVISORY COM-*
24 *MITTEE ACT.*—The *Federal Advisory Committee Act (5*
25 *U.S.C. App.) shall apply to the advisory council established*

1 *under this section, except that section 14 of that Act shall*
2 *not apply.*

3 **“§ 6306. *Transportation statistical collection, anal-***
4 ***ysis, and dissemination***

5 *“To ensure that all transportation statistical collec-*
6 *tion, analysis, and dissemination is carried out in a coordi-*
7 *nated manner, the Director may—*

8 *“(1) use the services, equipment, records, per-*
9 *sonnel, information, and facilities of other Federal*
10 *agencies, or State, local, and private agencies and in-*
11 *strumentalities, subject to the conditions that the ap-*
12 *plicable agency or instrumentality consents to that*
13 *use and with or without reimbursement for such use;*

14 *“(2) enter into agreements with the agencies and*
15 *instrumentalities described in paragraph (1) for pur-*
16 *poses of data collection and analysis;*

17 *“(3) confer and cooperate with foreign govern-*
18 *ments, international organizations, and State, munic-*
19 *ipal, and other local agencies;*

20 *“(4) request such information, data, and reports*
21 *from any Federal agency as the Director determines*
22 *necessary to carry out this chapter;*

23 *“(5) encourage replication, coordination, and*
24 *sharing of information among transportation agencies*

1 *regarding information systems, information policy,*
2 *and data; and*

3 *“(6) confer and cooperate with Federal statistical*
4 *agencies as the Director determines necessary to carry*
5 *out this chapter, including by entering into coopera-*
6 *tive data sharing agreements in conformity with all*
7 *laws and regulations applicable to the disclosure and*
8 *use of data.*

9 **“§ 6307. Furnishing of information, data, or reports by**
10 ***Federal agencies***

11 *“(a) IN GENERAL.—Except as provided in subsection*
12 *(b), a Federal agency requested to furnish information,*
13 *data, or reports by the Director under section 6302(b)(3)(B)*
14 *shall provide the information to the Director.*

15 *“(b) PROHIBITION ON CERTAIN DISCLOSURES.—*

16 *“(1) IN GENERAL.—An officer, employee, or con-*
17 *tractor of the Bureau may not—*

18 *“(A) make any disclosure in which the data*
19 *provided by an individual or organization under*
20 *section 6302(b)(3)(B) can be identified;*

21 *“(B) use the information provided under*
22 *section 6302(b)(3)(B) for a nonstatistical pur-*
23 *pose; or*

24 *“(C) permit anyone other than an indi-*
25 *vidual authorized by the Director to examine*

1 *any individual report provided under section*
2 *6302(b)(3)(B).*

3 “(2) *COPIES OF REPORTS.*—

4 “(A) *IN GENERAL.*—*No department, bureau,*
5 *agency, officer, or employee of the United States*
6 *(except the Director in carrying out this chapter)*
7 *may require, for any reason, a copy of any re-*
8 *port that has been filed under section*
9 *6302(b)(3)(B) with the Bureau or retained by an*
10 *individual respondent.*

11 “(B) *LIMITATION ON JUDICIAL PRO-*
12 *CEEDINGS.*—*A copy of a report described in sub-*
13 *paragraph (A) that has been retained by an in-*
14 *dividual respondent or filed with the Bureau or*
15 *any of the employees, contractors, or agents of*
16 *the Bureau—*

17 “(i) *shall be immune from legal proc-*
18 *ess; and*

19 “(ii) *shall not, without the consent of*
20 *the individual concerned, be admitted as*
21 *evidence or used for any purpose in any ac-*
22 *tion, suit, or other judicial or administra-*
23 *tive proceedings.*

24 “(C) *APPLICABILITY.*—*This paragraph shall*
25 *apply only to reports that permit information*

1 *concerning an individual or organization to be*
2 *reasonably determined by direct or indirect*
3 *means.*

4 “(3) *INFORMING RESPONDENT OF USE OF*
5 *DATA.—If the Bureau is authorized by statute to col-*
6 *lect data or information for a nonstatistical purpose,*
7 *the Director shall clearly distinguish the collection of*
8 *the data or information, by rule and on the collection*
9 *instrument, in a manner that informs the respondent*
10 *who is requested or required to supply the data or in-*
11 *formation of the nonstatistical purpose.*

12 “(c) *TRANSPORTATION AND TRANSPORTATION-RE-*
13 *LATED DATA ACCESS.—The Director shall be provided ac-*
14 *cess to any transportation and transportation-related infor-*
15 *mation in the possession of any Federal agency, except—*

16 “(1) *information that is expressly prohibited by*
17 *law from being disclosed to another Federal agency;*
18 *or*

19 “(2) *information that the agency possessing the*
20 *information determines could not be disclosed without*
21 *significantly impairing the discharge of authorities*
22 *and responsibilities which have been delegated to, or*
23 *vested by law, in such agency.*

1 **“§ 6308. Proceeds of data product sales**

2 *“Notwithstanding section 3302 of title 31, amounts re-*
3 *ceived by the Bureau from the sale of data products for nec-*
4 *essary expenses incurred may be credited to the Highway*
5 *Trust Fund (other than the Mass Transit Account) for the*
6 *purpose of reimbursing the Bureau for those expenses.*

7 **“§ 6309. Information collection**

8 *“As the head of an independent Federal statistical*
9 *agency, the Director may consult directly with the Office*
10 *of Management and Budget concerning any survey, ques-*
11 *tionnaire, or interview that the Director considers necessary*
12 *to carry out the statistical responsibilities of this chapter.*

13 **“§ 6310. National transportation atlas database**

14 *“(a) IN GENERAL.—The Director shall develop and*
15 *maintain a national transportation atlas database that is*
16 *comprised of geospatial databases that depict—*

17 *“(1) transportation networks;*

18 *“(2) flows of people, goods, vehicles, and craft*
19 *over the transportation networks; and*

20 *“(3) social, economic, and environmental condi-*
21 *tions that affect or are affected by the transportation*
22 *networks.*

23 *“(b) INTERMODAL NETWORK ANALYSIS.—The data-*
24 *bases referred to in subsection (a) shall be capable of sup-*
25 *porting intermodal network analysis.*

1 **“§ 6311. Limitations on statutory construction**

2 “Nothing in this chapter—

3 “(1) authorizes the Bureau to require any other
4 Federal agency to collect data; or

5 “(2) alters or diminishes the authority of any
6 other officer of the Department to collect and dissemi-
7 nate data independently.

8 **“§ 6312. Research and development grants**

9 “The Secretary may make grants to, or enter into co-
10 operative agreements or contracts with, public and non-
11 profit private entities (including State transportation de-
12 partments, metropolitan planning organizations, and insti-
13 tutions of higher education) for—

14 “(1) investigation of the subjects described in sec-
15 tion 6302(b)(3)(B)(vi);

16 “(2) research and development of new methods of
17 data collection, standardization, management, inte-
18 gration, dissemination, interpretation, and analysis;

19 “(3) demonstration programs by States, local
20 governments, and metropolitan planning organiza-
21 tions to coordinate data collection, reporting, manage-
22 ment, storage, and archiving to simplify data com-
23 parisons across jurisdictions;

24 “(4) development of electronic clearinghouses of
25 transportation data and related information, as part
26 of the Library; and

1 “(5) *development and improvement of methods*
2 *for sharing geographic data, in support of the data-*
3 *base under section 6310 and the National Spatial*
4 *Data Infrastructure developed under Executive Order*
5 *12906 (59 Fed. Reg. 17671) (or a successor Executive*
6 *Order).*

7 **“§ 6313. *Transportation statistics annual report***

8 *“The Director shall submit to the President and Con-*
9 *gress a transportation statistics annual report, which shall*
10 *include—*

11 “(1) *information on the progress of the Director*
12 *in carrying out the duties described in section*
13 *6302(b)(3)(B);*

14 “(2) *documentation of the methods used to obtain*
15 *and ensure the quality of the statistics presented in*
16 *the report; and*

17 “(3) *any recommendations of the Director for*
18 *improving transportation statistical information.*

19 **“§ 6314. *Mandatory response authority for freight***
20 ***data collection***

21 “(a) *FREIGHT DATA COLLECTION.—*

22 “(1) *IN GENERAL.—An owner, official, agent,*
23 *person in charge, or assistant to the person in charge*
24 *of a freight corporation, company, business, institu-*
25 *tion, establishment, or organization described in*

1 *paragraph (2) shall be fined in accordance with sub-*
2 *section (b) if that individual neglects or refuses, when*
3 *requested by the Director or other authorized officer,*
4 *employee, or contractor of the Bureau to submit data*
5 *under section 6302(b)(3)(B)—*

6 *“(A) to answer completely and correctly to*
7 *the best knowledge of that individual all ques-*
8 *tions relating to the corporation, company, busi-*
9 *ness, institution, establishment, or other organi-*
10 *zation; or*

11 *“(B) to make available records or statistics*
12 *in the official custody of the individual.*

13 *“(2) DESCRIPTION OF ENTITIES.—A freight cor-*
14 *poration, company, business, institution, establish-*
15 *ment, or organization referred to in paragraph (1) is*
16 *a corporation, company, business, institution, estab-*
17 *lishment, or organization that—*

18 *“(A) receives Federal funds relating to the*
19 *freight program; and*

20 *“(B) has consented to be subject to a fine*
21 *under this subsection on—*

22 *“(i) refusal to supply any data re-*
23 *quested; or*

24 *“(ii) failure to respond to a written re-*
25 *quest.*

1 “(b) *FINES.*—

2 “(1) *IN GENERAL.*—Subject to paragraph (2), an
3 individual described in subsection (a) shall be fined
4 not more than \$500.

5 “(2) *WILLFUL ACTIONS.*—If an individual will-
6 fully gives a false answer to a question described in
7 subsection (a)(1), the individual shall be fined not
8 more than \$10,000.”.

9 (b) *RULES OF CONSTRUCTION.*—If the provisions of
10 section 111 of title 49, United States Code, are transferred
11 to chapter 63 of that title, the following rules of construction
12 apply:

13 (1) For purposes of determining whether 1 provi-
14 sion of law supersedes another based on enactment
15 later in time, a chapter 63 provision is deemed to
16 have been enacted on the date of enactment of the cor-
17 responding section 111 provision.

18 (2) A reference to a section 111 provision, in-
19 cluding a reference in a regulation, order, or other
20 law, is deemed to refer to the corresponding chapter
21 63 provision.

22 (3) A regulation, order, or other administrative
23 action in effect under a section 111 provision con-
24 tinues in effect under the corresponding chapter 63
25 provision.

1 (4) *An action taken or an offense committed*
2 *under a section 111 provision is deemed to have been*
3 *taken or committed under the corresponding chapter*
4 *63 provision.*

5 (c) *CONFORMING AMENDMENTS.*—

6 (1) *REPEAL.*—*Section 111 of title 49, United*
7 *States Code, is repealed, and the item relating to sec-*
8 *tion 111 in the analysis for chapter 1 of that title is*
9 *deleted.*

10 (2) *ANALYSIS FOR SUBTITLE III.*—*The analysis*
11 *for subtitle III of title 49, United States Code, is*
12 *amended by inserting after the items for chapter 61*
13 *the following:*

 “*Chapter 63. Bureau of Transportation Statistics.*”.

14 **SEC. 52012. ADMINISTRATIVE AUTHORITY.**

15 *Section 112 of title 49, United States Code, is amended*
16 *by adding at the end the following:*

17 “(f) *PROMOTIONAL AUTHORITY.*—*Amounts authorized*
18 *to be appropriated for the administration and operation*
19 *of the Research and Innovative Technology Administration*
20 *may be used to purchase promotional items of nominal*
21 *value for use by the Administrator of the Research and In-*
22 *novative Technology Administration in the recruitment of*
23 *individuals and promotion of the programs of the Adminis-*
24 *tration.*

1 “(g) *PROGRAM EVALUATION AND OVERSIGHT.*—For
2 each of fiscal years 2012 and 2013, the Administrator is
3 authorized to expend not more than 1 ½ percent of the
4 amounts authorized to be appropriated for necessary ex-
5 penses for administration and operations of the Research
6 and Innovative Technology Administration for the coordi-
7 nation, evaluation, and oversight of the programs adminis-
8 tered by the Administration.

9 “(h) *COLLABORATIVE RESEARCH AND DEVELOP-*
10 *MENT.*—

11 “(1) *IN GENERAL.*—To encourage innovative so-
12 lutions to multimodal transportation problems and
13 stimulate the deployment of new technology, the Ad-
14 ministrator may carry out, on a cost-shared basis,
15 collaborative research and development with—

16 “(A) *non-Federal entities, including State*
17 *and local governments, foreign governments, in-*
18 *stitutions of higher education, corporations, in-*
19 *stitutions, partnerships, sole proprietorships, and*
20 *trade associations that are incorporated or estab-*
21 *lished under the laws of any State;*

22 “(B) *Federal laboratories; and*

23 “(C) *other Federal agencies.*

24 “(2) *COOPERATION, GRANTS, CONTRACTS, AND*
25 *AGREEMENTS.*—Notwithstanding any other provision

1 *of law, the Administrator may directly initiate con-*
2 *tracts, grants, cooperative research and development*
3 *agreements (as defined in section 12 of the Stevenson-*
4 *Wydler Technology Innovation Act of 1980 (15 U.S.C.*
5 *3710a)), and other agreements to fund, and accept*
6 *funds from, the Transportation Research Board of the*
7 *National Research Council of the National Academy*
8 *of Sciences, State departments of transportation, cit-*
9 *ies, counties, institutions of higher education, associa-*
10 *tions, and the agents of those entities to carry out*
11 *joint transportation research and technology efforts.*

12 “(3) *FEDERAL SHARE.*—

13 “(A) *IN GENERAL.*—Subject to subpara-
14 *graph (B), the Federal share of the cost of an ac-*
15 *tivity carried out under paragraph (2) shall not*
16 *exceed 50 percent.*

17 “(B) *EXCEPTION.*—If the Secretary deter-
18 *mines that the activity is of substantial public*
19 *interest or benefit, the Secretary may approve a*
20 *greater Federal share.*

21 “(C) *NON-FEDERAL SHARE.*—All costs di-
22 *rectly incurred by the non-Federal partners, in-*
23 *cluding personnel, travel, facility, and hardware*
24 *development costs, shall be credited toward the*

1 *non-Federal share of the cost of an activity de-*
2 *scribed in subparagraph (A).*

3 “(4) *USE OF TECHNOLOGY.*—*The research, devel-*
4 *opment, or use of a technology under a contract,*
5 *grant, cooperative research and development agree-*
6 *ment, or other agreement entered into under this sub-*
7 *section, including the terms under which the tech-*
8 *nology may be licensed and the resulting royalties*
9 *may be distributed, shall be subject to the Stevenson-*
10 *Wydler Technology Innovation Act of 1980 (15 U.S.C.*
11 *3701 et seq.).*

12 “(5) *WAIVER OF ADVERTISING REQUIRE-*
13 *MENTS.*—*Section 6101 of title 41, United States Code*
14 *shall not apply to a contract, grant, or other agree-*
15 *ment entered into under this section.”.*

16 **SEC. 52013. TRANSPORTATION RESEARCH AND DEVELOP-**
17 **MENT STRATEGIC PLANNING.**

18 *Section 508(a) of title 23, United States Code, is*
19 *amended—*

20 (1) *in paragraph (1), by striking “SAFETEA-*
21 *LU” and inserting “Transportation Research and In-*
22 *novative Technology Act of 2012”; and*

23 (2) *in paragraph (2), by striking subparagraph*
24 *(A) and inserting the following:*

1 “(A) describe the primary purposes of the
2 transportation research and development pro-
3 gram, which shall include, at a minimum—

4 “(i) promoting safety;

5 “(ii) reducing congestion and improv-
6 ing mobility;

7 “(iii) protecting and enhancing the en-
8 vironment;

9 “(iv) preserving the existing transpor-
10 tation system;

11 “(v) improving the durability and ex-
12 tending the life of transportation infrastruc-
13 ture; and

14 “(vi) improving goods movement;”.

15 **TITLE III—INTELLIGENT TRANS-**
16 **PORTATION SYSTEMS RE-**
17 **SEARCH**

18 **SEC. 53001. USE OF FUNDS FOR ITS ACTIVITIES.**

19 Section 513 of title 23, United States Code, is amended
20 to read as follows:

21 **“§ 513. Use of funds for ITS activities**

22 “(a) **DEFINITIONS.**—In this section, the following defi-
23 nitions apply:

24 “(1) **ELIGIBLE ENTITY.**—The term ‘eligible enti-
25 ty’ means a State or local government, tribal govern-

1 *ment, transit agency, public toll authority, metropoli-*
2 *tan planning organization, other political subdivision*
3 *of a State or local government, or a multistate or*
4 *multijurisdictional group applying through a single*
5 *lead applicant.*

6 “(2) *MULTIJURISDICTIONAL GROUP.*—*The term*
7 *‘multijurisdictional group’ means a combination of*
8 *State governments, local governments, metropolitan*
9 *planning agencies, transit agencies, or other political*
10 *subdivisions of a State that—*

11 “(A) *have signed a written agreement to*
12 *implement an activity that meets the grant cri-*
13 *teria under this section; and*

14 “(B) *is comprised of at least 2 members,*
15 *each of whom is an eligible entity.*

16 “(b) *PURPOSE.*—*The purpose of this section is to de-*
17 *velop, administer, communicate, and promote the use of*
18 *products of research, technology, and technology transfer*
19 *programs.*

20 “(c) *ITS DEPLOYMENT INCENTIVES.*—

21 “(1) *IN GENERAL.*—*The Secretary may—*

22 “(A) *develop and implement incentives to*
23 *accelerate the deployment of ITS technologies*
24 *and services within all funding programs au-*

1 *thorized by the Transportation Research and In-*
2 *novative Technology Act of 2012; and*

3 *“(B) for each fiscal year, use amounts made*
4 *available to the Secretary to carry out intelligent*
5 *transportation systems outreach, including*
6 *through the use of websites, public relations, dis-*
7 *plays, tours, and brochures.*

8 *“(2) COMPREHENSIVE PLAN.—To carry out this*
9 *section, the Secretary shall develop a detailed and*
10 *comprehensive plan that addresses the manner in*
11 *which incentives may be adopted, as appropriate,*
12 *through the existing deployment activities carried out*
13 *by surface transportation modal administrations.*

14 *“(d) SYSTEM OPERATIONS AND ITS DEPLOYMENT*
15 *GRANT PROGRAM.—*

16 *“(1) ESTABLISHMENT.—The Secretary shall es-*
17 *tablish a competitive grant program to accelerate the*
18 *deployment, operation, systems management, inter-*
19 *modal integration, and interoperability of the ITS*
20 *program and ITS-enabled operational strategies—*

21 *“(A) to measure and improve the perform-*
22 *ance of the surface transportation system;*

23 *“(B) to reduce traffic congestion and the*
24 *economic and environmental impacts of traffic*
25 *congestion;*

1 “(C) to minimize fatalities and injuries;

2 “(D) to enhance mobility of people and
3 goods;

4 “(E) to improve traveler information and
5 services; and

6 “(F) to optimize existing roadway capacity.

7 “(2) APPLICATION.—To be considered for a grant
8 under this subsection, an eligible entity shall submit
9 an application to the Secretary that includes—

10 “(A) a plan to deploy and provide for the
11 long-term operation and maintenance of intel-
12 ligent transportation systems to improve safety,
13 efficiency, system performance, and return on in-
14 vestment, such as—

15 “(i) real-time integrated traffic, tran-
16 sit, and multimodal transportation infor-
17 mation;

18 “(ii) advanced traffic, freight, parking,
19 and incident management systems;

20 “(iii) advanced technologies to improve
21 transit and commercial vehicle operations;

22 “(iv) synchronized, adaptive, and tran-
23 sit preferential traffic signals;

24 “(v) advanced infrastructure condition
25 assessment technologies; and

1 “(vi) other technologies to improve sys-
2 tem operations, including ITS applications
3 necessary for multimodal systems integra-
4 tion and for achieving performance goals;

5 “(B) quantifiable system performance im-
6 provements, including—

7 “(i) reductions in traffic-related crash-
8 es, congestion, and costs;

9 “(ii) optimization of system efficiency;
10 and

11 “(iii) improvement of access to trans-
12 portation services;

13 “(C) quantifiable safety, mobility, and envi-
14 ronmental benefit projections, including data
15 driven estimates of the manner in which the
16 project will improve the transportation system
17 efficiency and reduce traffic congestion in the re-
18 gion;

19 “(D) a plan for partnering with the private
20 sector, including telecommunications industries
21 and public service utilities, public agencies (in-
22 cluding multimodal and multijurisdictional enti-
23 ties), research institutions, organizations rep-
24 resenting transportation and technology leaders,
25 and other transportation stakeholders;

1 “(E) a plan to leverage and optimize exist-
2 ing local and regional ITS investments; and

3 “(F) a plan to ensure interoperability of de-
4 ployed technologies with other tolling, traffic
5 management, and intelligent transportation sys-
6 tems.

7 “(3) SELECTION.—

8 “(A) IN GENERAL.—Not later than 1 year
9 after the date of enactment of the Transportation
10 Research and Innovative Technology Act of 2012,
11 the Secretary may provide grants to eligible enti-
12 ties under this section.

13 “(B) GEOGRAPHIC DIVERSITY.—In award-
14 ing a grant under this section, the Secretary
15 shall ensure, to the maximum extent practicable,
16 that grant recipients represent diverse geo-
17 graphical areas of the United States, including
18 urban, suburban, and rural areas.

19 “(C) NON-FEDERAL SHARE.—In awarding
20 a grant under the section, the Secretary shall
21 give priority to grant recipients that dem-
22 onstrate an ability to contribute a significant
23 non-Federal share to the cost of carrying out the
24 project for which the grant is received.

1 “(4) *ELIGIBLE USES.*—*Projects for which grants*
2 *awarded under this section may be used include—*

3 “(A) *the establishment and implementation*
4 *of ITS and ITS-enabled operations strategies*
5 *that improve performance in the areas of—*

6 “(i) *traffic operations;*

7 “(ii) *emergency response to surface*
8 *transportation incidents;*

9 “(iii) *incident management;*

10 “(iv) *transit and commercial vehicle*
11 *operations improvements;*

12 “(v) *weather event response manage-*
13 *ment by State and local authorities;*

14 “(vi) *surface transportation network*
15 *and facility management;*

16 “(vii) *construction and work zone*
17 *management;*

18 “(viii) *traffic flow information;*

19 “(ix) *freight management; and*

20 “(x) *congestion management;*

21 “(B) *carrying out activities that support*
22 *the creation of networks that link metropolitan*
23 *and rural surface transportation systems into an*
24 *integrated data network, capable of collecting,*

1 *sharing, and archiving transportation system*
2 *traffic condition and performance information;*

3 “(C) *the implementation of intelligent*
4 *transportation systems and technologies that im-*
5 *prove highway safety through information and*
6 *communications systems linking vehicles, infra-*
7 *structure, mobile devices, transportation users,*
8 *and emergency responders;*

9 “(D) *the provision of services necessary to*
10 *ensure the efficient operation and management of*
11 *ITS infrastructure, including costs associated*
12 *with communications, utilities, rent, hardware,*
13 *software, labor, administrative costs, training,*
14 *and technical services;*

15 “(E) *the provision of support for the estab-*
16 *lishment and maintenance of institutional rela-*
17 *tionships between transportation agencies, police,*
18 *emergency medical services, private emergency*
19 *operators, freight operators, shippers, public*
20 *service utilities, and telecommunications pro-*
21 *viders;*

22 “(F) *carrying out multimodal and*
23 *crossjurisdictional planning and deployment of*
24 *regional transportation systems operations and*
25 *management approaches; and*

1 “(G) performing project evaluations to de-
2 termine the costs, benefits, lessons learned, and
3 future deployment strategies associated with the
4 deployment of intelligent transportation systems.

5 “(5) *REPORT TO SECRETARY.*—For each fiscal
6 year that an eligible entity receives a grant under
7 this section, not later than 1 year after receiving that
8 grant, each recipient shall submit a report to the Sec-
9 retary that describes how the project has met the ex-
10 pectations projected in the deployment plan submitted
11 with the application, including—

12 “(A) data on how the program has helped
13 reduce traffic crashes, congestion, costs, and other
14 benefits of the deployed systems;

15 “(B) data on the effect of measuring and
16 improving transportation system performance
17 through the deployment of advanced technologies;

18 “(C) the effectiveness of providing real-time
19 integrated traffic, transit, and multimodal trans-
20 portation information to the public that allows
21 the public to make informed travel decisions; and

22 “(D) lessons learned and recommendations
23 for future deployment strategies to optimize
24 transportation efficiency and multimodal system
25 performance.

1 “(6) *REPORT TO CONGRESS.*—Not later than 2
2 *years after date on which the first grant is awarded*
3 *under this section and annually thereafter for each*
4 *fiscal year for which grants are awarded under this*
5 *section, the Secretary shall submit to Congress a re-*
6 *port that describes the effectiveness of the grant recipi-*
7 *ents in meeting the projected deployment plan goals,*
8 *including data on how the grant program has—*

9 “(A) *reduced traffic-related fatalities and*
10 *injuries;*

11 “(B) *reduced traffic congestion and im-*
12 *proved travel time reliability;*

13 “(C) *reduced transportation-related emis-*
14 *sions;*

15 “(D) *optimized multimodal system perform-*
16 *ance;*

17 “(E) *improved access to transportation al-*
18 *ternatives;*

19 “(F) *provided the public with access to real-*
20 *time integrated traffic, transit, and multimodal*
21 *transportation information to make informed*
22 *travel decisions;*

23 “(G) *provided cost savings to transportation*
24 *agencies, businesses, and the traveling public;*
25 *and*

1 “(H) provided other benefits to transpor-
2 tation users and the general public.

3 “(7) *ADDITIONAL GRANTS.*—If the Secretary de-
4 termines, based on a report submitted under para-
5 graph (5), that a grant recipient is not complying
6 with the established grant criteria, the Secretary
7 may—

8 “(A) cease payment to the recipient of any
9 remaining grant amounts; and

10 “(B) redistribute any remaining amounts to
11 other eligible entities under this section.

12 “(8) *NON-FEDERAL SHARE.*—The Federal share
13 of a grant under this section shall not exceed 50 per-
14 cent of the cost of the project.

15 “(9) *GRANT LIMITATION.*—The Secretary may
16 not award more than 10 percent of the amounts pro-
17 vided under this section to a single grant recipient in
18 any fiscal year.

19 “(10) *MULTIYEAR GRANTS.*—Subject to avail-
20 ability of amounts, the Secretary may provide an eli-
21 gible entity with grant amounts for a period of mul-
22 tiple fiscal years.

23 “(11) *FUNDING.*—Of the funds authorized to be
24 appropriated to carry out the intelligent transpor-
25 tation system program under sections 512 through

1 518, not less than 50 percent of such funds shall be
2 used to carry out this subsection.”.

3 **SEC. 53002. GOALS AND PURPOSES.**

4 (a) *IN GENERAL.*—Chapter 5 of title 23, United States
5 Code, is amended by adding after section 513 the following:

6 **“§ 514. 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, in-*
13 *cluding public access to employment, goods, and serv-*
14 *ices and to reduce regulatory, financial, and other*
15 *transaction costs to public agencies and system users;*

16 “(2) *achievement of national transportation safe-*
17 *ty goals, including enhancement of safe operation of*
18 *motor vehicles and nonmotorized vehicles and im-*
19 *proved emergency response to collisions, with par-*
20 *ticular emphasis on decreasing the number and sever-*
21 *ity of collisions;*

22 “(3) *protection and enhancement of the natural*
23 *environment and communities affected by surface*
24 *transportation, with particular emphasis on assisting*

1 *State and local governments to achieve national envi-*
2 *ronmental goals;*

3 “(4) *accommodation of the needs of all users of*
4 *surface transportation systems, including operators of*
5 *commercial motor vehicles, passenger motor vehicles,*
6 *motorcycles, bicycles, and pedestrians (including indi-*
7 *viduals with disabilities); and*

8 “(5) *enhancement of national defense mobility*
9 *and improvement of the ability of the United States*
10 *to respond to security-related or other manmade*
11 *emergencies and natural disasters.*

12 “(b) *PURPOSES.—The Secretary shall implement ac-*
13 *tivities under the intelligent transportation system pro-*
14 *gram, at a minimum—*

15 “(1) *to expedite, in both metropolitan and rural*
16 *areas, deployment and integration of intelligent*
17 *transportation systems for consumers of passenger*
18 *and freight transportation;*

19 “(2) *to ensure that Federal, State, and local*
20 *transportation officials have adequate knowledge of*
21 *intelligent transportation systems for consideration in*
22 *the transportation planning process;*

23 “(3) *to improve regional cooperation and oper-*
24 *ations planning for effective intelligent transportation*
25 *system deployment;*

1 “(4) to promote the innovative use of private re-
2 sources in support of intelligent transportation system
3 development;

4 “(5) to facilitate, in cooperation with the motor
5 vehicle industry, the introduction of vehicle-based
6 safety enhancing systems;

7 “(6) to support the application of intelligent
8 transportation systems that increase the safety and ef-
9 ficiency of commercial motor vehicle operations;

10 “(7) to develop a workforce capable of developing,
11 operating, and maintaining intelligent transportation
12 systems;

13 “(8) to provide continuing support for oper-
14 ations and maintenance of intelligent transportation
15 systems; and

16 “(9) to ensure a systems approach that includes
17 cooperation among vehicles, infrastructure, and
18 users.”.

19 (b) *CONFORMING AMENDMENT.*—*The analysis for*
20 *chapter 5 of title 23, United States Code, is amended by*
21 *adding after the item relating to section 513 the following:*

“514. Goals and purposes.”.

22 **SEC. 53003. GENERAL AUTHORITIES AND REQUIREMENTS.**

23 (a) *IN GENERAL.*—*Chapter 5 of title 23, United States*
24 *Code, is amended by adding after section 514 (as added*
25 *by section 53002) the following:*

1 **“§ 515. General authorities and requirements**

2 “(a) *SCOPE.*—Subject to the provisions of this chapter,
3 the Secretary shall conduct an ongoing intelligent transpor-
4 tation system program—

5 “(1) to research, develop, and operationally test
6 intelligent transportation systems; and

7 “(2) to provide technical assistance in the na-
8 tionwide application of those systems as a component
9 of the surface transportation systems of the United
10 States.

11 “(b) *POLICY.*—Intelligent transportation system re-
12 search projects and operational tests funded pursuant to
13 this chapter shall encourage and not displace public-private
14 partnerships or private sector investment in those tests and
15 projects.

16 “(c) *COOPERATION WITH GOVERNMENTAL, PRIVATE,*
17 *AND EDUCATIONAL ENTITIES.*—The Secretary shall carry
18 out the intelligent transportation system program in co-
19 operation with State and local governments and other pub-
20 lic entities, the private sector firms of the United States,
21 the Federal laboratories, and institutions of higher edu-
22 cation, including historically Black colleges and univer-
23 sities and other minority institutions of higher education.

24 “(d) *CONSULTATION WITH FEDERAL OFFICIALS.*—In
25 carrying out the intelligent transportation system program,

1 *the Secretary shall consult with the heads of other Federal*
2 *agencies, as appropriate.*

3 “(e) *TECHNICAL ASSISTANCE, TRAINING, AND INFOR-*
4 *MATION.—The Secretary may provide technical assistance,*
5 *training, and information to State and local governments*
6 *seeking to implement, operate, maintain, or evaluate intel-*
7 *ligent transportation system technologies and services.*

8 “(f) *TRANSPORTATION PLANNING.—The Secretary*
9 *may provide funding to support adequate consideration of*
10 *transportation systems management and operations, in-*
11 *cluding intelligent transportation systems, within metro-*
12 *politan and statewide transportation planning processes.*

13 “(g) *INFORMATION CLEARINGHOUSE.—*

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

15 “(A) *maintain a repository for technical*
16 *and safety data collected as a result of federally*
17 *sponsored projects carried out under this chap-*
18 *ter; and*

19 “(B) *make, on request, that information*
20 *(except for proprietary information and data)*
21 *readily available to all users of the repository at*
22 *an appropriate cost.*

23 “(2) *AGREEMENT.—*

24 “(A) *IN GENERAL.—The Secretary may*
25 *enter into an agreement with a third party for*

1 *the maintenance of the repository for technical*
2 *and safety data under paragraph (1)(A).*

3 “(B) *FEDERAL FINANCIAL ASSISTANCE.—If*
4 *the Secretary enters into an agreement with an*
5 *entity for the maintenance of the repository, the*
6 *entity shall be eligible for Federal financial as-*
7 *istance under this section.*

8 “(3) *AVAILABILITY OF INFORMATION.—Informa-*
9 *tion in the repository shall not be subject to sections*
10 *552 and 555 of title 5, United States Code.*

11 “(h) *ADVISORY COMMITTEE.—*

12 “(1) *IN GENERAL.—The Secretary shall establish*
13 *an Advisory Committee to advise the Secretary on*
14 *carrying out this chapter.*

15 “(2) *MEMBERSHIP.—The Advisory Committee*
16 *shall have no more than 20 members, be balanced be-*
17 *tween metropolitan and rural interests, and include,*
18 *at a minimum—*

19 “(A) *a representative from a State highway*
20 *department;*

21 “(B) *a representative from a local highway*
22 *department who is not from a metropolitan*
23 *planning organization;*

24 “(C) *a representative from a State, local, or*
25 *regional transit agency;*

1 “(D) a representative from a metropolitan
2 planning organization;

3 “(E) a private sector user of intelligent
4 transportation system technologies;

5 “(F) an academic researcher with expertise
6 in computer science or another information
7 science field related to intelligent transportation
8 systems, and who is not an expert on transpor-
9 tation issues;

10 “(G) an academic researcher who is a civil
11 engineer;

12 “(H) an academic researcher who is a so-
13 cial scientist with expertise in transportation
14 issues;

15 “(I) a representative from a nonprofit
16 group representing the intelligent transportation
17 system industry;

18 “(J) a representative from a public interest
19 group concerned with safety;

20 “(K) a representative from a public interest
21 group concerned with the impact of the transpor-
22 tation system on land use and residential pat-
23 terns; and

1 “(L) members with expertise in planning,
2 safety, telecommunications, utilities, and oper-
3 ations.

4 “(3) DUTIES.—The Advisory Committee shall, at
5 a minimum, perform the following duties:

6 “(A) Provide input into the development of
7 the intelligent transportation system aspects of
8 the strategic plan under section 508.

9 “(B) Review, at least annually, areas of in-
10 telligent transportation systems research being
11 considered for funding by the Department, to de-
12 termine—

13 “(i) whether these activities are likely
14 to advance either the state-of-the-practice or
15 state-of-the-art in intelligent transportation
16 systems;

17 “(ii) whether the intelligent transpor-
18 tation system technologies are likely to be
19 deployed by users, and if not, to determine
20 the barriers to deployment; and

21 “(iii) the appropriate roles for govern-
22 ment and the private sector in investing in
23 the research and technologies being consid-
24 ered.

1 “(4) *REPORT.*—Not later than February 1 of
2 each year after the date of enactment of the *Transportation Research and Innovative Technology Act of*
3 *2012, the Secretary shall submit to Congress a report*
4 *that includes—*

6 “(A) *all recommendations made by the Ad-*
7 *visory Committee during the preceding calendar*
8 *year;*

9 “(B) *an explanation of the manner in*
10 *which the Secretary has implemented those rec-*
11 *ommendations; and*

12 “(C) *for recommendations not implemented,*
13 *the reasons for rejecting the recommendations.*

14 “(5) *APPLICABILITY OF FEDERAL ADVISORY COM-*
15 *MITTEE ACT.*—*The Advisory Committee shall be sub-*
16 *ject to the Federal Advisory Committee Act (5 U.S.C.*
17 *App.).*

18 “(i) *REPORTING.*—

19 “(1) *GUIDELINES AND REQUIREMENTS.*—

20 “(A) *IN GENERAL.*—*The Secretary shall*
21 *issue guidelines and requirements for the report-*
22 *ing and evaluation of operational tests and de-*
23 *ployment projects carried out under this chapter.*

24 “(B) *OBJECTIVITY AND INDEPENDENCE.*—
25 *The guidelines and requirements issued under*

1 *subparagraph (A) shall include provisions to en-*
2 *sure the objectivity and independence of the re-*
3 *porting entity so as to avoid any real or appar-*
4 *ent conflict of interest or potential influence on*
5 *the outcome by parties to any such test or de-*
6 *ployment project or by any other formal evalua-*
7 *tion carried out under this chapter.*

8 “(C) *FUNDING.*—*The guidelines and re-*
9 *quirements issued under subparagraph (A) shall*
10 *establish reporting funding levels based on the*
11 *size and scope of each test or project that ensure*
12 *adequate reporting of the results of the test or*
13 *project.*

14 “(2) *SPECIAL RULE.*—*Any survey, questionnaire,*
15 *or interview that the Secretary considers necessary to*
16 *carry out the reporting of any test, deployment*
17 *project, or program assessment activity under this*
18 *chapter shall not be subject to chapter 35 of title 44,*
19 *United States Code.”.*

20 “(b) *CONFORMING AMENDMENT.*—*The analysis for*
21 *chapter 5 of title 23, United States Code, is amended by*
22 *adding after the item relating to section 514 (as added by*
23 *section 53002) the following:*

 “515. *General authorities and requirements.*”.

1 **SEC. 53004. RESEARCH AND DEVELOPMENT.**

2 (a) *IN GENERAL.*—Chapter 5 of title 23, United States
3 Code, is amended by adding after section 515 (as added
4 by section 53003) the following:

5 **“§ 516. Research and development**

6 “(a) *IN GENERAL.*—The Secretary shall carry out a
7 comprehensive program of intelligent transportation system
8 research and development, and operational tests of intel-
9 ligent vehicles, intelligent infrastructure systems, and other
10 similar activities that are necessary to carry out this chap-
11 ter.

12 “(b) *PRIORITY AREAS.*—Under the program, the Sec-
13 retary shall give higher priority to funding projects that—

14 “(1) enhance mobility and productivity through
15 improved traffic management, incident management,
16 transit management, freight management, road
17 weather management, toll collection, traveler informa-
18 tion, or highway operations systems and remote sens-
19 ing products;

20 “(2) use interdisciplinary approaches to develop
21 traffic management strategies and tools to address
22 multiple impacts of congestion concurrently;

23 “(3) address traffic management, incident man-
24 agement, transit management, toll collection traveler
25 information, or highway operations systems;

1 “(4) incorporate research on the impact of envi-
2 ronmental, weather, and natural conditions on intel-
3 ligent transportation systems, including the effects of
4 cold climates;

5 “(5) enhance intermodal use of intelligent trans-
6 portation systems for diverse groups, including for
7 emergency and health-related services;

8 “(6) enhance safety through improved crash
9 avoidance and protection, crash and other notifica-
10 tion, commercial motor vehicle operations, and infra-
11 structure-based or cooperative safety systems; or

12 “(7) facilitate the integration of intelligent infra-
13 structure, vehicle, and control technologies.

14 “(c) *FEDERAL SHARE*.—*The Federal share payable on*
15 *account of any project or activity carried out under sub-*
16 *section (a) shall not exceed 80 percent.”.*

17 (b) *CONFORMING AMENDMENT*.—*The analysis for*
18 *chapter 5 of title 23, United States Code, is amended by*
19 *adding after the item relating to section 515 (as added by*
20 *section 53004) the following:*

 “516. *Research and development.*”.

21 **SEC. 53005. NATIONAL ARCHITECTURE AND STANDARDS.**

22 (a) *IN GENERAL*.—*Chapter 5 of title 23, United States*
23 *Code, is amended by adding after section 516 (as added*
24 *by section 53004) the following:*

1 **“§517. National architecture and standards**

2 “(a) *IN GENERAL.*—

3 “(1) *DEVELOPMENT, IMPLEMENTATION, AND*
4 *MAINTENANCE.*—*In accordance with section 12(d) of*
5 *the National Technology Transfer and Advancement*
6 *Act of 1995 (15 U.S.C. 272 note; 110 Stat. 783; 115*
7 *Stat. 1241), the Secretary shall develop and maintain*
8 *a national ITS architecture and supporting ITS*
9 *standards and protocols to promote the use of systems*
10 *engineering methods in the widespread deployment*
11 *and evaluation of intelligent transportation systems*
12 *as a component of the surface transportation systems*
13 *of the United States.*

14 “(2) *INTEROPERABILITY AND EFFICIENCY.*—*To*
15 *the maximum extent practicable, the national ITS ar-*
16 *chitecture and supporting ITS standards and proto-*
17 *cols shall promote interoperability among, and effi-*
18 *ciency of, intelligent transportation systems and tech-*
19 *nologies implemented throughout the United States.*

20 “(3) *USE OF STANDARDS DEVELOPMENT ORGANI-*
21 *ZATIONS.*—*In carrying out this section, the Secretary*
22 *shall support the development and maintenance of*
23 *standards and protocols using the services of such*
24 *standards development organizations as the Secretary*
25 *determines to be necessary and whose memberships*
26 *are comprised of, and represent, the surface transpor-*

1 *tation and intelligent transportation systems indus-*
2 *tries.*

3 “(b) *STANDARDS FOR NATIONAL POLICY IMPLEMENTA-*
4 *TION.—If the Secretary finds that a standard is necessary*
5 *for implementation of a nationwide policy relating to user*
6 *fee collection or other capability requiring nationwide uni-*
7 *formity, the Secretary, after consultation with stakeholders,*
8 *may establish and require the use of that standard.*

9 “(c) *PROVISIONAL STANDARDS.—*

10 “(1) *IN GENERAL.—If the Secretary finds that*
11 *the development or balloting of an intelligent trans-*
12 *portation system standard jeopardizes the timely*
13 *achievement of the objectives described in subsection*
14 *(a), the Secretary may establish a provisional stand-*
15 *ard, after consultation with affected parties, using, to*
16 *the maximum extent practicable, the work product of*
17 *appropriate standards development organizations.*

18 “(2) *PERIOD OF EFFECTIVENESS.—A provisional*
19 *standard established under paragraph (1) shall be*
20 *published in the Federal Register and remain in effect*
21 *until the appropriate standards development organi-*
22 *zation adopts and publishes a standard.*

23 “(d) *CONFORMITY WITH NATIONAL ARCHITECTURE.—*

24 “(1) *IN GENERAL.—Except as provided in para-*
25 *graph (2), the Secretary shall ensure that intelligent*

1 *transportation system projects carried out using*
2 *amounts made available from the Highway Trust*
3 *Fund, including amounts made available to deploy*
4 *intelligent transportation systems, conform to the ap-*
5 *propriate regional ITS architecture, applicable stand-*
6 *ards, and protocols developed under subsection (a) or*
7 *(c).*

8 “(2) *DISCRETION OF THE SECRETARY.*—*The Sec-*
9 *retary, at the discretion of the Secretary, may offer*
10 *an exemption from paragraph (1) for projects de-*
11 *signed to achieve specific research objectives outlined*
12 *in the national intelligent transportation system pro-*
13 *gram plan or the surface transportation research and*
14 *development strategic plan developed under section*
15 *508.”.*

16 (b) *CONFORMING AMENDMENT.*—*The analysis for*
17 *chapter 5 of title 23, United States Code, is amended by*
18 *adding after the item relating to section 516 (as added by*
19 *section 53004) the following:*

“517. National architecture and standards.”.

20 **SEC. 53006. VEHICLE-TO-VEHICLE AND VEHICLE-TO-INFRA-**
21 **STRUCTURE COMMUNICATIONS SYSTEMS DE-**
22 **PLOYMENT.**

23 (a) *IN GENERAL.*—*Chapter 5 of title 23, United States*
24 *Code, is amended by adding after section 517 (as added*
25 *by section 53005) the following:*

1 **“§518. Vehicle-to-vehicle and vehicle-to-infrastructure**
2 **communications systems deployment**

3 “(a) *IN GENERAL.*—Not later than 3 years after the
4 date of enactment of this section, the Secretary shall submit
5 a report to the Committee on Commerce, Science, and
6 Transportation of the Senate, the Committee on Environ-
7 ment and Public Works of the Senate, the Committee on
8 Transportation and Infrastructure of the House of Rep-
9 resentatives, and the Committee on Energy and Commerce
10 of the House of Representatives that—

11 “(1) defines a recommended implementation
12 path for dedicated short-range communications tech-
13 nology and applications;

14 “(2) includes guidance on the relationship of the
15 proposed deployment of dedicated short-range commu-
16 nications to the National ITS Architecture and ITS
17 Standards; and

18 “(3) ensures competition by not preferencing the
19 use of any particular frequency for vehicle to infra-
20 structure operations.

21 “(b) *REPORT REVIEW.*—The Secretary shall enter into
22 agreements with the National Research Council and an
23 independent third party with subject matter expertise for
24 the review of the report described in subsection (a).”.

25 (b) *CONFORMING AMENDMENT.*—The analysis for
26 chapter 5 of title 23, United States Code, is amended by

1 *adding after section 517 (as added by section 53005) the*
 2 *following:*

“518. Vehicle-to-vehicle and vehicle-to-infrastructure communications systems deployment.”.

3 ***DIVISION F—MISCELLANEOUS***
 4 ***TITLE I—REAUTHORIZATION OF***
 5 ***CERTAIN PROGRAMS***
 6 ***Subtitle A—Secure Rural Schools***
 7 ***and Community Self-determina-***
 8 ***tion Program***

9 ***SEC. 100101. SECURE RURAL SCHOOLS AND COMMUNITY***
 10 ***SELF-DETERMINATION PROGRAM.***

11 *(a) AMENDMENTS.—The Secure Rural Schools and*
 12 *Community Self-Determination Act of 2000 (16 U.S.C.*
 13 *7101 et seq.) is amended—*

14 *(1) in section 3(11)—*

15 *(A) in subparagraph (A), by striking “and”*
 16 *after the semicolon at the end;*

17 *(B) in subparagraph (B)—*

18 *(i) by striking “fiscal year 2009 and*
 19 *each fiscal year thereafter” and inserting*
 20 *“each of fiscal years 2009 through 2011”;*
 21 *and*

22 *(ii) by striking the period at the end*
 23 *and inserting “; and”; and*

24 *(C) by adding at the end the following:*

1 “(C) for fiscal year 2012 and each fiscal
2 year thereafter, the amount that is equal to 95
3 percent of the full funding amount for the pre-
4 ceding fiscal year.”;

5 (2) in sections 101, 102, 203, 207, 208, 304, and
6 402, by striking “2011” each place it appears and in-
7 serting “2012”;

8 (3) in section 102—

9 (A) by striking “2008” each place it ap-
10 pears and inserting “2012”;

11 (B) in subsection (b)(2)(B), by inserting
12 “in 2012” before “, the election”; and

13 (C) in subsection (d)—

14 (i) in paragraph (1)(A), by striking
15 “paragraph (3)(B)” and inserting “sub-
16 paragraph (D)”; and

17 (ii) in paragraph (3)—

18 (I) by striking subparagraph (A)
19 and inserting the following:

20 “(A) NOTIFICATION.—The Governor of each
21 eligible State shall notify the Secretary concerned
22 of an election by an eligible county under this
23 subsection not later than September 30, 2012,
24 and each September 30 thereafter for each suc-
25 ceeding fiscal year.”;

1 (II) by redesignating subpara-
2 graph (B) as subparagraph (D) and
3 moving the subparagraph so as to ap-
4 pear at the end of paragraph (1) of
5 subsection (d); and

6 (III) by inserting after subpara-
7 graph (A) the following:

8 “(B) *FAILURE TO ELECT.*—If the Governor
9 of an eligible State fails to notify the Secretary
10 concerned of the election for an eligible county by
11 the date specified in subparagraph (A)—

12 “(i) the eligible county shall be consid-
13 ered to have elected to expend 80 percent of
14 the funds in accordance with paragraph
15 (1)(A); and

16 “(ii) the remainder shall be available
17 to the Secretary concerned to carry out
18 projects in the eligible county to further the
19 purpose described in section 202(b).”;

20 (4) in section 103(d)(2), by striking “fiscal year
21 2011” and inserting “each of fiscal years 2011 and
22 2012”;

23 (5) in section 202, by adding at the end the fol-
24 lowing:

1 “(c) *ADMINISTRATIVE EXPENSES.*—A resource advi-
2 sory committee may, in accordance with section 203, pro-
3 pose to use not more than 10 percent of the project funds
4 of an eligible county for any fiscal year for administrative
5 expenses associated with operating the resource advisory
6 committee under this title.”;

7 (6) in section 204(e)(3)(B)(iii), by striking “and
8 2011” and inserting “through 2012”;

9 (7) in section 205(a)(4), by striking “2006” each
10 place it appears and inserting “2011”;

11 (8) in section 208(b), by striking “2012” and in-
12 sserting “2013”;

13 (9) in section 302(a)(2)(A), by inserting “and”
14 after the semicolon; and

15 (10) in section 304(b), by striking “2012” and
16 inserting “2013”.

17 (b) *FAILURE TO MAKE ELECTION.*—For each county
18 that failed to make an election for fiscal year 2011 in ac-
19 cordance with section 102(d)(3)(A) of the Secure Rural
20 Schools and Community Self-Determination Act of 2000
21 (16 U.S.C. 7112(d)(3)(A)), there shall be available to the
22 Secretary of Agriculture to carry out projects to further the
23 purpose described in section 202(b) of that Act (16 U.S.C.
24 7122(b)), from amounts in the Treasury not otherwise ap-
25 propriated, the amount that is equal to 15 percent of the

1 *total share of the State payment that otherwise would have*
 2 *been made to the county under that Act for fiscal year 2011.*

3 ***Subtitle B—Payment in Lieu of***
 4 ***Taxes Program***

5 **SEC. 100111. PAYMENTS IN LIEU OF TAXES.**

6 *Section 6906 of title 31, United States Code, is amend-*
 7 *ed by striking “2012” and inserting “2013”.*

8 ***Subtitle C—Offsets***

9 **SEC. 100112. TAX REPORTING FOR LIFE SETTLEMENT**
 10 **TRANSACTIONS.**

11 *(a) IN GENERAL.—Subpart B of part III of subchapter*
 12 *A of chapter 61 of the Internal Revenue Code of 1986 is*
 13 *amended by adding at the end the following new section:*

14 **“SEC. 6050X. RETURNS RELATING TO CERTAIN LIFE INSUR-**
 15 **ANCE CONTRACT TRANSACTIONS.**

16 **“(a) REQUIREMENT OF REPORTING OF CERTAIN PAY-**
 17 **MENTS.—**

18 **“(1) IN GENERAL.—Every person who acquires a**
 19 *life insurance contract or any interest in a life insur-*
 20 *ance contract in a reportable policy sale during any*
 21 *taxable year shall make a return for such taxable year*
 22 *(at such time and in such manner as the Secretary*
 23 *shall prescribe) setting forth—*

24 **“(A) the name, address, and TIN of such**
 25 **person,**

1 “(B) the name, address, and TIN of each re-
2 cipient of payment in the reportable policy sale,

3 “(C) the date of such sale,

4 “(D) the name of the issuer of the life insur-
5 ance contract sold and the policy number of such
6 contract, and

7 “(E) the amount of each payment.

8 “(2) STATEMENT TO BE FURNISHED TO PERSONS
9 WITH RESPECT TO WHOM INFORMATION IS RE-
10 QUIRED.—Every person required to make a return
11 under this subsection shall furnish to each person
12 whose name is required to be set forth in such return
13 a written statement showing—

14 “(A) the name, address, and phone number
15 of the information contact of the person required
16 to make such return, and

17 “(B) the information required to be shown
18 on such return with respect to such person, ex-
19 cept that in the case of an issuer of a life insur-
20 ance contract, such statement is not required to
21 include the information specified in paragraph
22 (1)(E).

23 “(b) REQUIREMENT OF REPORTING OF SELLER’S
24 BASIS IN LIFE INSURANCE CONTRACTS.—

1 “(1) *IN GENERAL.*—Upon receipt of the state-
2 ment required under subsection (a)(2) or upon notice
3 of a transfer of a life insurance contract to a foreign
4 person, each issuer of a life insurance contract shall
5 make a return (at such time and in such manner as
6 the Secretary shall prescribe) setting forth—

7 “(A) the name, address, and TIN of the sell-
8 er who transfers any interest in such contract in
9 such sale,

10 “(B) the investment in the contract (as de-
11 fined in section 72(e)(6)) with respect to such
12 seller, and

13 “(C) the policy number of such contract.

14 “(2) *STATEMENT TO BE FURNISHED TO PERSONS*
15 *WITH RESPECT TO WHOM INFORMATION IS RE-*
16 *QUIRED.*—Every person required to make a return
17 under this subsection shall furnish to each person
18 whose name is required to be set forth in such return
19 a written statement showing—

20 “(A) the name, address, and phone number
21 of the information contact of the person required
22 to make such return, and

23 “(B) the information required to be shown
24 on such return with respect to each seller whose
25 name is required to be set forth in such return.

1 “(c) *REQUIREMENT OF REPORTING WITH RESPECT TO*
2 *REPORTABLE DEATH BENEFITS.*—

3 “(1) *IN GENERAL.*—*Every person who makes a*
4 *payment of reportable death benefits during any tax-*
5 *able year shall make a return for such taxable year*
6 *(at such time and in such manner as the Secretary*
7 *shall prescribe) setting forth—*

8 “(A) *the name, address, and TIN of the per-*
9 *son making such payment,*

10 “(B) *the name, address, and TIN of each re-*
11 *ipient of such payment,*

12 “(C) *the date of each such payment, and*

13 “(D) *the amount of each such payment.*

14 “(2) *STATEMENT TO BE FURNISHED TO PERSONS*
15 *WITH RESPECT TO WHOM INFORMATION IS RE-*
16 *QUIRED.*—*Every person required to make a return*
17 *under this subsection shall furnish to each person*
18 *whose name is required to be set forth in such return*
19 *a written statement showing—*

20 “(A) *the name, address, and phone number*
21 *of the information contact of the person required*
22 *to make such return, and*

23 “(B) *the information required to be shown*
24 *on such return with respect to each recipient of*

1 *payment whose name is required to be set forth*
2 *in such return.*

3 “(d) *DEFINITIONS.—For purposes of this section:*

4 “(1) *PAYMENT.—The term ‘payment’ means the*
5 *amount of cash and the fair market value of any con-*
6 *sideration transferred in a reportable policy sale.*

7 “(2) *REPORTABLE POLICY SALE.—The term ‘re-*
8 *portable policy sale’ has the meaning given such term*
9 *in section 101(a)(3)(B).*

10 “(3) *ISSUER.—The term ‘issuer’ means any life*
11 *insurance company that bears the risk with respect to*
12 *a life insurance contract on the date any return or*
13 *statement is required to be made under this section.*

14 “(4) *REPORTABLE DEATH BENEFITS.—The term*
15 *‘reportable death benefits’ means amounts paid by*
16 *reason of the death of the insured under a life insur-*
17 *ance contract that has been transferred in a report-*
18 *able policy sale.’”.*

19 “(b) *CLERICAL AMENDMENT.—The table of sections for*
20 *subpart B of part III of subchapter A of chapter 61 of the*
21 *Internal Revenue Code of 1986 is amended by inserting*
22 *after the item relating to section 6050W the following new*
23 *item:*

 “*Sec. 6050X. Returns relating to certain life insurance contract transactions.*”.

24 “(c) *CONFORMING AMENDMENTS.—*

1 (1) *Subsection (d) of section 6724 of the Internal*
2 *Revenue Code of 1986 is amended—*

3 (A) *by striking “or” at the end of clause*
4 *(xxiv) of paragraph (1)(B), by striking “and” at*
5 *the end of clause (xxv) of such paragraph and*
6 *inserting “or”, and by inserting after such clause*
7 *(xxv) the following new clause:*

8 “*(xxvi) section 6050X (relating to re-*
9 *turns relating to certain life insurance con-*
10 *tract transactions), and”, and*

11 (B) *by striking “or” at the end of subpara-*
12 *graph (GG) of paragraph (2), by striking the pe-*
13 *riod at the end of subparagraph (HH) of such*
14 *paragraph and inserting “, or”, and by insert-*
15 *ing after such subparagraph (HH) the following*
16 *new subparagraph:*

17 “*(II) subsection (a)(2), (b)(2), or (c)(2) of*
18 *section 6050X (relating to returns relating to*
19 *certain life insurance contract transactions).”.*

20 (2) *Section 6047 of such Code is amended—*

21 (A) *by redesignating subsection (g) as sub-*
22 *section (h),*

23 (B) *by inserting after subsection (f) the fol-*
24 *lowing new subsection:*

1 “(g) *INFORMATION RELATING TO LIFE INSURANCE*
 2 *CONTRACT TRANSACTIONS.*—*This section shall not apply to*
 3 *any information which is required to be reported under sec-*
 4 *tion 6050X.*”, and

5 (C) *by adding at the end of subsection (h),*
 6 *as so redesignated, the following new paragraph:*

7 “(4) *For provisions requiring reporting of infor-*
 8 *mation relating to certain life insurance contract*
 9 *transactions, see section 6050X.*”.

10 (d) *EFFECTIVE DATE.*—*The amendments made by this*
 11 *section shall apply to—*

12 (1) *reportable policy sales after December 31,*
 13 *2012, and*

14 (2) *reportable death benefits paid after December*
 15 *31, 2012.*

16 **SEC. 100113. CLARIFICATION OF TAX BASIS OF LIFE INSUR-**
 17 **ANCE CONTRACTS.**

18 (a) *CLARIFICATION WITH RESPECT TO ADJUST-*
 19 *MENTS.*—*Paragraph (1) of section 1016(a) of the Internal*
 20 *Revenue Code of 1986 is amended by striking subparagraph*
 21 *(A) and all that follows and inserting the following:*

22 “(A) *for—*

23 “(i) *taxes or other carrying charges de-*
 24 *scribed in section 266; or*

1 “(ii) expenditures described in section
2 173 (relating to circulation expenditures),
3 for which deductions have been taken by the tax-
4 payer in determining taxable income for the tax-
5 able year or prior taxable years; or

6 “(B) for mortality, expense, or other reason-
7 able charges incurred under an annuity or life
8 insurance contract;”.

9 (b) *EFFECTIVE DATE.*—The amendment made by this
10 section shall apply to transactions entered into after August
11 25, 2009.

12 **SEC. 100114. EXCEPTION TO TRANSFER FOR VALUABLE**
13 **CONSIDERATION RULES.**

14 (a) *IN GENERAL.*—Subsection (a) of section 101 of the
15 Internal Revenue Code of 1986 is amended by adding at
16 the end the following new paragraph:

17 “(3) *EXCEPTION TO VALUABLE CONSIDERATION*
18 *RULES FOR COMMERCIAL TRANSFERS.*—

19 “(A) *IN GENERAL.*—The second sentence of
20 paragraph (2) shall not apply in the case of a
21 transfer of a life insurance contract, or any in-
22 terest therein, which is a reportable policy sale.

23 “(B) *REPORTABLE POLICY SALE.*—For pur-
24 poses of this paragraph, the term ‘reportable pol-
25 icy sale’ means the acquisition of an interest in

1 *a life insurance contract, directly or indirectly,*
2 *if the acquirer has no substantial family, busi-*
3 *ness, or financial relationship with the insured*
4 *apart from the acquirer's interest in such life in-*
5 *surance contract. For purposes of the preceding*
6 *sentence, the term 'indirectly' applies to the ac-*
7 *quisition of an interest in a partnership, trust,*
8 *or other entity that holds an interest in the life*
9 *insurance contract."*

10 **(b) CONFORMING AMENDMENT.**—*Paragraph (1) of sec-*
11 *tion 101(a) of the Internal Revenue Code of 1986 is amend-*
12 *ed by striking "paragraph (2)" and inserting "paragraphs*
13 *(2) and (3)".*

14 **(c) EFFECTIVE DATE.**—*The amendments made by this*
15 *section shall apply to transfers after December 31, 2012.*

16 **SEC. 100115. PHASED RETIREMENT AUTHORITY.**

17 **(a) CSRS.**—*Chapter 83 of title 5, United States Code,*
18 *is amended—*

19 **(1) in section 8331—**

20 **(A) in paragraph (30) by striking "and" at**
21 *the end;*

22 **(B) in paragraph (31) by striking the pe-**
23 *riod at the end and inserting "; and"; and*

24 **(C) by adding at the end the following:**

1 “(32) ‘Director’ means the Director of the Office
2 of Personnel Management.”;

3 (2) by inserting after section 8336 the following:

4 **“§ 8336a. Phased retirement**

5 “(a) For the purposes of this section—

6 “(1) the term ‘composite retirement annuity’
7 means the annuity computed when a phased retiree
8 attains full retirement status;

9 “(2) the term ‘full retirement status’ means that
10 a phased retiree has ceased employment and is enti-
11 tled, upon application, to a composite retirement an-
12 nuity;

13 “(3) the term ‘phased employment’ means the
14 less-than-full-time employment of a phased retiree;

15 “(4) the term ‘phased retiree’ means a retire-
16 ment-eligible employee who—

17 “(A) makes an election under subsection (b);

18 and

19 “(B) has not entered full retirement status;

20 “(5) the term ‘phased retirement annuity’ means
21 the annuity payable under this section before full re-
22 tirement;

23 “(6) the term ‘phased retirement percentage’
24 means the percentage which, when added to the work-

1 *ing percentage for a phased retiree, produces a sum*
2 *of 100 percent;*

3 “(7) the term ‘phased retirement period’ means
4 *the period beginning on the date on which an indi-*
5 *vidual becomes entitled to receive a phased retirement*
6 *annuity and ending on the date on which the indi-*
7 *vidual dies or separates from phased employment;*

8 “(8) the term ‘phased retirement status’ means
9 *that a phased retiree is concurrently employed in*
10 *phased employment and eligible to receive a phased*
11 *retirement annuity;*

12 “(9) the term ‘retirement-eligible employee’—

13 “(A) means an individual who, if the indi-
14 *vidual separated from the service, would meet the*
15 *requirements for retirement under subsection (a)*
16 *or (b) of section 8336; and*

17 “(B) does not include—

18 “(i) an individual who, if the indi-
19 *vidual separated from the service, would*
20 *meet the requirements for retirement under*
21 *subsection (c), (e), (m), or (n) of section*
22 *8336; or*

23 “(ii) a law enforcement officer, fire-
24 *fighter, nuclear materials courier, air traffic*
25 *controller, customs and border protection of-*

1 *ficer, or member of the Capitol Police or*
2 *Supreme Court Police; and*

3 *“(10) the term ‘working percentage’ means the*
4 *percentage of full-time employment equal the quotient*
5 *obtained by dividing—*

6 *“(A) the number of hours per pay period to*
7 *be worked by a phased retiree as scheduled in ac-*
8 *cordance with subsection (b)(2); by*

9 *“(B) the number of hours per pay period to*
10 *be worked by an employee serving in a com-*
11 *parable position on a full-time basis.*

12 *“(b)(1) With the concurrence of the head of the employ-*
13 *ing agency, and under regulations promulgated by the Di-*
14 *rector, a retirement-eligible employee who has been em-*
15 *ployed on a full time basis for not less than the 3-year pe-*
16 *riod ending on the date on which the retirement-eligible em-*
17 *ployee makes an election under this subsection may elect*
18 *to enter phased retirement status.*

19 *“(2)(A) Subject to subparagraph (B), at the time of*
20 *entering phased retirement status, a phased retiree shall be*
21 *appointed to a position for which the working percentage*
22 *is 50 percent.*

23 *“(B) The Director may, by regulation, provide for*
24 *working percentages different from the percentage specified*

1 *under subparagraph (A), which shall be not less than 20*
2 *percent and not more than 80 percent.*

3 “(C) *The working percentage for a phased retiree may*
4 *not be changed during the phased retiree’s phased retire-*
5 *ment period.*

6 “(D)(i) *Not less than 20 percent of the hours to be*
7 *worked by a phased retiree shall consist of mentoring.*

8 “(ii) *The Director may, by regulation, provide for ex-*
9 *ceptions to the requirement under clause (i).*

10 “(3) *A phased retiree—*

11 “(A) *may not be employed in more than one po-*
12 *sition at any time; and*

13 “(B) *may transfer to another position in the*
14 *same or a different agency, if the transfer does not re-*
15 *sult in a change in the working percentage.*

16 “(4) *A retirement-eligible employee may make only one*
17 *election under this subsection during the retirement-eligible*
18 *employee’s lifetime.*

19 “(5) *A retirement-eligible employee who makes an elec-*
20 *tion under this subsection may not make an election under*
21 *section 8343a.*

22 “(c)(1) *Except as otherwise provided under this sub-*
23 *section, the phased retirement annuity for a phased retiree*
24 *is the product obtained by multiplying—*

1 “(A) the amount of an annuity computed under
2 section 8339 that would have been payable to the
3 phased retiree if, on the date on which the phased re-
4 tiree enters phased retirement status, the phased re-
5 tiree had separated from service and retired under
6 section 8336(a) or (b); by

7 “(B) the phased retirement percentage for the
8 phased retiree.

9 “(2) A phased retirement annuity shall be paid in ad-
10 dition to the basic pay for the position to which a phased
11 retiree is appointed during phased employment.

12 “(3) A phased retirement annuity shall be adjusted in
13 accordance with section 8340.

14 “(4)(A) A phased retirement annuity shall not be sub-
15 ject to reduction for any form of survivor annuity, shall
16 not serve as the basis of the computation of any survivor
17 annuity, and shall not be subject to any court order requir-
18 ing a survivor annuity to be provided to any individual.

19 “(B) A phased retirement annuity shall be subject to
20 a court order providing for division, allotment, assignment,
21 execution, levy, attachment, garnishment, or other legal
22 process on the same basis as other annuities.

23 “(5) Any reduction of a phased retirement annuity
24 based on an election under section 8334(d)(2) shall be ap-

1 *plied to the phased retirement annuity after computation*
2 *under paragraph (1).*

3 “(6)(A) *Any deposit, or election of an actuarial annu-*
4 *ity reduction in lieu of a deposit, for military service or*
5 *for creditable civilian service for which retirement deduc-*
6 *tions were not made or refunded shall be made by a retire-*
7 *ment-eligible employee at or before the time the retirement-*
8 *eligible employee enters phased retirement status. No such*
9 *deposit may be made, or actuarial adjustment in lieu there-*
10 *of elected, at the time a phased retiree enters full retirement*
11 *status.*

12 “(B) *Notwithstanding subparagraph (A), if a phased*
13 *retiree does not make such a deposit and dies in service*
14 *as a phased retiree, a survivor of the phased retiree shall*
15 *have the same right to make such deposit as would have*
16 *been available had the employee not entered phased retire-*
17 *ment status and died in service.*

18 “(C) *If a phased retiree makes an election for an actu-*
19 *arial annuity reduction under section 8334(d)(2) and dies*
20 *in service as a phased retiree, the amount of any deposit*
21 *upon which such actuarial reduction shall have been based*
22 *shall be deemed to have been fully paid.*

23 “(7) *A phased retirement annuity shall commence on*
24 *the date on which a phased retiree enters phased employ-*
25 *ment.*

1 “(8) *No unused sick leave credit may be used in the*
2 *computation of the phased retirement annuity.*

3 “(d) *All basic pay not in excess of the full-time rate*
4 *of pay for the position to which a phased retiree is ap-*
5 *pointed shall be deemed to be basic pay for purposes of sec-*
6 *tion 8334.*

7 “(e) *Under such procedures as the Director may pre-*
8 *scribe, a phased retiree may elect to enter full retirement*
9 *status at any time. Upon making such an election, a phased*
10 *retiree shall be entitled to a composite retirement annuity.*

11 “(f)(1) *Except as provided otherwise under this sub-*
12 *section, a composite retirement annuity is a single annuity*
13 *computed under regulations prescribed by the Director,*
14 *equal to the sum of—*

15 “(A) *the amount of the phased retirement annu-*
16 *ity as of the date of full retirement, before any reduc-*
17 *tion based on an election under section 8334(d)(2),*
18 *and including any adjustments made under section*
19 *8340; and*

20 “(B) *the product obtained by multiplying—*

21 “(i) *the amount of an annuity computed*
22 *under section 8339 that would have been payable*
23 *at the time of full retirement if the individual*
24 *had not elected a phased retirement and as if the*
25 *individual was employed on a full-time basis in*

1 *the position occupied during the phased retire-*
2 *ment period and before any reduction for sur-*
3 *ivor annuity or reduction based on an election*
4 *under section 8334(d)(2); by*

5 “(i) *the working percentage.*

6 “(2) *After computing a composite retirement annuity*
7 *under paragraph (1), the Director shall adjust the amount*
8 *of the annuity for any applicable reductions for a survivor*
9 *annuity and any previously elected actuarial reduction*
10 *under section 8334(d)(2).*

11 “(3) *A composite retirement annuity shall be adjusted*
12 *in accordance with section 8340, except that subsection*
13 *(c)(1) of that section shall not apply.*

14 “(4) *In computing a composite retirement annuity*
15 *under paragraph (1)(B)(i), the unused sick leave to the*
16 *credit of a phased retiree at the time of entry into full re-*
17 *tirement status shall be adjusted by dividing the number*
18 *of hours of unused sick leave by the working percentage.*

19 “(g)(1) *Under such procedures and conditions as the*
20 *Director may provide, and with the concurrence of the head*
21 *of the employing agency, a phased retiree may elect to ter-*
22 *minate phased retirement status and return to a full-time*
23 *work schedule.*

1 “(2) Upon entering a full-time work schedule based
2 upon an election under paragraph (1), the phased retire-
3 ment annuity of a phased retiree shall terminate.

4 “(3) After the termination of a phased retirement an-
5 nuity under this subsection, the individual’s rights under
6 this subchapter shall be determined based on the law in ef-
7 fect at the time of any subsequent separation from service.
8 For purposes of this subchapter or chapter 84, at time of
9 the subsequent separation from service, the phased retire-
10 ment period shall be treated as if it had been a period of
11 part-time employment with the work schedule described in
12 subsection (b)(2).

13 “(h) For purposes of section 8341—

14 “(1) the death of a phased retiree shall be deemed
15 to be the death in service of an employee; and

16 “(2) the phased retirement period shall be
17 deemed to have been a period of part-time employ-
18 ment with the work schedule described in subsection
19 (b)(2).

20 “(i) Employment of a phased retiree shall not be
21 deemed to be part-time career employment, as defined in
22 section 3401(2).

23 “(j) A phased retiree is not eligible to apply for an
24 annuity under section 8337.

1 “(k) For purposes of section 8341(h)(4), retirement
2 shall be deemed to occur on the date on which a phased
3 retiree enters into full retirement status.

4 “(l) For purposes of sections 8343 and 8351, and sub-
5 chapter III of chapter 84, a phased retiree shall be deemed
6 to be an employee.

7 “(m) A phased retiree is not subject to section 8344.

8 “(n) For purposes of chapter 87, a phased retiree shall
9 be deemed to be receiving basic pay at the rate of a full-
10 time employee in the position to which the phased retiree
11 is appointed.”; and

12 (3) in the table of sections by inserting after the
13 item relating to section 8336 the following:

“8336a. Phased retirement.”.

14 (b) *FERS*.—Chapter 84 of title 5, United States Code,
15 is amended—

16 (1) by inserting after section 8412 the following
17 new section:

18 **“§ 8412a. Phased retirement**

19 “(a) For the purposes of this section—

20 “(1) the term ‘composite retirement annuity’
21 means the annuity computed when a phased retiree
22 attains full retirement status;

23 “(2) the term ‘full retirement status’ means that
24 a phased retiree has ceased employment and is enti-

1 *tled, upon application, to a composite retirement an-*
2 *nuity;*

3 “(3) *the term ‘phased employment’ means the*
4 *less-than-full-time employment of a phased retiree;*

5 “(4) *the term ‘phased retiree’ means a retire-*
6 *ment-eligible employee who—*

7 “(A) *makes an election under subsection (b);*

8 *and*

9 “(B) *has not entered full retirement status;*

10 “(5) *the term ‘phased retirement annuity’ means*
11 *the annuity payable under this section before full re-*
12 *tirement;*

13 “(6) *the term ‘phased retirement percentage’*
14 *means the percentage which, when added to the work-*
15 *ing percentage for a phased retiree, produces a sum*
16 *of 100 percent;*

17 “(7) *the term ‘phased retirement period’ means*
18 *the period beginning on the date on which an indi-*
19 *vidual becomes entitled to receive a phased retirement*
20 *annuity and ending on the date on which the indi-*
21 *vidual dies or separates from phased employment;*

22 “(8) *the term ‘phased retirement status’ means*
23 *that a phased retiree is concurrently employed in*
24 *phased employment and eligible to receive a phased*
25 *retirement annuity;*

1 “(9) the term ‘retirement-eligible employee’—

2 “(A) means an individual who, if the indi-
3 vidual separated from the service, would meet the
4 requirements for retirement under subsection (a)
5 or (b) of section 8412; and

6 “(B) does not include—

7 “(i) an individual who, if the indi-
8 vidual separated from the service, would
9 meet the requirements for retirement under
10 subsection (d) or (e) of section 8412; or

11 “(ii) a law enforcement officer, fire-
12 fighter, nuclear materials courier, air traffic
13 controller, customs and border protection of-
14 ficer, or member of the Capitol Police or
15 Supreme Court Police; and

16 “(10) the term ‘working percentage’ means the
17 percentage of full-time employment equal to the
18 quotient obtained by dividing—

19 “(A) the number of hours per pay period to
20 be worked by a phased retiree as scheduled in ac-
21 cordance with subsection (b)(2); by

22 “(B) the number of hours per pay period to
23 be worked by an employee serving in a com-
24 parable position on a full-time basis.

1 “(b)(1) *With the concurrence of the head of the employ-*
2 *ing agency, and under regulations promulgated by the Di-*
3 *rector, a retirement-eligible employee who has been em-*
4 *ployed on a full time basis for not less than the 3-year pe-*
5 *riod ending on the date on which the retirement-eligible em-*
6 *ployee makes an election under this subsection may elect*
7 *to enter phased retirement status.*

8 “(2)(A) *Subject to subparagraph (B), at the time of*
9 *entering phased retirement status, a phased retiree shall be*
10 *appointed to a position for which the working percentage*
11 *is 50 percent.*

12 “(B) *The Director may, by regulation, provide for*
13 *working percentages different from the percentage specified*
14 *under subparagraph (A), which shall be not less than 20*
15 *percent and not more than 80 percent.*

16 “(C) *The working percentage for a phased retiree may*
17 *not be changed during the phased retiree’s phased retire-*
18 *ment period.*

19 “(D)(i) *Not less than 20 percent of the hours to be*
20 *worked by a phased retiree shall consist of mentoring.*

21 “(ii) *The Director may, by regulation, provide for ex-*
22 *ceptions to the requirement under clause (i).*

23 “(3) *A phased retiree—*

24 “(A) *may not be employed in more than one po-*
25 *sition at any time; and*

1 “(B) may transfer to another position in the
2 same or a different agency, if the transfer does not re-
3 sult in a change in the working percentage.

4 “(4) A retirement-eligible employee may make only one
5 election under this subsection during the retirement-eligible
6 employee’s lifetime.

7 “(5) A retirement-eligible employee who makes an elec-
8 tion under this subsection may not make an election under
9 section 8420a.

10 “(c)(1) Except as otherwise provided under this sub-
11 section, the phased retirement annuity for a phased retiree
12 is the product obtained by multiplying—

13 “(A) the amount of an annuity computed under
14 section 8415 that would have been payable to the
15 phased retiree if, on the date on which the phased re-
16 tiree enters phased retirement status, the phased re-
17 tiree had separated from service and retired under
18 section 8412 (a) or (b); by

19 “(B) the phased retirement percentage for the
20 phased retiree.

21 “(2) A phased retirement annuity shall be paid in ad-
22 dition to the basic pay for the position to which a phased
23 retiree is appointed during the phased employment.

24 “(3) A phased retirement annuity shall be adjusted in
25 accordance with section 8462.

1 “(4)(A) A phased retirement annuity shall not be sub-
2 ject to reduction for any form of survivor annuity, shall
3 not serve as the basis of the computation of any survivor
4 annuity, and shall not be subject to any court order requir-
5 ing a survivor annuity to be provided to any individual.

6 “(B) A phased retirement annuity shall be subject to
7 a court order providing for division, allotment, assignment,
8 execution, levy, attachment, garnishment, or other legal
9 process on the same basis as other annuities.

10 “(5)(A) Any deposit, or election of an actuarial annu-
11 ity reduction in lieu of a deposit, for military service or
12 for creditable civilian service for which retirement deduc-
13 tions were not made or refunded, shall be made by a retire-
14 ment-eligible employee at or before the time the retirement-
15 eligible employee enters phased retirement status. No such
16 deposit may be made, or actuarial adjustment in lieu there-
17 of elected, at the time a phased retiree enters full retirement
18 status.

19 “(B) Notwithstanding subparagraph (A), if a phased
20 retiree does not make such a deposit and dies in service
21 as a phased retiree, a survivor of the phased retiree shall
22 have the same right to make such deposit as would have
23 been available had the employee not entered phased retire-
24 ment status and died in service.

1 “(6) *A phased retirement annuity shall commence on*
2 *the date on which a phased retiree enters phased employ-*
3 *ment.*

4 “(7) *No unused sick leave credit may be used in the*
5 *computation of the phased retirement annuity.*

6 “(d) *All basic pay not in excess of the full-time rate*
7 *of pay for the position to which a phased retiree is ap-*
8 *pointed shall be deemed to be basic pay for purposes of sec-*
9 *tion 8422 and 8423.*

10 “(e) *Under such procedures as the Director may pre-*
11 *scribe, a phased retiree may elect to enter full retirement*
12 *status at any time. Upon making such an election, a phased*
13 *retiree shall be entitled to a composite retirement annuity.*

14 “(f)(1) *Except as provided otherwise under this sub-*
15 *section, a composite retirement annuity is a single annuity*
16 *computed under regulations prescribed by the Director,*
17 *equal to the sum of—*

18 “(A) *the amount of the phased retirement annu-*
19 *ity as of the date of full retirement, including any ad-*
20 *justments made under section 8462; and*

21 “(B) *the product obtained by multiplying—*

22 “(i) *the amount of an annuity computed*
23 *under section 8412 that would have been payable*
24 *at the time of full retirement if the individual*
25 *had not elected a phased retirement and as if the*

1 *individual was employed on a full-time basis in*
2 *the position occupied during the phased retire-*
3 *ment period and before any adjustment to pro-*
4 *vide for a survivor annuity; by*

5 “(i) *the working percentage;*

6 “(2) *After computing a composite retirement annuity*
7 *under paragraph (1), the Director shall adjust the amount*
8 *of the annuity for any applicable reductions for a survivor*
9 *annuity.*

10 “(3) *A composite retirement annuity shall be adjusted*
11 *in accordance with section 8462, except that subsection*
12 *(c)(1) of that section shall not apply.*

13 “(4) *In computing a composite retirement annuity*
14 *under paragraph (1)(B)(i), the unused sick leave to the*
15 *credit of a phased retiree at the time of entry into full re-*
16 *tirement status shall be adjusted by dividing the number*
17 *of hours of unused sick leave by the working percentage.*

18 “(g)(1) *Under such procedures and conditions as the*
19 *Director may provide, and with the concurrence of the head*
20 *of employing agency, a phased retiree may elect to termi-*
21 *nate phased retirement status and return to a full-time*
22 *work schedule.*

23 “(2) *Upon entering a full-time work schedule based on*
24 *an election under paragraph (1), the phased retirement an-*
25 *nuity of a phased retiree shall terminate.*

1 “(3) After termination of the phased retirement annu-
2 ity under this subsection, the individual’s rights under this
3 chapter shall be determined based on the law in effect at
4 the time of any subsequent separation from service. For
5 purposes of this chapter, at the time of the subsequent sepa-
6 ration from service, the phased retirement period shall be
7 treated as if it had been a period of part-time employment
8 with the work schedule described in subsection (b)(2).

9 “(h) For purposes of subchapter IV—

10 “(1) the death of a phased retiree shall be deemed
11 to be the death in service of an employee;

12 “(2) except for purposes of section
13 8442(b)(1)(A)(i), the phased retirement period shall
14 be deemed to have been a period of part-time employ-
15 ment with the work schedule described in subsection
16 (b)(2) of this section; and

17 “(3) for purposes of section 8442(b)(1)(A)(i), the
18 phased retiree shall be deemed to have been at the full-
19 time rate of pay for the position occupied.

20 “(i) Employment of a phased retiree shall not be
21 deemed to be part-time career employment, as defined in
22 section 3401(2).

23 “(j) A phased retiree is not eligible to receive an annu-
24 ity supplement under section 8421.

1 “(k) For purposes of subchapter III, a phased retiree
2 shall be deemed to be an employee.

3 “(l) For purposes of section 8445(d), retirement shall
4 be deemed to occur on the date on which a phased retiree
5 enters into full retirement status.

6 “(m) A phased retiree is not eligible to apply for an
7 annuity under subchapter V.

8 “(n) A phased retiree is not subject to section 8468.

9 “(o) For purposes of chapter 87, a phased retiree shall
10 be deemed to be receiving basic pay at the rate of a full-
11 time employee in the position to which the phased retiree
12 is appointed.”; and

13 (2) in the table of sections by inserting after the
14 item relating to section 8412 the following:

“8412a. Phased retirement.”.

15 (c) *EFFECTIVE DATE.*—The amendments made by this
16 section shall take effect on the effective date of the imple-
17 menting regulations issued by the Director of the Office of
18 Personnel Management.

19 **SEC. 100116. ROLL-YOUR-OWN CIGARETTE MACHINES.**

20 (a) *IN GENERAL.*—Subsection (d) of section 5702 of
21 the Internal Revenue Code of 1986 is amended by adding
22 at the end the following new flush sentence:

23 “Such term shall include any person who for commercial
24 purposes makes available for consumer use (including such
25 consumer’s personal consumption or use under paragraph

1 (1) *a machine capable of making cigarettes, cigars, or other*
 2 *tobacco products. A person making such a machine avail-*
 3 *able for consumer use shall be deemed the person making*
 4 *the removal as defined by subsection (j) with respect to any*
 5 *tobacco products manufactured by such machine.”.*

6 (b) *EFFECTIVE DATE.*—*The amendment made by this*
 7 *section shall apply to articles removed after the date of the*
 8 *enactment of this Act.*

9 **TITLE II—STOP TAX HAVEN**
 10 **ABUSE**

11 **SEC. 100201. AUTHORIZING SPECIAL MEASURES AGAINST**
 12 **FOREIGN JURISDICTIONS, FINANCIAL INSTI-**
 13 **TUTIONS, AND OTHERS THAT SIGNIFICANTLY**
 14 **IMPEDE UNITED STATES TAX ENFORCEMENT.**

15 *Section 5318A of title 31, United States Code, is*
 16 *amended—*

17 (1) *by striking the section heading and inserting*
 18 *the following:*

19 **“§ 5318A. Special measures for jurisdictions, financial**
 20 **institutions, or international transactions**
 21 **that are of primary money laundering**
 22 **concern or significantly impede United**
 23 **States tax enforcement”;**

24 (2) *in subsection (a), by striking the subsection*
 25 *heading and inserting the following:*

1 “(a) *SPECIAL MEASURES TO COUNTER MONEY LAUN-*
2 *DERING AND EFFORTS TO SIGNIFICANTLY IMPEDE UNITED*
3 *STATES TAX ENFORCEMENT.—*”;

4 (3) *in subsection (c)—*

5 (A) *by striking the subsection heading and*
6 *inserting the following:*

7 “(c) *CONSULTATIONS AND INFORMATION TO BE CON-*
8 *SIDERED IN FINDING JURISDICTIONS, INSTITUTIONS,*
9 *TYPES OF ACCOUNTS, OR TRANSACTIONS TO BE OF PRI-*
10 *MARY MONEY LAUNDERING CONCERN OR TO BE SIGNIFI-*
11 *CANTLY IMPEDING UNITED STATES TAX ENFORCEMENT.—*
12 *”;* *and*

13 (B) *by inserting at the end of paragraph*
14 *(2) thereof the following new subparagraph:*

15 “(C) *OTHER CONSIDERATIONS.—The fact*
16 *that a jurisdiction or financial institution is co-*
17 *operating with the United States on imple-*
18 *menting the requirements specified in chapter 4*
19 *of the Internal Revenue Code of 1986 may be fa-*
20 *vorably considered in evaluating whether such*
21 *jurisdiction or financial institution is signifi-*
22 *cantly impeding United States tax enforce-*
23 *ment.*”;

1 (4) in subsection (a)(1), by inserting “or is sig-
2 nificantly impeding United States tax enforcement”
3 after “primary money laundering concern”;

4 (5) in subsection (a)(4)—

5 (A) in subparagraph (A)—

6 (i) by inserting “in matters involving
7 money laundering,” before “shall consult”;

8 and

9 (ii) by striking “and” at the end;

10 (B) by redesignating subparagraph (B) as
11 subparagraph (C); and

12 (C) by inserting after subparagraph (A) the
13 following:

14 “(B) in matters involving United States tax
15 enforcement, shall consult with the Commissioner
16 of the Internal Revenue, the Secretary of State,
17 the Attorney General of the United States, and
18 in the sole discretion of the Secretary, such other
19 agencies and interested parties as the Secretary
20 may find to be appropriate; and”;

21 (6) in each of paragraphs (1)(A), (2), (3), and
22 (4) of subsection (b), by inserting “or to be signifi-
23 cantly impeding United States tax enforcement” after
24 “primary money laundering concern” each place that
25 term appears;

1 (7) *in subsection (b), by striking paragraph (5)*
2 *and inserting the following:*

3 “(5) *PROHIBITIONS OR CONDITIONS ON OPENING*
4 *OR MAINTAINING CERTAIN CORRESPONDENT OR PAY-*
5 *ABLE-THROUGH ACCOUNTS OR AUTHORIZING CERTAIN*
6 *PAYMENT CARDS.—If the Secretary finds a jurisdic-*
7 *tion outside of the United States, 1 or more financial*
8 *institutions operating outside of the United States, or*
9 *1 or more classes of transactions within or involving*
10 *a jurisdiction outside of the United States to be of*
11 *primary money laundering concern or to be signifi-*
12 *cantly impeding United States tax enforcement, the*
13 *Secretary, in consultation with the Secretary of State,*
14 *the Attorney General of the United States, and the*
15 *Chairman of the Board of Governors of the Federal*
16 *Reserve System, may prohibit, or impose conditions*
17 *upon—*

18 “(A) *the opening or maintaining in the*
19 *United States of a correspondent account or pay-*
20 *able-through account; or*

21 “(B) *the authorization, approval, or use in*
22 *the United States of a credit card, charge card,*
23 *debit card, or similar credit or debit financial*
24 *instrument by any domestic financial institu-*
25 *tion, financial agency, or credit card company*

1 *or association, for or on behalf of a foreign bank-*
2 *ing institution, if such correspondent account,*
3 *payable-through account, credit card, charge*
4 *card, debit card, or similar credit or debit finan-*
5 *cial instrument, involves any such jurisdiction*
6 *or institution, or if any such transaction may be*
7 *conducted through such correspondent account,*
8 *payable-through account, credit card, charge*
9 *card, debit card, or similar credit or debit finan-*
10 *cial instrument.”; and*

11 *(8) in subsection (c)(1), by inserting “or is sig-*
12 *nificantly impeding United States tax enforcement”*
13 *after “primary money laundering concern”;*

14 *(9) in subsection (c)(2)(A)—*

15 *(A) in clause (ii), by striking “bank secrecy*
16 *or special regulatory advantages” and inserting*
17 *“bank, tax, corporate, trust, or financial secrecy*
18 *or regulatory advantages”;*

19 *(B) in clause (iii), by striking “supervisory*
20 *and counter-money” and inserting “supervisory,*
21 *international tax enforcement, and counter-*
22 *money”;*

23 *(C) in clause (v), by striking “banking or*
24 *secrecy” and inserting “banking, tax, or se-*
25 *crecy”;* and

1 (D) in clause (vi), by inserting “, tax treat-
2 ty, or tax information exchange agreement” after
3 “treaty”;

4 (10) in subsection (c)(2)(B)—

5 (A) in clause (i), by inserting “or tax eva-
6 sion” after “money laundering”; and

7 (B) in clause (iii), by inserting “, tax eva-
8 sion,” after “money laundering”; and

9 (11) in subsection (d), by inserting “involving
10 money laundering, and shall notify, in writing, the
11 Committee on Finance of the Senate and the Com-
12 mittee on Ways and Means of the House of Represent-
13 atives of any such action involving United States tax
14 enforcement” after “such action”.

15 **DIVISION G—AIR**
16 **TRANSPORTATION**

17 **SEC. 100301. TECHNICAL CORRECTIONS RELATING TO**
18 **OVERFLIGHTS OF NATIONAL PARKS.**

19 (a) *IN GENERAL.*—Section 40128 of title 49, United
20 States Code, is amended to read as follows:

21 **“§ 40128. Overflights of national parks**

22 “(a) *IN GENERAL.*—

23 “(1) *GENERAL DELINEATION OF RESPONSIBIL-*
24 *ITIES.*—

1 “(A) *AUTHORITY OF DIRECTOR.*—*The Di-*
2 *rector has the authority to establish air tour*
3 *management plans, issue air tour permits for*
4 *commercial air tour operations conducted in ac-*
5 *cordance with an air tour management plan,*
6 *enter into a voluntary agreement with a com-*
7 *mercial air tour operator, and issue interim op-*
8 *erating permits under subsection (c).*

9 “(B) *AUTHORITY OF ADMINISTRATOR.*—*The*
10 *Administrator has the authority to ensure that*
11 *any action taken under this section does not ad-*
12 *versely affect aviation safety or the management*
13 *of the national airspace system.*

14 “(2) *GENERAL REQUIREMENTS.*—*A commercial*
15 *air tour operator may not conduct commercial air*
16 *tour operations over a national park or tribal lands,*
17 *as defined by this section, except—*

18 “(A) *in accordance with this section;*

19 “(B) *in accordance with conditions and*
20 *limitations prescribed for that operator; and*

21 “(C) *in accordance with any applicable air*
22 *tour management plan or voluntary agreement*
23 *developed under subsection (b) for the park or*
24 *tribal lands.*

1 “(3) *APPLICATION FOR OPERATING AUTHOR-*
2 *ITY.*—

3 “(A) *APPLICATION REQUIRED.*—*Before com-*
4 *mencing commercial air tour operations over a*
5 *national park or tribal lands, a commercial air*
6 *tour operator shall apply to the Director for au-*
7 *thority to conduct the operations over the park*
8 *or tribal lands.*

9 “(B) *NUMBER OF OPERATIONS AUTHOR-*
10 *IZED.*—*In determining the number of authoriza-*
11 *tions to issue to provide commercial air tour op-*
12 *erations over a national park, the Director shall*
13 *take into consideration the provisions of the air*
14 *tour management plan, the number of existing*
15 *commercial air tour operators and current level*
16 *of service and equipment provided by any such*
17 *operators, and the financial viability of each*
18 *commercial air tour operation.*

19 “(C) *CONSULTATION WITH FAA.*—*Before*
20 *granting an application under this paragraph,*
21 *the Director, in consultation with the Adminis-*
22 *trator, shall develop an air tour management*
23 *plan in accordance with subsection (b) and im-*
24 *plement such plan.*

1 “(D) *TIME LIMIT ON RESPONSE TO ATMP*
2 *APPLICATIONS.—The Director shall make every*
3 *effort to act on any application under this para-*
4 *graph and issue a decision on the application*
5 *not later than 24 months after it is received or*
6 *amended.*

7 “(E) *PRIORITY.—In acting on applications*
8 *under this paragraph to provide commercial air*
9 *tour operations over a national park, the Direc-*
10 *tor shall give priority to an application under*
11 *this paragraph in any case in which a new en-*
12 *trant commercial air tour operator is seeking op-*
13 *erating authority with respect to that national*
14 *park.*

15 “(4) *EXCEPTION.—Notwithstanding paragraph*
16 *(2), commercial air tour operators may conduct com-*
17 *mercial air tour operations over a national park*
18 *under part 91 of the title 14, Code of Federal Regula-*
19 *tions, if—*

20 “(A) *such activity is permitted under part*
21 *119 of such title;*

22 “(B) *the total number of operations under*
23 *this exception is limited to not more than five*
24 *flights in any 30-day period over a particular*
25 *park; and*

1 “(C) *the operator complies with the condi-*
2 *tions under which the operations will be con-*
3 *ducted as established by the Director, in con-*
4 *sultation with the Administrator.*

5 “(5) *SPECIAL RULE FOR SAFETY REQUIRE-*
6 *MENTS.—Before receiving a permit issued under this*
7 *section, a commercial air tour operator shall have ob-*
8 *tained the appropriate operating authority as re-*
9 *quired by the Administrator under part 119, 121, or*
10 *135 of title 14, Code of Federal Regulations, to con-*
11 *duct operations under this section.*

12 “(6) *EXEMPTION FOR NATIONAL PARKS WITH 50*
13 *OR FEWER FLIGHTS EACH YEAR.—*

14 “(A) *IN GENERAL.—A national park that*
15 *has 50 or fewer commercial air tour operations*
16 *over the park each year shall be exempt from the*
17 *requirements of this section, except as provided*
18 *in subparagraph (B).*

19 “(B) *WITHDRAWAL OF EXEMPTION.—If the*
20 *Director determines that an air tour manage-*
21 *ment plan or voluntary agreement is necessary*
22 *to protect park resources and values or park vis-*
23 *itor use and enjoyment, the Director shall with-*
24 *draw the exemption of a park under subpara-*
25 *graph (A).*

1 “(C) *LIST OF PARKS.*—*The Director shall*
2 *maintain a list each year of national parks that*
3 *are covered by the exemption provided under this*
4 *paragraph.*

5 “(b) *AIR TOUR MANAGEMENT PLANS.*—

6 “(1) *ESTABLISHMENT.*—

7 “(A) *IN GENERAL.*—*The Director, in con-*
8 *sultation with the Administrator, shall establish*
9 *an air tour management plan for any national*
10 *park or tribal land for which such a plan is not*
11 *in effect whenever a person applies for authority*
12 *to conduct a commercial air tour operation over*
13 *the park. The air tour management plan shall be*
14 *developed by means of a public process in ac-*
15 *cordance with paragraph (4).*

16 “(B) *OBJECTIVE.*—*The objective of any air*
17 *tour management plan shall be to develop accept-*
18 *able and effective measures to mitigate or pre-*
19 *vent the significant adverse impacts, if any, of*
20 *commercial air tour operations upon the natural*
21 *and cultural resources, visitor experiences, and*
22 *tribal lands.*

23 “(C) *EXCEPTION.*—*An application to begin*
24 *commercial air tour operations at Crater Lake*
25 *National Park may be denied without the estab-*

1 *lishment of an air tour management plan by the*
2 *Director of the National Park Service if the Di-*
3 *rector determines that such operations would ad-*
4 *versely affect park resources or visitor experi-*
5 *ences.*

6 “(2) *ENVIRONMENTAL DETERMINATION.*—*In es-*
7 *tablishing an air tour management plan and issuing*
8 *a permit for a commercial air tour operator under*
9 *this section, the Director shall comply with the Na-*
10 *tional Environmental Policy Act of 1969 (42 U.S.C.*
11 *4321 et seq.). Any environmental thresholds, analyses,*
12 *impact determinations, and conditions prepared or*
13 *used by the Director to establish an air tour manage-*
14 *ment plan or issue a permit under this section shall*
15 *have no broader application or be given deference be-*
16 *yond this section.*

17 “(3) *CONTENTS.*—*An air tour management plan*
18 *for a national park—*

19 “(A) *may prohibit commercial air tour op-*
20 *erations over a national park in whole or in*
21 *part;*

22 “(B) *may establish conditions for the con-*
23 *duct of commercial air tour operations over a*
24 *national park, including commercial air tour*
25 *routes, maximum or minimum altitudes, time-*

1 *of-day restrictions, restrictions for particular*
2 *events, maximum number of flights per unit of*
3 *time, intrusions on privacy on tribal lands, and*
4 *mitigation of noise, visual, or other impacts;*

5 *“(C) shall apply to all commercial air tour*
6 *operations over a national park that are also*
7 *within 1/2 mile outside the boundary of a na-*
8 *tional park;*

9 *“(D) shall include incentives (such as pre-*
10 *ferred commercial air tour routes and altitudes,*
11 *relief from caps and curfews) for the adoption of*
12 *quiet aircraft technology by commercial air tour*
13 *operators conducting commercial air tour oper-*
14 *ations over a national park when practicable;*

15 *“(E) shall provide for the initial allocation*
16 *of opportunities to conduct commercial air tour*
17 *operations over a national park if the plan in-*
18 *cludes a limitation on the number of commercial*
19 *air tour operations for any time period;*

20 *“(F) may not have been found to have ad-*
21 *verse effects on aviation safety or the manage-*
22 *ment of the national airspace system by the Ad-*
23 *ministrator; and*

1 “(G) shall justify and document the need for
2 measures taken pursuant to subparagraphs (A)
3 through (F).

4 “(4) *PROCEDURE.*—*In establishing an air tour*
5 *management plan for a national park or tribal lands,*
6 *the Director shall—*

7 “(A) hold at least one public meeting with
8 interested parties to develop the air tour man-
9 agement plan;

10 “(B) publish a notice of availability of the
11 proposed plan in the *Federal Register* for notice
12 and comment and make copies of the proposed
13 plan available to the public;

14 “(C) comply with the regulations set forth
15 in parts 1500 through 1508 of title 40, *Code of*
16 *Federal Regulations*;

17 “(D) solicit the participation of any Indian
18 tribe whose tribal lands are, or may be,
19 overflowed by aircraft involved in a commercial
20 air tour operation over the park or tribal lands
21 to which the plan applies, as a cooperating agen-
22 cy under the regulations referred to in subpara-
23 graph (C); and

1 “(E) *consult with the Administrator with*
2 *respect to effects on aviation safety and the man-*
3 *agement of the national airspace system.*

4 “(5) *JUDICIAL REVIEW.—An air tour manage-*
5 *ment plan developed under this subsection shall be*
6 *subject to judicial review pursuant to chapter 7 of*
7 *title 5, United States Code.*

8 “(6) *AMENDMENTS AND REVOCATIONS.—The Di-*
9 *rector may make amendments to an air tour manage-*
10 *ment plan and any permits issued pursuant to an air*
11 *tour management plan, and may revoke permits. The*
12 *Director shall consult with the Administrator to en-*
13 *sure that any such amendments or revocations will*
14 *not adversely affect aviation safety or the manage-*
15 *ment of the national airspace system. Any such*
16 *amendments and revocations shall be published in the*
17 *Federal Register for notice and comment. A request*
18 *for amendment of an air tour management plan or*
19 *permit shall be made in such form and manner as the*
20 *Director may prescribe.*

21 “(7) *VOLUNTARY AGREEMENTS.—*

22 “(A) *IN GENERAL.—As an alternative to an*
23 *air tour management plan, the Director may*
24 *enter into a voluntary agreement with a com-*
25 *mmercial air tour operator (including a new en-*

1 *trant commercial air tour operator and an oper-*
2 *ator that has an interim operating permit) that*
3 *has applied to conduct commercial air tour oper-*
4 *ations over a national park to manage commer-*
5 *cial air tour operations over such national park.*

6 *“(B) PARK PROTECTION.—A voluntary*
7 *agreement entered into under subparagraph (A)*
8 *shall protect the national park resources, values,*
9 *and visitor experience without compromising*
10 *aviation safety or the management of the na-*
11 *tional airspace system and may—*

12 *“(i) include provisions such as those*
13 *included in the content of an air tour man-*
14 *agement plan;*

15 *“(ii) include provisions to ensure the*
16 *stability of, and compliance with, the vol-*
17 *untary agreement; and*

18 *“(iii) provide for fees for such oper-*
19 *ations.*

20 *“(C) PUBLIC REVIEW.—The Director shall*
21 *provide an opportunity for public review of a*
22 *proposed voluntary agreement under this para-*
23 *graph and shall consult with any Indian tribe*
24 *whose tribal lands are, or may be, flown over by*
25 *a commercial air tour operator under a vol-*

1 *untary agreement under this paragraph. After*
2 *such opportunity for public review and consulta-*
3 *tion, the voluntary agreement may be imple-*
4 *mented without further administrative or envi-*
5 *ronmental process beyond that described in this*
6 *subsection.*

7 “(D) *TERMINATION.*—

8 “(i) *IN GENERAL.*—*A voluntary agree-*
9 *ment under this paragraph may be termi-*
10 *nated at any time at the discretion of—*

11 “(I) *the Director, if the Director*
12 *determines that the agreement is not*
13 *adequately protecting park resources or*
14 *visitor experiences; or*

15 “(II) *the Administrator, if the*
16 *Administrator determines that the*
17 *agreement is adversely affecting avia-*
18 *tion safety or the national airspace*
19 *system.*

20 “(ii) *EFFECT OF TERMINATION.*—*If a*
21 *voluntary agreement with respect to a na-*
22 *tional park is terminated under this sub-*
23 *paragraph, the operators shall conform to*
24 *the requirements for an interim operating*
25 *permit under subsection (c) until an air*

1 *tour management plan for the park is in ef-*
2 *fect.*

3 “(c) *INTERIM OPERATING AUTHORITY.*—

4 “(1) *IN GENERAL.*—*Interim operating authority*
5 *granted by the Administrator under this subsection,*
6 *as in effect on the day before the date of the enact-*
7 *ment of the Moving Ahead for Progress in the 21st*
8 *Century Act, shall, on and after such date of enact-*
9 *ment, be known as an interim operating permit and*
10 *be administered by the Director in accordance with*
11 *the conditions of this subsection.*

12 “(2) *REQUIREMENTS AND LIMITATIONS.*—*An in-*
13 *terim operating permit—*

14 “(A) *shall maintain the same annual au-*
15 *thorizations as provided for interim operating*
16 *authority under this subsection, as in effect on*
17 *the day before the date of the enactment of the*
18 *Moving Ahead for Progress in the 21st Century*
19 *Act; and*

20 “(B) *may not provide for an increase in the*
21 *number of commercial air tour operations over a*
22 *national park conducted during any time period*
23 *by the commercial air tour operator above the*
24 *number that the air tour operator was granted*

1 *unless such an increase is approved by the Direc-*
2 *tor in consultation with the Administrator;*

3 *“(C) may be revoked by the Director for*
4 *cause;*

5 *“(D) shall terminate 180 days after the date*
6 *on which an air tour management plan is estab-*
7 *lished for the park or tribal lands;*

8 *“(E) shall promote protection of national*
9 *park resources, visitor experiences, and tribal*
10 *lands;*

11 *“(F) shall promote safe commercial air tour*
12 *operations;*

13 *“(G) shall promote the adoption of quiet*
14 *technology, as appropriate; and*

15 *“(H) may allow for modifications of the in-*
16 *terim operating permit without further environ-*
17 *mental review beyond that described in this sub-*
18 *section, if—*

19 *“(i) adequate information regarding*
20 *the existing and proposed operations of the*
21 *operator under the interim operating per-*
22 *mit is provided to the Director;*

23 *“(ii) the Director agrees with the modi-*
24 *fication, based on the professional expertise*
25 *of the Director regarding the protection of*

1 *the resources, values, and visitor use and*
2 *enjoyment of the park; and*

3 “(iii) *the Director receives advice in*
4 *writing from the Administrator that there*
5 *would be no adverse impact on aviation*
6 *safety or the national airspace system.*

7 “(3) *MODIFICATIONS AND REVOCATIONS.—Any*
8 *modification or revocation of an interim operating*
9 *permit shall be published in the Federal Register to*
10 *provide notice and opportunity for comment.*

11 “(4) *NEW ENTRANT AIR TOUR OPERATORS.—*

12 “(A) *IN GENERAL.—The Director, in con-*
13 *sultation with the Administrator, may grant an*
14 *interim operating permit under this paragraph*
15 *to an air tour operator for a national park or*
16 *tribal lands for which that operator is a new en-*
17 *trant air tour operator without further environ-*
18 *mental process beyond that described in this*
19 *paragraph, if—*

20 “(i) *adequate information on the pro-*
21 *posed operations of the operator is provided*
22 *to the Director by the operator making the*
23 *request;*

24 “(ii) *the Director agrees, based on the*
25 *Director’s professional expertise regarding*

1 *the protection of park resources and values*
2 *and visitor use and enjoyment; and*

3 “(iii) *the Director receives advice in*
4 *writing from the Administrator that there*
5 *would be no adverse impact on aviation*
6 *safety or the national airspace system.*

7 “(B) *SAFETY LIMITATION.—The Director*
8 *may not grant an interim operating permit*
9 *under subparagraph (A) if the Administrator de-*
10 *termines that it would create a safety problem at*
11 *the park or on the tribal lands, or the Director*
12 *determines that it would create a noise problem*
13 *at the park or on the tribal lands.*

14 “(d) *COMMERCIAL AIR TOUR OPERATOR REPORTS.—*

15 “(1) *REPORT.—Each commercial air tour oper-*
16 *ator conducting a commercial air tour operation over*
17 *a national park under an interim operating permit*
18 *granted under subsection (c) or in accordance with an*
19 *air tour management plan or voluntary agreement*
20 *under subsection (b) shall submit to the Director a re-*
21 *port regarding the number of commercial air tour op-*
22 *erations over each national park that are conducted*
23 *by the operator and such other information as the Di-*
24 *rector may request in order to facilitate admin-*
25 *istering the provisions of this section.*

1 “(2) *REPORT SUBMISSION.*—*The Director shall*
2 *issue a request for reports under this subsection. The*
3 *reports shall be submitted to the Director with a fre-*
4 *quency and in a format prescribed by the Director.*

5 “(e) *COLLECTION OF FEES FROM AIR TOUR OPER-*
6 *ATIONS.*—

7 “(1) *IN GENERAL.*—*The Director shall determine*
8 *and assess a fee under paragraph (2) on a commer-*
9 *cial air tour operator conducting commercial air tour*
10 *operations over a national park, including the Grand*
11 *Canyon National Park.*

12 “(2) *AMOUNT OF FEE.*—*In determining the*
13 *amount of the fee assessed under paragraph (1), the*
14 *Director shall collect sufficient revenue, in the aggre-*
15 *gate, to pay for the expenses incurred by the Federal*
16 *Government to develop and enforce air tour manage-*
17 *ment plans for national parks.*

18 “(3) *EFFECT OF FAILURE TO PAY FEE.*—*The Di-*
19 *rector may assess a civil penalty against or revoke the*
20 *interim operating permit or air tour permit, which-*
21 *ever is applicable, of a commercial air tour operator*
22 *conducting commercial air tour operations over any*
23 *national park, including the Grand Canyon National*
24 *Park, that has not paid the fee assessed by the Direc-*
25 *tor under paragraph (1) by the date that is 180 days*

1 *after the date on which the Director determines the fee*
2 *shall be paid.*

3 “(4) *FUNDING FOR AIR TOUR MANAGEMENT*
4 *PLANS.—The Director shall use the amounts collected*
5 *to develop and enforce air tour management plans for*
6 *the national parks the Director determines would*
7 *most benefit from such a plan.*

8 “(f) *CIVIL PENALTIES.—*

9 “(1) *IN GENERAL.—Any person who violates any*
10 *provision of this section or any regulation or permit*
11 *issued under this section may be assessed a civil pen-*
12 *alty by the Director of not more than \$25,000 for*
13 *each such violation.*

14 “(2) *KNOWING VIOLATIONS.—Any person who*
15 *knowingly violates any provision of this section or*
16 *any regulation or permit issued under this section*
17 *may be assessed a civil penalty by the Director of not*
18 *more than \$50,000 for each violation.*

19 “(3) *PROCEDURES.—A penalty may not be as-*
20 *essed under this subsection on a person unless the*
21 *person is given notice and opportunity for a hearing*
22 *with respect to the violation for which the penalty is*
23 *assessed. Each violation of this section or a regulation*
24 *or permit issued under this section shall be a separate*
25 *offense. Any civil penalty assessed under this sub-*

1 *section may be remitted or mitigated by the Director.*
2 *Upon any failure by a person to pay a penalty as-*
3 *essed under this subsection, the Director may request*
4 *the Attorney General to institute a civil action in a*
5 *district court of the United States for any district in*
6 *which the person is found, resides, or transacts busi-*
7 *ness to collect the penalty and such court shall have*
8 *jurisdiction to hear and decide any such action. The*
9 *court shall hear such action on the record made before*
10 *the Director and shall sustain his action if it is sup-*
11 *ported by substantial evidence on the record consid-*
12 *ered as a whole.*

13 *“(4) ADMINISTRATIVE PROCEEDINGS.—Hearings*
14 *held during proceedings for the assessment of civil*
15 *penalties under this subsection shall be conducted in*
16 *accordance with section 554 of title 5, United States*
17 *Code. The Director may issue subpoenas for the at-*
18 *tendance and testimony of witnesses and the produc-*
19 *tion of relevant papers, books, and documents, and*
20 *administer oaths. Witnesses summoned shall be paid*
21 *the same fees and mileage that are paid to witnesses*
22 *in the courts of the United States. In case of contu-*
23 *macy or refusal to obey a subpoena served upon any*
24 *person pursuant to this paragraph, the district court*
25 *of the United States for any district in which such*

1 *person is found or resides or transacts business, upon*
2 *application by the United States and after notice to*
3 *the person, shall have jurisdiction to issue an order*
4 *requiring the person to appear and give testimony be-*
5 *fore the Director or to appear and produce documents*
6 *before the Director, or both, and any failure to obey*
7 *the order of the court may be punished by such court*
8 *as a contempt thereof.*

9 “(g) *ENFORCEMENT.*—*The provisions of this section*
10 *and any regulations or permits issued under this section*
11 *may be enforced by the Director or the Administrator, as*
12 *appropriate. The Director may utilize by agreement, with*
13 *or without reimbursement, the personnel, services, and fa-*
14 *cilities of any other Federal agency or any State agency*
15 *for purposes of enforcing this section. The decisions of the*
16 *Director under this subsection shall not have broader appli-*
17 *cation or be given deference beyond this section. The Admin-*
18 *istrator shall retain enforcement authority over matters in-*
19 *volving the safety and efficiency of the national airspace*
20 *system.*

21 “(h) *EXEMPTIONS.*—*This section shall not apply to—*
22 “(1) *the Grand Canyon National Park; or*
23 “(2) *tribal lands within or abutting the Grand*
24 *Canyon National Park.*

1 “(i) *LAKE MEAD.*—*This section shall not apply to any*
2 *air tour operator while flying over or near the Lake Mead*
3 *National Recreation Area, solely as a transportation route,*
4 *to conduct an air tour over the Grand Canyon National*
5 *Park. For purposes of this subsection, an air tour operator*
6 *flying over the Hoover Dam in the Lake Mead National*
7 *Recreation Area en route to the Grand Canyon National*
8 *Park shall be deemed to be flying solely as a transportation*
9 *route.*

10 “(j) *SEVERABLE SERVICES CONTRACTS FOR PERIODS*
11 *CROSSING FISCAL YEARS.*—

12 “(1) *IN GENERAL.*—*For purposes of this section,*
13 *the Director may enter into a contract for procure-*
14 *ment of severable services for a period that begins*
15 *during one fiscal year and ends in the next fiscal*
16 *year if (without regard to any option to extend the*
17 *period of the contract) the period of the contract does*
18 *not exceed 1 year.*

19 “(2) *OBLIGATION OF FUNDS.*—*Funds made*
20 *available for a fiscal year may be obligated for the*
21 *total amount of a contract entered into under the au-*
22 *thority of paragraph (1).*

23 “(k) *RESPONSIBILITIES AND AUTHORITIES OF ADMIN-*
24 *ISTRATOR.*—

1 “(1) *IN GENERAL.*—*The Administrator shall ad-*
2 *vide the Director in writing of any adverse effects on*
3 *aviation safety and or management of the national*
4 *airspace system for any proposed action taken under*
5 *this section.*

6 “(2) *AMENDMENTS TO AUTHORIZATION FOR COM-*
7 *MERCIAL AIR TOUR OPERATORS.*—*The Administrator,*
8 *in consultation with the Director, may amend any*
9 *authorization for a commercial air tour operator to*
10 *include conditions set forth in any permit issued*
11 *under this section or to address any adverse effect on*
12 *aviation safety.*

13 “(3) *RULE OF CONSTRUCTION.*—*Nothing in this*
14 *section shall be construed to limit or abrogate the Ad-*
15 *ministrator’s authority to ensure the safety and effi-*
16 *ciency of the national airspace system.*

17 “(l) *DEFINITIONS.*—*In this section, the following defi-*
18 *initions apply:*

19 “(1) *COMMERCIAL AIR TOUR OPERATOR.*—*The*
20 *term ‘commercial air tour operator’ means any per-*
21 *son who conducts a commercial air tour operation*
22 *over a national park.*

23 “(2) *EXISTING COMMERCIAL AIR TOUR OPER-*
24 *ATOR.*—*The term ‘existing commercial air tour oper-*
25 *ator’ means a commercial air tour operator that was*

1 *actively engaged in the business of providing commer-*
2 *cial air tour operations over a national park at any*
3 *time during the 12-month period ending on the date*
4 *of the enactment of this section.*

5 “(3) *NEW ENTRANT COMMERCIAL AIR TOUR OP-*
6 *ERATOR.—The term ‘new entrant commercial air tour*
7 *operator’ means a commercial air tour operator*
8 *that—*

9 “(A) *applies for an interim operating per-*
10 *mit or air tour permit as a commercial air tour*
11 *operator for a national park or tribal lands; and*

12 “(B) *has not engaged in the business of pro-*
13 *viding commercial air tour operations over the*
14 *national park or tribal lands in the 12-month*
15 *period preceding the application.*

16 “(4) *COMMERCIAL AIR TOUR OPERATION OVER A*
17 *NATIONAL PARK.—*

18 “(A) *IN GENERAL.—The term ‘commercial*
19 *air tour operation over a national park’ means*
20 *any flight, conducted for compensation or hire in*
21 *a powered aircraft where a purpose of the flight*
22 *is sightseeing over a national park, within 1/2*
23 *mile outside the boundary of any national park*
24 *(except the Grand Canyon National Park), or*
25 *over tribal lands (except those within or abutting*

1 *the Grand Canyon National Park), during which*
2 *the aircraft flies—*

3 “(i) *below a minimum altitude, deter-*
4 *mined by the Administrator in cooperation*
5 *with the Director, above ground level (except*
6 *solely for purposes of takeoff or landing, or*
7 *necessary for safe operation of an aircraft*
8 *as determined under the rules and regula-*
9 *tions of the Federal Aviation Administra-*
10 *tion requiring the pilot-in-command to take*
11 *action to ensure the safe operation of the*
12 *aircraft); or*

13 “(ii) *less than 1 mile laterally from*
14 *any geographic feature within the park (un-*
15 *less more than 1/2 mile outside the bound-*
16 *ary).*

17 “(B) *FACTORS TO CONSIDER.—In making a*
18 *determination of whether a flight is a commer-*
19 *cial air tour operation over a national park for*
20 *purposes of this section, the Administrator may*
21 *consider—*

22 “(i) *whether there was a holding out to*
23 *the public of willingness to conduct a sight-*
24 *seeing flight for compensation or hire;*

1 “(ii) *whether a narrative that referred*
2 *to areas or points of interest on the surface*
3 *below the route of the flight was provided by*
4 *the person offering the flight;*

5 “(iii) *the area of operation;*

6 “(iv) *the frequency of flights conducted*
7 *by the person offering the flight;*

8 “(v) *the route of flight;*

9 “(vi) *the inclusion of sightseeing flights*
10 *as part of any travel arrangement package*
11 *offered by the person offering the flight;*

12 “(vii) *whether the flight would have*
13 *been canceled based on poor visibility of the*
14 *surface below the route of the flight; and*

15 “(viii) *any other factors that the Ad-*
16 *ministrator and the Director consider ap-*
17 *propriate.*

18 “(5) *NATIONAL PARK.—The term ‘national park’*
19 *means any unit of the National Park System.*

20 “(6) *TRIBAL LANDS.—*

21 “(A) *IN GENERAL.—The term ‘tribal lands’*
22 *means Indian country (as that term is defined*
23 *in section 1151 of title 18) that is within or*
24 *abutting a national park.*

1 “(B) *ABUTTING*.—For purposes of subpara-
2 graph (A), the term ‘abutting’ means lands with-
3 in $\frac{1}{2}$ mile outside the boundary of a national
4 park.

5 “(7) *ADMINISTRATOR*.—The term ‘Adminis-
6 trator’ means the Administrator of the Federal Avia-
7 tion Administration.

8 “(8) *DIRECTOR*.—The term ‘Director’ means the
9 Director of the National Park Service.

10 “(9) *AIR TOUR PERMIT*.—The term ‘air tour per-
11 mit’ means a permit issued by the Director, in ac-
12 cordance with this section, to a commercial operator
13 to conduct commercial air tour operations over a na-
14 tional park or tribal lands.”.

15 (b) *AMENDMENTS TO NATIONAL PARKS AIR TOUR*
16 *MANAGEMENT ACT OF 2000*.—

17 (1) *ADVISORY GROUP*.—Section 805 of the Na-
18 tional Parks Air Tour Management Act of 2000 (49
19 U.S.C. 40128 note) is amended—

20 (A) by striking subsection (a) and inserting
21 the following:

22 “(a) *IN GENERAL*.—The Director of the National Park
23 Service may retain the advisory group established pursuant
24 to this section, as in effect on the day before the date of
25 the enactment of the *Moving Ahead for Progress in the 21st*

1 *Century Act, to provide continuing advice and counsel with*
2 *respect to commercial air tour operations over and near na-*
3 *tional parks.”;*

4 (B) *in subsection (b)—*

5 (i) *in paragraph (1)(A)(iv), by insert-*
6 *ing “or Native Hawaiians” after “Indian*
7 *tribes”;* and

8 (ii) *by striking paragraph (3) and in-*
9 *serting the following:*

10 “(3) *CHAIRPERSON.—The representative of the*
11 *National Park Service shall serve as chairperson of*
12 *the advisory group.”;* and

13 (C) *in subsection (d)(2), by striking “The*
14 *Federal Aviation Administration and the Na-*
15 *tional Park Service shall jointly” and inserting*
16 *“The National Park Service shall”.*

17 (2) *REPORTS.—Section 807 of the National*
18 *Parks Air Tour Management Act of 2000 (49 U.S.C.*
19 *40128 note) is repealed.*

20 (3) *METHODOLOGIES USED TO ASSESS AIR TOUR*
21 *NOISE.—Section 808 of the National Parks Air Tour*
22 *Management Act of 2000 (49 U.S.C. 40128 note) is*
23 *amended by striking “a Federal agency” and insert-*
24 *ing “the Director of the National Park Service”.*

1 ***DIVISION H—BUDGETARY***
2 ***EFFECTS***

3 ***SEC. 100401. BUDGETARY EFFECTS.***

4 (a) *PAYGO SCORECARD.*—*The budgetary effects of*
5 *this Act shall not be entered on either PAYGO scorecard*
6 *maintained pursuant to section 4(d) of the Statutory Pay-*
7 *As-You-Go Act of 2010.*

8 (b) *SENATE PAYGO SCORECARD.*—*The budgetary ef-*
9 *fects of this Act shall not be recorded on any PAYGO score-*
10 *card maintained for purposes of section 201 of S. Con. Res.*
11 *21 (110th Congress).*

Attest:

Secretary.

112TH CONGRESS
2^D SESSION

H.R. 4348

AMENDMENT