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112TH CONGRESS
2D SESSION

# S. 1813

# AN ACT

To reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the ''Moving Ahead for Progress in the 21st Century Act'' or the ''MAP–21''.

(b) DIVISIONS.—This Act is organized into 8 divisions as follows:

(1) Division A–Federal-aid Highways and Highway Safety Construction Programs.

(2) Division B–Public Transportation.

(3) Division C–Transportation Safety and Surface Transportation Policy.

(4) Division D–Finance.

(5) Division E–Research and Education.

(6) Division F–Miscellaneous.

(7) Division G–Air Transportation.

(8) Division H–Budgetary Effects.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

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1 **SEC. 2. DEFINITIONS.**

2 In this Act, the following definitions apply:

3 (1) DEPARTMENT.—The term ''Department''

4 means the Department of Transportation.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Transportation.

# 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.**

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

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

(A) $39,143,000,000 for fiscal year 2012; and

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

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

(3) FEDERAL LANDS AND TRIBAL TRANSPORTATION PROGRAMS.—

(A) TRIBAL TRANSPORTATION PROGRAM.—For the tribal transportation program under section 202 of title 23, United States Code, $450,000,000 for each of fiscal years 2012 and 2013.

(B) FEDERAL LANDS TRANSPORTATION PROGRAM.—For the Federal lands transportation program under section 203 of title 23, United States Code, $300,000,000 for each of fiscal years 2012 and 2013, of which $260,000,000 of the amount made available for each fiscal year shall be the amount for the National Park Service and the United States Fish and Wildlife Service.

(C) FEDERAL LANDS ACCESS PROGRAM.—For the Federal lands access program under section 204 of title 23, United States Code, $250,000,000 for each of fiscal years 2012 and 2013.

(4) TERRITORIAL AND PUERTO RICO HIGHWAY PROGRAM.—For the territorial and Puerto Rico highway program under section 165 of title 23, United States Code, $180,000,000 for each of fiscal years 2012 and 2013.

(b) DISADVANTAGED BUSINESS ENTERPRISES.—

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

(A) SMALL BUSINESS CONCERN.—

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

(ii) EXCLUSIONS.—The term ''small business concern'' does not include any concern or group of concerns controlled by the same socially and economically disadvantaged individual or individuals that have average annual gross receipts during

the preceding 3 fiscal years in excess of $22,410,000, as adjusted annually by the Secretary for inflation.

(B) SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS.—The term ''socially and economically disadvantaged individuals'' means—

(i) women; and

(ii) any other socially and economically disadvantaged individuals (as the term is used in section 8(d) of the Small Business Act (15 U.S.C. 637(d)) and relevant subcontracting regulations promulgated pursuant to that Act).

(2) AMOUNTS FOR SMALL BUSINESS CONCERNS.—Except to the extent that the Secretary determines otherwise, not less than 10 percent of the amounts made available for any program under divisions A and B of this Act and section 403 of title 23, United States Code, shall be expended through small business concerns owned and controlled by socially and economically disadvantaged individuals.

(3) ANNUAL LISTING OF DISADVANTAGED BUSINESS ENTERPRISES.—Each State shall annually—

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

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

(i) women;

(ii) socially and economically disadvantaged individuals (other than women); and

(iii) individuals who are women and are otherwise socially and economically disadvantaged individuals.

(4) UNIFORM CERTIFICATION.—

(A) IN GENERAL.—The Secretary shall establish minimum uniform criteria for use by State governments in certifying whether a concern qualifies as a small business concern for the purpose of this subsection.

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

(i) on-site visits;

(ii) personal interviews with personnel;

(iii) issuance or inspection of licenses;

(iv) analyses of stock ownership;

(v) listings of equipment;

(vi) analyses of bonding capacity;

(vii) listings of work completed;

(viii) examination of the resumes of principal owners;

(ix) analyses of financial capacity; and

(x) analyses of the type of work preferred.

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

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

(B) such other information as the Secretary determines to be appropriate for the proper monitoring of the disadvantaged business enterprise program.

(6) COMPLIANCE WITH COURT ORDERS.—Nothing in this subsection limits the eligibility of an individual or entity to receive funds made available under divisions A and B of this Act and section 403

of title 23, United States Code, if the entity or person is prevented, in whole or in part, from complying with paragraph (2) because a Federal court issues a final order in which the court finds that a requirement or the implementation of paragraph (2) is unconstitutional.

**SEC. 1102. OBLIGATION CEILING.**

(a) GENERAL LIMITATION.—Subject to subsection (e), and notwithstanding any other provision of law, the obligations for Federal-aid highway and highway safety construction programs shall not exceed—

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

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

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

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

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

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

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

(5) subsections (b) and (c) of section 149 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (101 Stat. 198);

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

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

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

(9) Federal-aid highway programs for which obligation authority was made available under the Transportation Equity Act for the 21st Century (112 Stat. 107) or subsequent Acts for multiple years or to remain available until expended, but only to the extent that the obligation authority has not lapsed or been used;

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

(11) section 1603 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A

Legacy for Users (119 Stat. 1248), to the extent that funds obligated in accordance with that section were not subject to a limitation on obligations at the time at which the funds were initially made available for obligation; and

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

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

(1) shall not distribute obligation authority provided by subsection (a) for the fiscal year for—

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

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

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

(A) made available from the Highway Trust Fund (other than the Mass Transit Account) for Federal-aid highway and highway

safety construction programs for previous fiscal years the funds for which are allocated by the Secretary (or apportioned by the Secretary under sections 202 or 204 of title 23, United States Code); and

(B) for which obligation authority was provided in a previous fiscal year;

(3) shall determine the proportion that—

(A) the obligation authority provided by subsection (a) for the fiscal year, less the aggregate of amounts not distributed under paragraphs (1) and (2) of this subsection; bears to

(B) the total of the sums authorized to be appropriated for the Federal-aid highway and highway safety construction programs (other than sums authorized to be appropriated for provisions of law described in paragraphs (1) through (11) of subsection (b) and sums authorized to be appropriated for section 119 of title 23, United States Code, equal to the amount referred to in subsection (b)(12) for the fiscal year), less the aggregate of the amounts not distributed under paragraphs (1) and (2) of this subsection;

(4) shall distribute the obligation authority provided by subsection (a), less the aggregate amounts not distributed under paragraphs (1) and (2), for each of the programs (other than programs to which paragraph (1) applies) that are allocated by the Secretary under this Act and title 23, United States Code, or apportioned by the Secretary under sections 202 or 204 of that title, by multiplying—

(A) the proportion determined under paragraph (3); by

(B) the amounts authorized to be appropriated for each such program for the fiscal year; and

(5) shall distribute the obligation authority provided by subsection (a), less the aggregate amounts not distributed under paragraphs (1) and (2) and the amounts distributed under paragraph (4), for Federal-aid highway and highway safety construction programs that are apportioned by the Secretary under title 23, United States Code (other than the amounts apportioned for the national highway performance program in section 119 of title 23, United States Code, that are exempt from the limitation under subsection (b)(12) and the amounts appor-

tioned under section 204 of that title) in the proportion that—

(A) amounts authorized to be appropriated for the programs that are apportioned under title 23, United States Code, to each State for the fiscal year; bears to

(B) the total of the amounts authorized to be appropriated for the programs that are apportioned under title 23, United States Code, to all States for the fiscal year.

(d) REDISTRIBUTION OF UNUSED OBLIGATION AUTHORITY.—Notwithstanding subsection (c), the Secretary shall, after August 1 of each of fiscal years 2012 through 2013—

(1) revise a distribution of the obligation authority made available under subsection (c) if an amount distributed cannot be obligated during that fiscal year; and

(2) redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during that fiscal year, giving priority to those States having large unobligated balances of funds apportioned under sections 144 (as in effect on the day before the date of enactment of this Act) and 104 of title 23, United States Code.

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

(1) IN GENERAL.—Except as provided in paragraph (2), obligation limitations imposed by subsection (a) shall apply to contract authority for transportation research programs carried out under—

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

(B) division E of this Act.

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

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

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

(f) REDISTRIBUTION OF CERTAIN AUTHORIZED FUNDS.—

(1) IN GENERAL.—Not later than 30 days after the date of distribution of obligation authority under subsection (c) for each of fiscal years 2012 through 2013, the Secretary shall distribute to the States any funds (excluding funds authorized for the pro-

gram under section 202 of title 23, United States Code) that—

(A) are authorized to be appropriated for the fiscal year for Federal-aid highway programs; and

(B) the Secretary determines will not be allocated to the States (or will not be apportioned to the States under section 204 of title 23, United States Code), and will not be available for obligation, for the fiscal year because of the imposition of any obligation limitation for the fiscal year.

(2) RATIO.—Funds shall be distributed under paragraph (1) in the same proportion as the distribution of obligation authority under subsection (c)(5).

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

**SEC. 1103. DEFINITIONS.**

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

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

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

(3) by inserting after paragraph (1) the following:

"(2) ASSET MANAGEMENT.—The term 'asset management' means a strategic and systematic process of operating, maintaining, and improving physical assets, with a focus on both engineering and economic analysis based upon quality information, to identify a structured sequence of maintenance, preservation, repair, rehabilitation, and replacement actions that will achieve and sustain a desired state of good repair over the lifecycle of the assets at minimum practicable cost.";

(4) in paragraph (4) (as redesignated by paragraph (2))—

(A) in the matter preceding subparagraph (A), by inserting "or any project eligible for assistance under this title" after "of a highway";

(B) by striking subparagraph (A) and inserting the following:

''(A) preliminary engineering, engineering, and design-related services directly relating to the construction of a highway project, including engineering, design, project development and management, construction project management and inspection, surveying, mapping (including the establishment of temporary and permanent geodetic control in accordance with specifications of the National Oceanic and Atmospheric Administration), and architectural-related services;'';

(C) in subparagraph (B)—

(i) by inserting ''reconstruction,'' before ''resurfacing''; and

(ii) by striking ''and rehabilitation'' and inserting ''rehabilitation, and preservation'';

(D) in subparagraph (E) by striking ''railway'' and inserting ''railway-highway''; and

(E) in subparagraph (F) by striking ''obstacles'' and inserting ''hazards''.

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

(A) by inserting ''public'' before ''highway eligible''; and

(B) by inserting ''functionally'' before ''classified'';

(6) by inserting after paragraph (6) (as so redesignated) the following:

''(7) FEDERAL LANDS ACCESS TRANSPORTATION FACILITY.—The term 'Federal Lands access transportation facility' means a public highway, road, bridge, trail, or transit system that is located on, is adjacent to, or provides access to Federal lands for which title or maintenance responsibility is vested in a State, county, town, township, tribal, municipal, or local government.

''(8) FEDERAL LANDS TRANSPORTATION FACILITY.—The term 'Federal lands transportation facility' means a public highway, road, bridge, trail, or transit system that is located on, is adjacent to, or provides access to Federal lands for which title and maintenance responsibility is vested in the Federal Government, and that appears on the national Federal lands transportation facility inventory described in section 203(c).'';

(7) in paragraph (11)(B) by inserting ''including public roads on dams'' after ''drainage structure'';

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

(A) by striking ''as a'' and inserting ''as an air quality''; and

(B) by inserting ''air quality'' before ''attainment area'';

(9) in paragraph (18) (as so redesignated) by striking ''an undertaking to construct a particular portion of a highway, or if the context so implies, the particular portion of a highway so constructed or any other undertaking'' and inserting ''any undertaking'';

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

(A) by striking ''the State transportation department and''; and

(B) by inserting ''and the recipient'' after ''Secretary'';

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

''(23) SAFETY IMPROVEMENT PROJECT.—The term 'safety improvement project' means a strategy, activity, or project on a public road that is consistent with the State strategic highway safety plan

and corrects or improves a roadway feature that constitutes a hazard to road users or addresses a highway safety problem.";

(12) by inserting after paragraph (26) (as so redesignated) the following:

"(27) STATE STRATEGIC HIGHWAY SAFETY PLAN.—The term 'State strategic highway safety plan' has the same meaning given such term in section 148(a).";

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

"(29) TRANSPORTATION ENHANCEMENT ACTIVITY.—The term 'transportation enhancement activity' means any of the following activities when carried out as part of any program or project authorized or funded under this title, or as an independent program or project related to surface transportation:

"(A) Provision of facilities for pedestrians and bicycles.

"(B) Provision of safety and educational activities for pedestrians and bicyclists.

"(C) Acquisition of scenic easements and scenic or historic sites.

"(D) Scenic or historic highways and bridges.

"(E) Vegetation management practices in transportation rights-of-way and other activities eligible under section 319.

"(F) Historic preservation, rehabilitation, and operation of historic transportation buildings, structures, or facilities.

"(G) Preservation of abandoned railway corridors, including the conversion and use of the corridors for pedestrian or bicycle trails.

"(H) Inventory, control, and removal of outdoor advertising.

"(I) Archaeological planning and research.

"(J) Any environmental mitigation activity, including pollution prevention and pollution abatement activities and mitigation to—

"(i) address stormwater management, control, and water pollution prevention or abatement related to highway construction or due to highway runoff, including activities described in sections 133(b)(11), 328(a), and 329; or

"(ii) reduce vehicle-caused wildlife mortality or to restore and maintain connectivity among terrestrial or aquatic habitats."; and

(14) by inserting after paragraph (29) (as so redesignated) the following:

"(30) TRANSPORTATION SYSTEMS MANAGEMENT AND OPERATIONS.—

"(A) IN GENERAL.—The term 'transportation systems management and operations' means integrated strategies to optimize the performance of existing infrastructure through the implementation of multimodal and intermodal, cross-jurisdictional systems, services, and projects designed to preserve capacity and improve security, safety, and reliability of the transportation system.

"(B) INCLUSIONS.—The term 'transportation systems management and operations' includes—

"(i) actions such as traffic detection and surveillance, corridor management, freeway management, arterial management, active transportation and demand management, work zone management, emergency management, traveler information services, congestion pricing, parking management, automated enforcement, traffic control, commercial vehicle operations,

freight management, and coordination of highway, rail, transit, bicycle, and pedestrian operations; and

"(ii) coordination of the implementation of regional transportation system management and operations investments (such as traffic incident management, traveler information services, emergency management, roadway weather management, intelligent transportation systems, communication networks, and information sharing systems) requiring agreements, integration, and interoperability to achieve targeted system performance, reliability, safety, and customer service levels.

"(31) TRIBAL TRANSPORTATION FACILITY.—The term 'tribal transportation facility' means a public highway, road, bridge, trail, or transit system that is located on or provides access to tribal land and appears on the national tribal transportation facility inventory described in section 202(b)(1).

"(32) TRUCK STOP ELECTRIFICATION SYSTEM.—The term 'truck stop electrification system' means a system that delivers heat, air conditioning,

electricity, or communications to a heavy-duty vehicle.''.

(b) SENSE OF CONGRESS.—Section 101(c) of title 23, United States Code, is amended by striking ''system'' and inserting ''highway''.

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

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

**''§ 103. National highway system**

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

''(b) NATIONAL HIGHWAY SYSTEM.—

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

''(A) serve major population centers, international border crossings, ports, airports, public transportation facilities, and other intermodal transportation facilities and other major travel destinations;

''(B) meet national defense requirements; and

''(C) serve interstate and interregional travel and commerce.

"(2) COMPONENTS.—The National Highway System described in paragraph (1) consists of the following:

"(A) The National Highway System depicted on the map submitted by the Secretary of Transportation to Congress with the report entitled 'Pulling Together: The National Highway System and its Connections to Major Intermodal Terminals' and dated May 24, 1996, and modifications approved by the Secretary before the date of enactment of the MAP–21.

"(B) Other urban and rural principal arterial routes, and border crossings on those routes, that were not included on the National Highway System before the date of enactment of the MAP–21.

"(C) Other connector highways (including toll facilities) that were not included in the National Highway System before the date of enactment of the MAP–21 but that provide motor vehicle access between arterial routes on the National Highway System and a major intermodal transportation facility.

"(D) A strategic highway network that—

"(i) consists of a network of highways that are important to the United States strategic defense policy, that provide defense access, continuity, and emergency capabilities for the movement of personnel, materials, and equipment in both peacetime and wartime, and that were not included on the National Highway System before the date of enactment of the MAP–21;

"(ii) may include highways on or off the Interstate System; and

"(iii) shall be designated by the Secretary, in consultation with appropriate Federal agencies and the States.

"(E) Major strategic highway network connectors that—

"(i) consist of highways that provide motor vehicle access between major military installations and highways that are part of the strategic highway network but were not included on the National Highway System before the date of enactment of the MAP–21; and

"(ii) shall be designated by the Secretary, in consultation with appropriate Federal agencies and the States.

"(3) MODIFICATIONS TO NHS.—

"(A) IN GENERAL.—The Secretary may make any modification, including any modification consisting of a connector to a major intermodal terminal, to the National Highway System that is proposed by a State if the Secretary determines that the modification—

"(i) meets the criteria established for the National Highway System under this title after the date of enactment of the MAP–21; and

"(ii) enhances the national transportation characteristics of the National Highway System.

"(B) COOPERATION.—

"(i) IN GENERAL.—In proposing a modification under this paragraph, a State shall cooperate with local and regional officials.

"(ii) URBANIZED AREAS.—In an urbanized area, the local officials shall act through the metropolitan planning organi-

zation designated for the area under section 134.

"(c) INTERSTATE SYSTEM.—

"(1) DESCRIPTION.—

"(A) IN GENERAL.—The Dwight D. Eisenhower National System of Interstate and Defense Highways within the United States (including the District of Columbia and Puerto Rico) consists of highways designed, located, and selected in accordance with this paragraph.

"(B) DESIGN.—

"(i) IN GENERAL.—Except as provided in clause (ii), highways on the Interstate System shall be designed in accordance with the standards of section 109(b).

"(ii) EXCEPTION.—Highways on the Interstate System in Alaska and Puerto Rico shall be designed in accordance with such geometric and construction standards as are adequate for current and probable future traffic demands and the needs of the locality of the highway.

"(C) LOCATION.—Highways on the Interstate System shall be located so as—

"(i) to connect by routes, as direct as practicable, the principal metropolitan areas, cities, and industrial centers;

"(ii) to serve the national defense; and

"(iii) to the maximum extent practicable, to connect at suitable border points with routes of continental importance in Canada and Mexico.

"(D) SELECTION OF ROUTES.—To the maximum extent practicable, each route of the Interstate System shall be selected by joint action of the State transportation departments of the State in which the route is located and the adjoining States, in cooperation with local and regional officials, and subject to the approval of the Secretary.

"(2) MAXIMUM MILEAGE.—The mileage of highways on the Interstate System shall not exceed 43,000 miles, exclusive of designations under paragraph (4).

"(3) MODIFICATIONS.—The Secretary may approve or require modifications to the Interstate System in a manner consistent with the policies and procedures established under this subsection.

"(4) INTERSTATE SYSTEM DESIGNATIONS.—

"(A) ADDITIONS.—If the Secretary determines that a highway on the National Highway System meets all standards of a highway on the Interstate System and that the highway is a logical addition or connection to the Interstate System, the Secretary may, upon the affirmative recommendation of the State or States in which the highway is located, designate the highway as a route on the Interstate System.

"(B) DESIGNATIONS AS FUTURE INTERSTATE SYSTEM ROUTES.—

"(i) IN GENERAL.—Subject to clauses (ii) through (vi), if the Secretary determines that a highway on the National Highway System would be a logical addition or connection to the Interstate System and would qualify for designation as a route on the Interstate System under subparagraph (A) if the highway met all standards of a highway on the Interstate System, the Secretary may, upon the affirmative recommendation of the State or States in which the highway is located, designate the highway as a future Interstate System route.

"(ii) WRITTEN AGREEMENT.—A designation under clause (i) shall be made only upon the written agreement of each State described in that clause that the highway will be constructed to meet all standards of a highway on the Interstate System by not later than the date that is 25 years after the date of the agreement.

"(iii) FAILURE TO COMPLETE CONSTRUCTION.—If a State described in clause (i) has not substantially completed the construction of a highway designated under this subparagraph by the date specified in clause (ii), the Secretary shall remove the designation of the highway as a future Interstate System route.

"(iv) EFFECT OF REMOVAL.—Removal of the designation of a highway under clause (iii) shall not preclude the Secretary from designating the highway as a route on the Interstate System under subparagraph (A) or under any other provision of law providing for addition to the Interstate System.

"(v) RETROACTIVE EFFECT.—An agreement described in clause (ii) that is entered into before August 10, 2005, shall be deemed to include the 25-year time limitation described in that clause, regardless of any earlier construction completion date in the agreement.

"(vi) REFERENCES.—No law, rule, regulation, map, document, or other record of the United States, or of any State or political subdivision of a State, shall refer to any highway designated as a future Interstate System route under this subparagraph, and no such highway shall be signed or marked, as a highway on the Interstate System, until such time as the highway—

"(I) is constructed to the geometric and construction standards for the Interstate System; and

"(II) has been designated as a route on the Interstate System.

"(C) FINANCIAL RESPONSIBILITY.—Except as provided in this title, the designation of a highway under this paragraph shall create no

additional Federal financial responsibility with respect to the highway.

"(5) EXEMPTION OF INTERSTATE SYSTEM.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the Interstate System shall not be considered to be a historic site under section 303 of title 49 or section 138 of this title, regardless of whether the Interstate System or portions or elements of the Interstate System are listed on, or eligible for listing on, the National Register of Historic Places.

"(B) INDIVIDUAL ELEMENTS.—Subject to subparagraph (C)—

"(i) the Secretary shall determine, through the administrative process established for exempting the Interstate System from section 106 of the National Historic Preservation Act (16 U.S.C. 470f), those individual elements of the Interstate System that possess national or exceptional historic significance (such as a historic bridge or a highly significant engineering feature); and

"(ii) those elements shall be considered to be historic sites under section 303

of title 49 or section 138 of this title, as applicable.

"(C) CONSTRUCTION, MAINTENANCE, RESTORATION, AND REHABILITATION ACTIVITIES.—Subparagraph (B) does not prohibit a State from carrying out construction, maintenance, preservation, restoration, or rehabilitation activities for a portion of the Interstate System referred to in subparagraph (B) upon compliance with section 303 of title 49 or section 138 of this title, as applicable, and section 106 of the National Historic Preservation Act (16 U.S.C. 470f).".."

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

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

(A) in the first sentence, by striking "and in subsections (c)(18) and (c)(20)" and inserting ", in subsections (c)(18) and (c)(20), and in subparagraphs (A)(iii) and (B) of subsection (c)(26)"; and

(B) in the second sentence, by striking "that the segment" and all that follows through the period and inserting "that the segment meets the Interstate System design standards approved by the Secretary under section 109(b) of title 23, United States Code, and is planned to connect to an existing Interstate System segment by the date that is 25 years after the date of enactment of the MAP–21.".

(2) ROUTE DESIGNATION.—Section 1105(e)(5)(C)(i) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2032; 109 Stat. 598) is amended by adding at the end the following: "The routes referred to subparagraphs (A)(iii) and (B)(i) of subsection (c)(26) are designated as Interstate Route I–11.".

(c) CONFORMING AMENDMENTS.—

(1) ANALYSIS.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 103 and inserting the following:

"103. National highway system.".

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

(A) in subsection (a) by striking ''the Federal-aid systems'' and inserting ''Federal-aid highways''; and

(B) in subsection (b), in the first sentence, by striking ''of the Federal-aid systems'' and inserting ''Federal-aid highway''.

(3) SECTION 123.—Section 123(a) of title 23, United States Code, is amended in the first sentence by striking ''Federal-aid system'' and inserting ''Federal-aid highway''.

(4) SECTION 217.—Section 217(b) of title 23, United States Code, is amended in the subsection heading by striking ''NATIONAL HIGHWAY SYSTEM'' and inserting ''NATIONAL HIGHWAY PERFORMANCE PROGRAM''.

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

(6) SECTION 317.—Section 317(d) of title 23, United States Code is amended by striking ''system'' and inserting ''highway''.

**SEC. 1105. APPORTIONMENT.**

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

**"§ 104. Apportionment**

"(a) ADMINISTRATIVE EXPENSES.—

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

"(2) PURPOSES.—The amounts authorized to be appropriated by this subsection shall be used—

"(A) to administer the provisions of law to be funded from appropriations for the Federal-aid highway program and programs authorized under chapter 2;

"(B) to make transfers of such sums as the Secretary determines to be appropriate to the Appalachian Regional Commission for administrative activities associated with the Appalachian development highway system; and

"(C) to reimburse, as appropriate, the Office of Inspector General of the Department of Transportation for the conduct of annual audits of financial statements in accordance with section 3521 of title 31.

"(3) AVAILABILITY.—The amounts made available under paragraph (1) shall remain available until expended.

"(b) DIVISION OF STATE APPORTIONMENTS AMONG PROGRAMS.—The Secretary shall distribute the amount apportioned to a State for a fiscal year under subsection (c) among the national highway performance program, the transportation mobility program, the highway safety improvement program, the congestion mitigation and air quality improvement program, and the national freight program, and to carry out section 134 as follows:

"(1) NATIONAL HIGHWAY PERFORMANCE PROGRAM.—For the national highway performance program, 58 percent of the amount remaining after distributing amounts under paragraphs (4) and (6).

"(2) TRANSPORTATION MOBILITY PROGRAM.—For the transportation mobility program, 29.3 percent of the amount remaining after distributing amounts under paragraphs (4) and (6).

"(3) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—For the highway safety improvement program, 7 percent of the amount remaining after distributing amounts under paragraphs (4) and (6).

"(4) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—For the congestion

mitigation and air quality improvement program, an amount determined by multiplying the amount determined for the State under subsection (c) by the proportion that—

"(A) the amount apportioned to the State for the congestion mitigation and air quality improvement program for fiscal year 2009, plus 10 percent of the amount apportioned to the State for the surface transportation program for that fiscal year; bears to

"(B) the total amount of funds apportioned to the State for that fiscal year for the programs referred to in section 105(a)(2) (except for the high priority projects program referred to in section 105(a)(2)(H)), as in effect on the day before the date of enactment of the MAP–21.

"(5) NATIONAL FREIGHT PROGRAM.—For the national freight program, 5.7 percent of the amount remaining after distributing amounts under paragraphs (4) and (6).

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

"(A) the amount apportioned to the State to carry out section 134 for fiscal year 2009; bears to

"(B) the total amount of funds apportioned to the State for that fiscal year for the programs referred to in section 105(a)(2) (except for the high priority projects program referred to in section 105(a)(2)(H)), as in effect on the day before the date of enactment of the MAP–21.

"(c) CALCULATION OF STATE AMOUNTS.—

"(1) STATE SHARE.—The amount for each State of combined apportionments for the national highway performance program under section 119, the transportation mobility program under section 133, the highway safety improvement program under section 148, the congestion mitigation and air quality improvement program under section 149, the national freight program under section 167, and to carry out section 134 shall be determined as follows:

"(A) INITIAL AMOUNT.—The initial amount for each State shall be determined by multiplying the total amount available for apportionment by the share for each State which shall be equal to the proportion that—

"(i) the amount of apportionments and allocations that the State received for fiscal years 2005 through 2009; bears to

"(ii) the amount of those apportionments and allocations received by all States for those fiscal years.

"(B) ADJUSTMENTS TO AMOUNTS.—The initial amounts resulting from the calculation under subparagraph (A) shall be adjusted to ensure that, for each State, the amount of combined apportionments for the programs shall not be less than 95 percent of the estimated tax payments attributable to highway users in the State paid into the Highway Trust Fund (other than the Mass Transit Account) in the most recent fiscal year for which data are available.

"(C) FURTHER ADJUSTMENT FOR PRIVATIZED HIGHWAYS.—

"(i) DEFINITION OF PRIVATIZED HIGHWAY.—In this subparagraph:

"(I) IN GENERAL.—The term 'privatized highway' means a highway that was formerly a publically operated toll road that is subject to an agreement giving a private entity—

"(aa) control over the operation of the highway; and

"(bb) ownership over the toll revenues collected from the operation of the highway.

"(II) EXCLUSION.—The term 'privatized highway' does not include any highway or toll road that was originally—

"(aa) financed and constructed using private funds; and

"(bb) operated by a private entity.

"(ii) ADJUSTMENT.—After making the adjustments to the apportionment of a State under subparagraphs (A) and (B), the Secretary shall further adjust the amount to be apportioned to the State by reducing the apportionment by an amount equal to the product obtained by multiplying—

"(I) the amount to be apportioned to the State, as so adjusted under those subparagraphs; and

"(II) the percentage described in clause (iii).

"(iii) PERCENTAGE.—The percentage referred to in clause (ii) is the percentage equal to the sum obtained by adding—

"(I) the product obtained by multiplying—

"(aa) ½; and

"(bb) the proportion that—

"(AA) the total number of lane miles on privatized highway lanes on National Highway System routes in a State; bears to

"(BB) the total number of all lane miles on National Highway System routes in the State; and

"(II) the product obtained by multiplying—

"(aa) ½; and

"(bb) the proportion that—

"(AA) the total number of vehicle miles traveled on privatized highway lanes on

National Highway System routes in the State; bears to

"(BB) the total number of vehicle miles traveled on all lanes on National Highway System routes in the State.

"(iv) REAPPORTIONMENT.—An amount withheld from apportionment to a State under clause (ii) shall be reapportioned among all other States based on the proportions calculated under subparagraph (A).

"(2) STATE APPORTIONMENT.—On October 1 of each fiscal year, the Secretary shall apportion the sum authorized to be appropriated for expenditure on the national highway performance program under section 119, the transportation mobility program under section 133, the highway safety improvement program under section 148, the congestion mitigation and air quality improvement program under section 149, the national freight program under section 167, and to carry out section 134 in accordance with paragraph (1).

"(d) METROPOLITAN PLANNING.—

"(1) USE OF AMOUNTS.—

"(A) USE.—

"(i) IN GENERAL.—Except as provided in clause (ii), the amounts apportioned to a State under subsection (b)(6) shall be made available by the State to the metropolitan planning organizations responsible for carrying out section 134 in the State.

"(ii) STATES RECEIVING MINIMUM APPORTIONMENT.—A State that received the minimum apportionment for use in carrying out section 134 for fiscal year 2009 may, subject to the approval of the Secretary, use the funds apportioned under subsection (b)(6) to fund transportation planning outside of urbanized areas.

"(B) UNUSED FUNDS.—Any funds that are not used to carry out section 134 may be made available by a metropolitan planning organization to the State to fund activities under section 135.

"(2) DISTRIBUTION OF AMOUNTS WITHIN STATES.—

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

"(i) is developed by each State and approved by the Secretary; and

"(ii) takes into consideration, at a minimum, population, status of planning, attainment of air quality standards, metropolitan area transportation needs, and other factors necessary to provide for an appropriate distribution of funds to carry out section 134 and other applicable requirements of Federal law.

"(B) REIMBURSEMENT.—Not later than 15 business days after the date of receipt by a State of a request for reimbursement of expenditures made by a metropolitan planning organization for carrying out section 134, the State shall reimburse, from amounts distributed under this paragraph to the metropolitan planning organization by the State, the metropolitan planning organization for those expenditures.

"(3) DETERMINATION OF POPULATION FIGURES.—For the purpose of determining population figures under this subsection, the Secretary shall use the latest available data from the decennial census conducted under section 141(a) of title 13, United States Code.

"(e) CERTIFICATION OF APPORTIONMENTS.—

"(1) IN GENERAL.—The Secretary shall—

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

"(B) to permit the States to develop adequate plans for the use of amounts apportioned under this section, advise each State of the amount that will be apportioned to the State under this section for a fiscal year not later than 90 days before the beginning of the fiscal year for which the sums to be apportioned are authorized.

"(2) NOTICE TO STATES.—If the Secretary has not made an apportionment under this section for a fiscal year beginning after September 30, 1998, by not later than the date that is the twenty-first day

of that fiscal year, the Secretary shall submit, by not later than that date, to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate, a written statement of the reason for not making the apportionment in a timely manner.

"(3) APPORTIONMENT CALCULATIONS.—

"(A) IN GENERAL.—The calculation of official apportionments of funds to the States under this title is a primary responsibility of the Department and shall be carried out only by employees (and not contractors) of the Department.

"(B) PROHIBITION ON USE OF FUNDS TO HIRE CONTRACTORS.—None of the funds made available under this title shall be used to hire contractors to calculate the apportionments of funds to States.

"(f) TRANSFER OF HIGHWAY AND TRANSIT FUNDS.—

"(1) TRANSFER OF HIGHWAY FUNDS FOR TRANSIT PROJECTS.—

"(A) IN GENERAL.—Subject to subparagraph (B), amounts made available for transit

projects or transportation planning under this title may be transferred to and administered by the Secretary in accordance with chapter 53 of title 49.

"(B) NON-FEDERAL SHARE.—The provisions of this title relating to the non-Federal share shall apply to the amounts transferred under subparagraph (A).

"(2) TRANSFER OF TRANSIT FUNDS FOR HIGHWAY PROJECTS.—

"(A) IN GENERAL.—Subject to subparagraph (B), amounts made available for highway projects or transportation planning under chapter 53 of title 49 may be transferred to and administered by the Secretary in accordance with this title.

"(B) NON-FEDERAL SHARE.—The provisions of chapter 53 of title 49 relating to the non-Federal share shall apply to amounts transferred under subparagraph (A).

"(3) TRANSFER OF FUNDS AMONG STATES OR TO FEDERAL HIGHWAY ADMINISTRATION.—

"(A) IN GENERAL.—Subject to subparagraph (B), the Secretary may, at the request of a State, transfer amounts apportioned or allo-

cated under this title to the State to another State, or to the Federal Highway Administration, for the purpose of funding 1 or more projects that are eligible for assistance with amounts so apportioned or allocated.

"(B) APPORTIONMENT.—The transfer shall have no effect on any apportionment of amounts to a State under this section.

"(C) FUNDS SUBALLOCATED TO URBANIZED AREAS.—Amounts that are apportioned or allocated to a State under subsection (b)(3) (as in effect on the day before the date of enactment of the MAP–21) or subsection (b)(2) and attributed to an urbanized area of a State with a population of more than 200,000 individuals under section 133(d) may be transferred under this paragraph only if the metropolitan planning organization designated for the area concurs, in writing, with the transfer request.

"(4) TRANSFER OF OBLIGATION AUTHORITY.—Obligation authority for amounts transferred under this subsection shall be transferred in the same manner and amount as the amounts for the projects that are transferred under this section."

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

"(1) the amount obligated, by each State, for Federal-aid highways and highway safety construction programs during the preceding fiscal year;

"(2) the balance, as of the last day of the preceding fiscal year, of the unobligated apportionment of each State by fiscal year under this section;

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

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

"(A) program;

"(B) funding category of subcategory;

"(C) type of improvement;

"(D) State; and

"(E) sub-State geographical area, including urbanized and rural areas, on the basis of the population of each such area.".

(b) CONFORMING AMENDMENT.—Section 146(a) of title 23, United States Code, is amended by striking "sections 104(b)(l) and 104(b)(3)" and inserting "section 104(b)(2)".

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

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

**"§ 119. National highway performance program**

''(a) ESTABLISHMENT.—The Secretary shall establish and implement a national highway performance program under this section.

''(b) PURPOSES.—The purposes of the national highway performance program shall be—

''(1) to provide support for the condition and performance of the National Highway System; and

''(2) to ensure that investments of Federal-aid funds in highway construction are directed to support progress toward the achievement of performance targets for infrastructure condition and performance.

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

''(d) ELIGIBLE PROJECTS.—Funds apportioned to a State to carry out the national highway performance program may be obligated only for a project on an eligible facility that is—

"(1) a project, or is part of a program of projects, supporting progress toward the achievement of national performance goals for improving infrastructure condition, safety, mobility, or freight movement on the National Highway System and consistent with sections 134 and 135; and

"(2) for 1 or more of the following purposes:

"(A) Construction, reconstruction, resurfacing, restoration, rehabilitation, preservation, or operational improvement of segments of the National Highway System.

"(B) Construction, replacement (including replacement with fill material), rehabilitation, preservation, and protection (including scour countermeasures, seismic retrofits, impact protection measures, security countermeasures, and protection against extreme events) of bridges on the National Highway System.

"(C) Construction, replacement (including replacement with fill material), rehabilitation, preservation, and protection (including impact protection measures, security countermeasures, and protection against extreme events) of tunnels on the National Highway System.

"(D) Inspection and evaluation, as described in section 144, of bridges and tunnels on the National Highway System, and inspection and evaluation of other highway infrastructure assets on the National Highway System, including signs and sign structures, earth retaining walls, and drainage structures.

"(E) Training of bridge and tunnel inspectors, as described in section 144.

"(F) Construction, rehabilitation, or replacement of existing ferry boats and ferry boat facilities, including approaches, that connect road segments of the National Highway System.

"(G) Construction, reconstruction, resurfacing, restoration, rehabilitation, and preservation of, and operational improvements for, a Federal-aid highway not on the National Highway System, and construction of a transit project eligible for assistance under chapter 53 of title 49, if—

"(i) the highway project or transit project is in the same corridor as, and in proximity to, a fully access-controlled high-

way designated as a part of the National Highway System;

"(ii) the construction or improvements will reduce delays or produce travel time savings on the fully access-controlled highway described in clause (i) and improve regional traffic flow; and

"(iii) the construction or improvements are more cost-effective, as determined by benefit-cost analysis, than an improvement to the fully access-controlled highway described in clause (i).

"(H) Bicycle transportation and pedestrian walkways in accordance with section 217.

"(I) Highway safety improvements for segments of the National Highway System.

"(J) Capital and operating costs for traffic and traveler information monitoring, management, and control facilities and programs.

"(K) Development and implementation of a State asset management plan for the National Highway System in accordance with this section, including data collection, maintenance, and integration and the cost associated with obtaining, updating, and licensing software and

equipment required for risk-based asset management and performance-based management.

"(L) Infrastructure-based intelligent transportation systems capital improvements.

"(M) Environmental restoration and pollution abatement in accordance with section 328.

"(N) Control of noxious weeds and aquatic noxious weeds and establishment of native species in accordance with section 329.

"(O) In accordance with all applicable Federal law (including regulations), participation in natural habitat and wetlands mitigation efforts relating to projects funded under this title, which may include participation in natural habitat and wetlands mitigation banks, contributions to statewide and regional efforts to conserve, restore, enhance, and create natural habitats and wetlands, and development of statewide and regional natural habitat and wetlands conservation and mitigation plans, including any such banks, efforts, and plans developed in accordance with applicable Federal law (including regulations), on the conditions that—

"(i) contributions to those mitigation efforts may—

"(I) take place concurrent with or in advance of project construction; and

"(II) occur in advance of project construction only if the efforts are consistent with all applicable requirements of Federal law (including regulations) and State transportation planning processes; and

"(ii) with respect to participation in a natural habitat or wetland mitigation effort relating to a project funded under this title that has an impact that occurs within the service area of a mitigation bank, preference is given, to the maximum extent practicable, to the use of the mitigation bank if the bank contains sufficient available credits to offset the impact and the bank is approved in accordance with applicable Federal law (including regulations).

"(P) Replacement (including replacement with fill material), rehabilitation, preservation, and protection (including scour counter-

measures, seismic retrofits, impact protection measures, security countermeasures, and protection against extreme events) of bridges on Federal-aid highways (other than on the National Highway System).

"(e) LIMITATION ON NEW CAPACITY.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the maximum amount that a State may obligate under this section for projects under subparagraphs (G) and (P) of subsection (d)(2) and that is attributable to the portion of the cost of any project undertaken to expand the capacity of eligible facilities on the National Highway System, in a case in which the new capacity consists of 1 or more new travel lanes that are not high-occupancy vehicle lanes, shall not, in total, exceed 40 percent of the combined apportionments of a State under section 104(b)(1) for the most recent 3 consecutive years.

"(2) EXCEPTION.—Paragraph (1) shall not apply to a project for the construction of auxiliary lanes and turning lanes or widening of a bridge during rehabilitation or replacement to meet current geometric, construction, and structural standards for the types and volumes of projected traffic over the design life of the project.

"(f) STATE PERFORMANCE MANAGEMENT.—

"(1) IN GENERAL.—A State shall develop a risk-based asset management plan for the National Highway System to improve or preserve asset condition and system performance.

"(2) PERFORMANCE DRIVEN PLAN.—A State asset management plan shall include strategies leading to a program of projects that would make progress toward achievement of the State targets for asset condition and performance of the National Highway System in accordance with paragraph (5) and supporting the progress toward the achievement of the national goals identified in section 150.

"(3) PLAN CONTENTS.—A State asset management plan shall, at a minimum, be in a form that the Secretary determines to be appropriate and include—

"(A) a summary listing of the pavement and bridge assets on the National Highway System in the State, including a description of the condition of those assets;

"(B) asset management objectives and measures;

"(C) performance gap identification;

"(D) lifecycle cost and risk management analysis;

"(E) a financial plan; and

"(F) investment strategies.

"(4) STANDARDS AND MEASURES.—

"(A) IN GENERAL.—Subject to subparagraph (B), not later than 18 months after the date of enactment of the MAP–21, the Secretary shall, in consultation with State departments of transportation and other stakeholders, establish—

"(i) minimum standards for States to use in developing and operating pavement management systems and bridge management systems;

"(ii) measures for States to use to assess—

"(I) the condition of pavements on the Interstate system;

"(II) the condition of pavements on the National Highway System (excluding the Interstate);

"(III) the condition of bridges on the National Highway System;

"(IV) the performance of the Interstate System; and

"(V) the performance of the National Highway System (excluding the Interstate System);

"(iii) the data elements that are necessary to collect and maintain data, and a standardized process for collection and sharing of data with appropriate governmental entities at the Federal, State, and local levels (including metropolitan planning organizations), to carry out paragraph (5); and

"(iv) minimum levels for—

"(I) the condition of pavement on the Interstate System; and

"(II) the condition of bridges on the National Highway System.

"(B) STATE PARTICIPATION.—In carrying out subparagraph (A), the Secretary shall—

"(i) provide States not less than 90 days to comment on any regulation proposed by the Secretary under that subparagraph; and

"(ii) take into consideration any comments of the States relating to a proposed regulation received during that comment period.

"(5) STATE PERFORMANCE TARGETS.—

"(A) ESTABLISHMENT OF TARGETS.—Not later than 1 year after the date on which the Secretary promulgates final regulations under paragraph (4), each State, in consultation with metropolitan planning organizations, shall establish targets that address each of the performance measures identified in paragraph (4)(A)(ii).

"(B) PERIODIC UPDATES.—Each State shall periodically update the targets established under subparagraph (A).

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

"(A) a risk-based asset management plan for the National Highway System in accordance with this section, developed through a process defined and approved by the Secretary; and

"(B) State targets that address the performance measures identified in paragraph (4)(B).

"(7) CERTIFICATION OF PLAN DEVELOPMENT PROCESS.—

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

"(i) review the process; and

"(ii)(I) certify that the process meets the requirements established by the Secretary; or

"(II) deny certification and specify actions necessary for the State to take to correct deficiencies in the State process.

"(B) RECERTIFICATION.—Not less often than every 4 years, the Secretary shall review and recertify that the process used by a State to develop and maintain the State asset management plan for the National Highway System meets the requirements for the process, as established by the Secretary.

"(C) OPPORTUNITY TO CURE.—If the Secretary denies certification under subparagraph (A), the Secretary shall provide the State with—

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

"(ii) a written statement of the specific actions the Secretary determines to be necessary for the State to cure the plan.

"(8) PERFORMANCE REPORTS.—

"(A) IN GENERAL.—Not later than 4 years after the date of enactment of the MAP–21 and biennially thereafter, a State shall submit to the Secretary a report that describes—

"(i) the condition and performance of the National Highway System in the State;

"(ii) progress in achieving State targets for each of the performance measures for the National Highway System; and

"(iii) the effectiveness of the investment strategy documented in the State

asset management plan for the National Highway System.

"(B) FAILURE TO ACHIEVE TARGETS.—A State that does not achieve or make significant progress toward achieving the targets of the State for performance measures described in subparagraph (A)(ii) for 2 consecutive reports submitted under this paragraph shall include in the next report submitted a description of the actions the State will undertake to achieve the targets.

"(9) PROCESS.—Not later than 18 months after the date of enactment of the MAP–21, the Secretary shall, by regulation and in consultation with State departments of transportation, establish the process to develop the State asset management plan described in paragraph (1) and establish the standards and measures described in paragraph (4).

"(g) INTERSTATE SYSTEM AND NHS BRIDGE CONDITIONS.—

"(1) CONDITION OF INTERSTATE SYSTEM.—

"(A) PENALTY.—If, during 2 consecutive reporting periods, the condition of the Interstate System, excluding bridges on the Interstate System, in a State falls below the min-

imum condition level established by the Secretary under subsection (f)(4)(A)(iv), the State shall be required, during the following fiscal year—

"(i) to obligate, from the amounts apportioned to the State under section 104(b)(1), an amount that is not less than the amount of funds apportioned to the State for fiscal year 2009 under the Interstate maintenance program for the purposes described in this section (as in effect on the day before the date of enactment of the MAP–21), except that for each year after fiscal year 2013, the amount required to be obligated under this clause shall be increased by 2 percent over the amount required to be obligated in the previous fiscal year; and

"(ii) to transfer, from the amounts apportioned to the State under section 104(b)(2) (other than amounts suballocated to metropolitan areas and other areas of the State under section 133(d)) to the apportionment of the State under section 104(b)(1), an amount equal to 10 per-

cent of the amount of funds apportioned to the State for fiscal year 2009 under the Interstate maintenance program for the purposes described in this section (as in effect on the day before the date of enactment of the MAP–21).

"(B) RESTORATION.—The obligation requirement for the Interstate System in a State required by subparagraph (A) for a fiscal year shall remain in effect for each subsequent fiscal year until such time as the condition of the Interstate System in the State exceeds the minimum condition level established by the Secretary under subsection (f)(4)(A)(iv).

"(2) CONDITION OF NHS BRIDGES.—

"(A) PENALTY.—If, during 2 consecutive reporting periods, the condition of bridges on the National Highway System in a State falls below the minimum condition level established by the Secretary under subsection (f)(4)(A)(iv), the State shall be required, during the following fiscal year—

"(i) to obligate, from the amounts apportioned to the State under section 104(b)(1), an amount for bridges on the

National Highway System that is not less than 50 percent of the amount of funds apportioned to the State for fiscal year 2009 under the highway bridge program for the purposes described in section 144 (as in effect on the day before the date of enactment of the MAP–21), except that for each year after fiscal year 2013, the amount required to be obligated under this clause shall be increased by 2 percent over the amount required to be obligated in the previous fiscal year; and

''(ii) to transfer, from the amounts apportioned to the State under section 104(b)(2) (other than amounts suballocated to metropolitan areas and other areas of the State under section 133(d)) to the apportionment of the State under section 104(b)(1), an amount equal to 10 percent of the amount of funds apportioned to the State for fiscal year 2009 under the highway bridge program for the purposes described in section 144 (as in effect on the day before the date of enactment of the MAP–21).

"(B) RESTORATION.—The obligation requirement for bridges on the National Highway System in a State required by subparagraph (A) for a fiscal year shall remain in effect for each subsequent fiscal year until such time as the condition of bridges on the National Highway System in the State exceeds the minimum condition level established by the Secretary under subsection (f)(4)(A)(iv).".

(b) TRANSITION PERIOD.—

(1) IN GENERAL.—Except as provided in paragraph (2), until such date as a State has in effect an approved asset management plan and has established performance targets as described in section 119 of title 23, United States Code, that will contribute to achieving the national goals for the condition and performance of the National Highway System, but not later than 18 months after the date on which the Secretary promulgates final regulations required under section 119(f)(4) of that title, the Secretary shall approve obligations of funds apportioned to a State to carry out the national highway performance program under section 119 of that title, for projects that otherwise meet the requirements of that section.

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

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

"119. National highway performance program.".

**SEC. 1107. EMERGENCY RELIEF.**

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

**"§ 125. Emergency relief**

"(a) IN GENERAL.—Subject to this section and section 120, an emergency fund is authorized for expenditure by the Secretary for the repair or reconstruction of highways, roads, and trails, in any area of the United States, including Indian reservations, that the Secretary finds have suffered serious damage as a result of—

"(1) a natural disaster over a wide area, such as by a flood, hurricane, tidal wave, earthquake, severe storm, or landslide; or

"(2) catastrophic failure from any external cause.

"(b) RESTRICTION ON ELIGIBILITY.—

"(1) DEFINITION OF CONSTRUCTION PHASE.—In this subsection, the term 'construction phase' means the phase of physical construction of a highway or bridge facility that is separate from any other identified phases, such as planning, design, or right-of-way phases, in the State transportation improvement program.

"(2) RESTRICTION.—In no case shall funds be used under this section for the repair or reconstruction of a bridge—

"(A) that has been permanently closed to all vehicular traffic by the State or responsible local official because of imminent danger of collapse due to a structural deficiency or physical deterioration; or

"(B) if a construction phase of a replacement structure is included in the approved Statewide transportation improvement program at the time of an event described in subsection (a).

"(c) FUNDING.—

"(1) IN GENERAL.—Subject to the limitations described in paragraph (2), there are authorized to be appropriated from the Highway Trust Fund

(other than the Mass Transit Account) such sums as are necessary to establish the fund authorized by this section and to replenish that fund on an annual basis.

"(2) LIMITATIONS.—The limitations referred to in paragraph (1) are that—

"(A) not more than $100,000,000 is authorized to be obligated in any 1 fiscal year commencing after September 30, 1980, to carry out this section, except that, if for any fiscal year the total of all obligations under this section is less than the amount authorized to be obligated for the fiscal year, the unobligated balance of that amount shall—

"(i) remain available until expended; and

"(ii) be in addition to amounts otherwise available to carry out this section for each year; and

"(B)(i) pending such appropriation or replenishment, the Secretary may obligate from any funds appropriated at any time for obligation in accordance with this title, including existing Federal-aid appropriations, such sums as

are necessary for the immediate prosecution of the work herein authorized; and

"(ii) funds obligated under this subparagraph shall be reimbursed from the appropriation or replenishment.

"(d) ELIGIBILITY.—

"(1) IN GENERAL.—The Secretary may expend funds from the emergency fund authorized by this section only for the repair or reconstruction of highways on Federal-aid highways in accordance with this chapter, except that—

"(A) no funds shall be so expended unless an emergency has been declared by the Governor of the State with concurrence by the Secretary, unless the President has declared the emergency to be a major disaster for the purposes of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) for which concurrence of the Secretary is not required; and

"(B) the Secretary has received an application from the State transportation department that includes a comprehensive list of all eligible project sites and repair costs by not later than

2 years after the natural disaster or catastrophic failure.

"(2) COST LIMITATION.—

"(A) DEFINITION OF COMPARABLE FACILITY.—In this paragraph, the term 'comparable facility' means a facility that meets the current geometric and construction standards required for a facility of comparable capacity and character to the destroyed facility, except a bridge facility which may be constructed for the type and volume of traffic that the bridge will carry over its design life.

"(B) LIMITATION.—The total cost of a project funded under this section may not exceed the cost of repair or reconstruction of a comparable facility.

"(3) TERRITORIES.—The total obligations for projects under this section for any fiscal year in the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands shall not exceed $20,000,000.

"(4) SUBSTITUTE TRAFFIC.—Notwithstanding any other provision of this section, actual and necessary costs of maintenance and operation of ferryboats or additional transit service providing tem-

porary substitute highway traffic service, less the amount of fares charged for comparable service, may be expended from the emergency fund authorized by this section for Federal-aid highways.

"(e) TRIBAL TRANSPORTATION FACILITIES, FEDERAL LANDS TRANSPORTATION FACILITIES, AND PUBLIC ROADS ON FEDERAL LANDS.—

"(1) DEFINITION OF OPEN TO PUBLIC TRAVEL.—In this subsection, the term 'open to public travel' means, with respect to a road, that, except during scheduled periods, extreme weather conditions, or emergencies, the road is open to the general public for use with a standard passenger vehicle, without restrictive gates or prohibitive signs or regulations, other than for general traffic control or restrictions based on size, weight, or class of registration.

"(2) EXPENDITURE OF FUNDS.—Notwithstanding subsection (d)(1), the Secretary may expend funds from the emergency fund authorized by this section, independently or in cooperation with any other branch of the Federal Government, a State agency, a tribal government, an organization, or a person, for the repair or reconstruction of tribal transportation facilities, Federal lands transpor-

tation facilities, and other federally owned roads that are open to public travel, whether or not those facilities are Federal-aid highways.

"(3) REIMBURSEMENT.—

"(A) IN GENERAL.—The Secretary may reimburse Federal and State agencies (including political subdivisions) for expenditures made for projects determined eligible under this section, including expenditures for emergency repairs made before a determination of eligibility.

"(B) TRANSFERS.—With respect to reimbursements described in subparagraph (A)—

"(i) those reimbursements to Federal agencies and Indian tribal governments shall be transferred to the account from which the expenditure was made, or to a similar account that remains available for obligation; and

"(ii) the budget authority associated with the expenditure shall be restored to the agency from which the authority was derived and shall be available for obligation until the end of the fiscal year following the year in which the transfer occurs.

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

"(g) PROTECTING PUBLIC SAFETY AND MAINTAINING ROADWAYS.—The Secretary may use amounts from the emergency fund authorized by this section to carry out projects that the Secretary determines are necessary to protect public safety or to maintain or protect roadways that have been included within the scope of a prior emergency declaration in order to maintain the continuation of roadway services on roads that are threatened by continuous or frequent flooding.".

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

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

**"§ 133. Transportation mobility program**

"(a) ESTABLISHMENT.—The Secretary shall establish and implement a transportation mobility program under this section.

"(b) PURPOSE.—The purpose of the transportation mobility program shall be to assist States and localities

in improving the conditions and performance on Federal-aid highways and on bridges on any public road.

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

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

"(2) Replacement (including replacement with fill material), rehabilitation, preservation, protection (including painting, scour countermeasures, seismic retrofits, impact protection measures, security countermeasures, and protection against extreme events) and application of calcium magnesium acetate, sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and deicing compositions for bridges (and approaches to bridges and other elevated structures) and tunnels on public roads of all functional classifications, including any such construction or reconstruction necessary to accommodate other transportation modes.

"(3) Construction of a new bridge or tunnel on a new location on a highway, including any such construction necessary to accommodate other transportation modes.

"(4) Inspection and evaluation (within the meaning of section 144) of bridges and tunnels on public roads of all functional classifications and inspection and evaluation of other highway infrastructure assets, including signs and sign structures, retaining walls, and drainage structures.

"(5) Training of bridge and tunnel inspectors (within the meaning of section 144).

"(6) Capital costs for transit projects eligible for assistance under chapter 53 of title 49, including vehicles and facilities, whether publicly or privately owned, that are used to provide intercity passenger service by bus.

"(7) Carpool projects, fringe and corridor parking facilities and programs, including electric vehicle infrastructure in accordance with section 137, bicycle transportation and pedestrian walkways in accordance with section 217, and the modification of public sidewalks to comply with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

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

"(9) Highway and transit research and development and technology transfer programs.

"(10) Capital and operating costs for traffic and traveler information monitoring, management, and control facilities and programs, including truck stop electrification systems.

"(11) Projects and strategies designed to support congestion pricing, including electronic toll collection and travel demand management strategies and programs.

"(12) Surface transportation planning.

"(13) Transportation enhancement activities.

"(14) Recreational trails projects eligible for funding under section 206.

"(15) Construction of ferry boats and ferry terminal facilities eligible for funding under section 129(c).

"(16) Border infrastructure projects eligible for funding under section 1303 of the SAFETEA–LU (Public Law 109–59).

"(17) Projects, programs, and technical assistance associated with National Scenic Byways, All-American Roads, and America's Byways eligible for funding under section 162.

"(18) Truck parking facilities eligible for funding under section 1401 of the MAP–21.

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

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

"(21) Development and implementation of a State asset management plan for the National Highway System in accordance with section 119, including data collection, maintenance, and integration and the costs associated with obtaining, updating, and licensing software and equipment required for risk-based asset management and performance-based management, and for similar activities relating to the development and implementation of a performance-based management program for other public roads.

"(22) In accordance with all applicable Federal law (including regulations), participation in natural habitat and wetlands mitigation efforts relating to projects funded under this title, which may include participation in natural habitat and wetlands mitigation banks, contributions to statewide and regional efforts to conserve, restore, enhance, and create natural habitats and wetlands, and development of statewide and regional natural habitat and wetlands conservation and mitigation plans, including any such banks, efforts, and plans developed in accordance with applicable Federal law (including regulations), on the conditions that—

"(A) contributions to those mitigation efforts may—

"(i) take place concurrent with or in advance of project construction; and

"(ii) occur in advance of project construction only if the efforts are consistent with all applicable requirements of Federal law (including regulations) and State transportation planning processes; and

"(B) with respect to participation in a natural habitat or wetland mitigation effort relating to a project funded under this title that has

an impact that occurs within the service area of a mitigation bank, preference is given, to the maximum extent practicable, to the use of the mitigation bank if the bank contains sufficient available credits to offset the impact and the bank is approved in accordance with applicable Federal law (including regulations).

''(23) Infrastructure-based intelligent transportation systems capital improvements.

''(24) Environmental restoration and pollution abatement in accordance with section 328.

''(25) Control of noxious weeds and aquatic noxious weeds and establishment of native species in accordance with section 329.

''(26) Improvements to a freight railroad, marine highway, or intermodal facility, but only to the extent that the Secretary concurs with the State that—

''(A) the project will make significant improvement to freight movements on the national freight network;

''(B) the public benefit of the project exceeds the Federal investment; and

''(C) the project provides a better return than a highway project on a segment of the pri-

mary freight network, except that a State may not obligate in excess of 5 percent of funds apportioned to the State under section 104(b)(2) to carry out this section for that purpose.

"(27) Maintenance of and improvements to all public roads, including non-State-owned public roads and roads on tribal land—

"(A) that are located within 10 miles of the international border between the United States and Canada or Mexico; and

"(B) on which federally owned vehicles comprise more than 50 percent of the traffic.

"(28) Construction, reconstruction, resurfacing, restoration, rehabilitation, and preservation of, and operational improvements for, any public road if—

"(A) the public road, and the highway project to be carried out with respect to the public road, are in the same corridor as, and in proximity to—

"(i) a fully access-controlled highway designated as a part of the National Highway System; or

"(ii) in areas with a population of less than 200,000, a federal-aid highway des-

ignated as part of the National Highway System;

"(B) the construction or improvements will enhance the level of service on the highway described in subparagraph (A) and improve regional traffic flow; and

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

"(d) ALLOCATIONS OF APPORTIONED FUNDS TO AREAS BASED ON POPULATION.—

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

"(A) 50 percent for a fiscal year shall be obligated under this section, in proportion to their relative shares of the population of the State—

"(i) in urbanized areas of the State with an urbanized area population of over 200,000;

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

"(iii) in other areas of the State; and

"(B) 50 percent may be obligated in any area of the State.

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

"(3) DISTRIBUTION AMONG URBANIZED AREAS OF OVER 200,000 POPULATION.—

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

"(B) OTHER FACTORS.—The State may obligate the funds described in subparagraph (A) based on other factors if the State and the relevant metropolitan planning organizations jointly apply to the Secretary for the permission to base the obligation on other factors and the Secretary grants the request.

"(e) LOCATION OF PROJECTS.—Except as provided in subsection (g) and for projects described in paragraphs (2), (4), (7), (8), (13), (14), and (19) of subsection (c),

for local access roads under section 14501 of title 40, United States Code, transportation mobility program projects may not be undertaken on roads functionally classified as local or rural minor collectors.

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

"(g) BRIDGES NOT ON FEDERAL-AID HIGHWAYS.—

"(1) DEFINITION OF OFF-SYSTEM BRIDGE.—The term 'off-system bridge' means a highway bridge located on a public road, other than a bridge on a Federal-aid highway.

"(2) SPECIAL RULE.—

"(A) SET-ASIDE.—Of the amounts apportioned to a State for fiscal year 2012 and each fiscal year thereafter under this section, the State shall obligate for activities described in subsection (c)(2) for off-system bridges an amount that is not less than 15 percent of the amount of funds apportioned to the State for the highway bridge program for fiscal year 2009.

"(B) REDUCTION OF EXPENDITURES.—The Secretary, after consultation with State

and local officials, may reduce the requirement for expenditures for off-system bridges under subparagraph (A) with respect to the State if the Secretary determines that the State has inadequate needs to justify the expenditure.

"(3) CREDIT FOR BRIDGES NOT ON FEDERAL-AID HIGHWAYS.—Notwithstanding any other provision of law, with respect to any project not on a Federal-aid highway for the replacement of a bridge or rehabilitation of a bridge that is wholly funded from State and local sources, is eligible for Federal funds under this section, is noncontroversial, is certified by the State to have been carried out in accordance with all standards applicable to such projects under this section, and is determined by the Secretary upon completion to be no longer a deficient bridge—

"(A) any amount expended after the date of enactment of this subsection from State and local sources for the project in excess of 20 percent of the cost of construction of the project may be credited to the non-Federal share of the cost of other bridge projects in the State that are eligible for Federal funds under this section; and

"(B) that crediting shall be conducted in accordance with procedures established by the Secretary."

"(h) ADMINISTRATION.—

"(1) SUBMISSION OF PROJECT AGREEMENT.—For each fiscal year, each State shall submit a project agreement that—

"(A) certifies that the State will meet all the requirements of this section; and

"(B) notifies the Secretary of the amount of obligations needed to carry out the program under this section.

"(2) REQUEST FOR ADJUSTMENTS OF AMOUNTS.—Each State shall request from the Secretary such adjustments to the amount of obligations referred to in paragraph (1)(B) as the State determines to be necessary.

"(3) EFFECT OF APPROVAL BY THE SECRETARY.—Approval by the Secretary of a project agreement under paragraph (1) shall be deemed a contractual obligation of the United States to pay transportation mobility program funds made available under this title.

"(i) OBLIGATION AUTHORITY.—

"(1) IN GENERAL.—A State that is required to obligate, in an urbanized area with an urbanized area population of over 200,000 individuals under subsection (d), funds apportioned to the State under section 104(b)(2) shall make available during the fiscal year an amount of obligation authority distributed to the State for Federal-aid highways and highway safety construction programs for use in the area that is equal to the product obtained by multiplying—

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

"(B) the ratio that—

"(i) the aggregate amount of obligation authority distributed to the State for Federal-aid highways and highway safety construction programs during the period; bears to

"(ii) the total of the sums apportioned to the State for Federal-aid highways and highway safety construction programs (excluding sums not subject to an obligation limitation) during the period.

"(2) JOINT RESPONSIBILITY.—Each State, each affected metropolitan planning organization, and the Secretary shall jointly ensure compliance with paragraph (1).".

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

"133. Transportation mobility program.".

**SEC. 1109. WORKFORCE DEVELOPMENT.**

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

(1) by striking "Whenever apportionments are made under section 104(b)(3)," and inserting "From administrative funds made available under section 104(a),"; and

(2) by striking "the surface transportation program under section 104(b) and the bridge program under section 144" and inserting "the transportation mobility program under section 104(b)".

(b) DISADVANTAGED BUSINESS ENTERPRISE.—Section 140(c) of title 23, United States Code, is amended by striking "Whenever apportionments are made under section 104(b)(3)," and inserting "From administrative funds made available under section 104(a),".

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

Section 143 of title 23, United States Code, is amended—

(1) in subsection (b)—

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

''(2) FUNDING.—

''(A) IN GENERAL.—From administrative funds made available under section 104(a), the Secretary shall deduct such sums as are necessary, not to exceed $10,000,000 for each of fiscal years 2012 and 2013, to carry out this section.

''(B) ALLOCATION OF FUNDS.—Funds made available to carry out this section may be allocated to the Internal Revenue Service and the States at the discretion of the Secretary, except that of funds so made available for each fiscal year, $2,000,000 shall be available only to carry out intergovernmental enforcement efforts, including research and training.''; and

(B) in paragraph (8)—

(i) in the paragraph heading by striking ''SURFACE TRANSPORTATION PROGRAM'' and inserting ''TRANSPORTATION MOBILITY PROGRAM''; and

(ii) by striking ''section 104(b)(3)'' and inserting ''section 104(b)(2)''; and

(2) in subsection (c)(3) by striking ''for each of fiscal years 2005 through 2009,'' and inserting ''for each fiscal year,''.

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

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

**''§ 144. National bridge and tunnel inventory and inspection standards**

''(a) FINDINGS AND DECLARATIONS.—

''(1) FINDINGS.—Congress finds that—

''(A) the condition of the bridges of the United States has improved since the date of enactment of the Transportation Equity Act for the 21st Century (Public Law 105–178; 112 Stat. 107), yet continued improvement to bridge conditions is essential to protect the safety of the traveling public and allow for the efficient movement of people and goods on which the economy of the United States relies; and

''(B) the systematic preventative maintenance of bridges, and replacement and rehabili-

tation of deficient bridges, should be undertaken through an overall asset management approach to transportation investment.

"(2) DECLARATIONS.—Congress declares that it is in the vital interest of the United States—

"(A) to inventory, inspect, and improve the condition of the highway bridges and tunnels of the United States;

"(B) to use a data-driven, risk-based approach and cost-effective strategy for systematic preventative maintenance, replacement, and rehabilitation of highway bridges and tunnels to ensure safety and extended service life;

"(C) to use performance-based bridge management systems to assist States in making timely investments;

"(D) to ensure accountability and link performance outcomes to investment decisions; and

"(E) to ensure connectivity and access for residents of rural areas of the United States through strategic investments in National Highway System bridges and bridges on all public roads.

"(b) NATIONAL BRIDGE AND TUNNEL INVENTORIES.—

"(1) IN GENERAL.—The Secretary, in consultation with the States, shall—

"(A) inventory all highway bridges on public roads that are bridges over waterways, other topographical barriers, other highways, and railroads;

"(B) classify the bridges according to serviceability, safety, and essentiality for public use, including the potential impacts to emergency evacuation routes and to regional and national freight and passenger mobility if the serviceability of the bridge is restricted or diminished; and

"(C) based on that classification, assign each a risk-based priority for systematic preventative maintenance, replacement, or rehabilitation.

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

"(A) inventory all tribally owned and Federally owned highway bridges that are open to

the public, over waterways, other topographical barriers, other highways, and railroads;

"(B) classify the bridges according to serviceability, safety, and essentiality for public use; and

"(C) based on the classification, assign each a risk-based priority for systematic preventative maintenance, replacement, or rehabilitation.

"(3) TUNNELS.—The Secretary shall establish a national inventory of highway tunnels reflecting the findings of the most recent highway tunnel inspections conducted by States under this section.

"(c) GENERAL BRIDGE AUTHORITY.—

"(1) IN GENERAL.—Except as provided in paragraph (2) and notwithstanding any other provision of law, the General Bridge Act of 1946 (33 U.S.C. 525 et seq.) shall apply to bridges authorized to be replaced, in whole or in part, by this title.

"(2) EXCEPTION.—Section 502(b) of the General Bridge Act of 1946 (33 U.S.C. 525(b)) and section 9 of the Act of March 3, 1899 (33 U.S.C. 401), shall not apply to any bridge constructed, reconstructed, rehabilitated, or replaced with assistance under this title, if the bridge is over waters that—

"(A) are not used and are not susceptible to use in the natural condition of the bridge or by reasonable improvement as a means to transport interstate or foreign commerce; and

"(B) are—

"(i) not tidal; or

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

"(d) INVENTORY UPDATES AND REPORTS.—

"(1) IN GENERAL.—The Secretary shall—

"(A) annually revise the inventories authorized by subsection (b); and

"(B) submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the inventories.

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

"(3) GUIDANCE.—The Secretary shall provide guidance to States and Federal agencies for implementation of this subsection, while respecting the existing inspection schedule of each State.

"(4) BRIDGES NOT ON NATIONAL HIGHWAY SYSTEM.—The Secretary shall—

"(A) conduct a study on the benefits, cost-effectiveness, and feasibility of requiring element-level data collection for bridges not on the National Highway System; and

"(B) submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of the study.

"(e) BRIDGES WITHOUT TAXING POWERS.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, any bridge that is owned and operated by an agency that does not have taxing powers and whose functions include operating a federally assisted public transit system subsidized by toll revenues shall be eligible for assistance under this title, but the amount of such assistance shall in no event exceed the cumulative amount which such agency

has expended for capital and operating costs to subsidize such transit system.

"(2) INSUFFICIENT ASSETS.—Before authorizing an expenditure of funds under this subsection, the Secretary shall determine that the applicant agency has insufficient reserves, surpluses, and projected revenues (over and above those required for bridge and transit capital and operating costs) to fund the bridge project or activity eligible for assistance under this title.

"(3) CREDITING OF NON-FEDERAL FUNDS.—Any non-Federal funds expended for the seismic retrofit of the bridge may be credited toward the non-Federal share required as a condition of receipt of any Federal funds for seismic retrofit of the bridge made available after the date of the expenditure.

"(f) REPLACEMENT OF DESTROYED BRIDGES AND FERRY BOAT SERVICE.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, a State may use the funds apportioned under section 104(b)(2) to construct any bridge that replaces—

"(A) any low water crossing (regardless of the length of the low water crossing);

"(B) any bridge that was destroyed prior to January 1, 1965;

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

"(D) any road bridge that is rendered obsolete as a result of a Corps of Engineers flood control or channelization project and is not rebuilt with funds from the Corps of Engineers.

"(2) FEDERAL SHARE.—The Federal share payable on any bridge construction carried out under paragraph (1) shall be 80 percent of the cost of the construction.

"(g) HISTORIC BRIDGES.—

"(1) DEFINITION OF HISTORIC BRIDGE.—In this subsection, the term 'historic bridge' means any bridge that is listed on, or eligible for listing on, the National Register of Historic Places.

"(2) COORDINATION.—The Secretary shall, in cooperation with the States, encourage the retention, rehabilitation, adaptive reuse, and future study of historic bridges.

"(3) STATE INVENTORY.—The Secretary shall require each State to complete an inventory of all bridges on and off Federal-aid highways to determine the historic significance of the bridges.

"(4) ELIGIBILITY.—

"(A) IN GENERAL.—Subject to subparagraph (B), reasonable costs associated with actions to preserve, or reduce the impact of a project under this chapter on, the historic integrity of a historic bridge shall be eligible as reimbursable project costs under section 133 if the load capacity and safety features of the historic bridge are adequate to serve the intended use for the life of the historic bridge.

"(B) BRIDGES NOT USED FOR VEHICLE TRAFFIC.—In the case of a historic bridge that is no longer used for motorized vehicular traffic, the costs eligible as reimbursable project costs pursuant to this chapter shall not exceed the estimated cost of demolition of the historic bridge.

"(5) PRESERVATION.—Any State that proposes to demolish a historic bridge for a replacement project with funds made available to carry out this section shall first make the historic bridge available for donation to a State, locality, or responsible private entity if the State, locality, or responsible entity enters into an agreement—

"(A) to maintain the bridge and the features that give the historic bridge its historic significance; and

"(B) to assume all future legal and financial responsibility for the historic bridge, which may include an agreement to hold the State transportation department harmless in any liability action.

"(6) COSTS INCURRED.—

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

"(B) ADDITIONAL FUNDING.—Any bridge preserved pursuant to this paragraph shall not be eligible for any other funds authorized pursuant to this title.

"(h) NATIONAL BRIDGE AND TUNNEL INSPECTION STANDARDS.—

"(1) REQUIREMENT.—

"(A) IN GENERAL.—The Secretary shall establish and maintain inspection standards for

the proper inspection and evaluation of all highway bridges and tunnels for safety and serviceability.

"(B) UNIFORMITY.—The standards under this subsection shall be designed to ensure uniformity of the inspections and evaluations.

"(2) MINIMUM REQUIREMENTS OF INSPECTION STANDARDS.—The standards established under paragraph (1) shall, at a minimum—

"(A) specify, in detail, the method by which the inspections shall be carried out by the States, Federal agencies, and tribal governments;

"(B) establish the maximum time period between inspections;

"(C) establish the qualifications for those charged with carrying out the inspections;

"(D) require each State, Federal agency, and tribal government to maintain and make available to the Secretary on request—

"(i) written reports on the results of highway bridge and tunnel inspections and notations of any action taken pursuant to the findings of the inspections; and

"(ii) current inventory data for all highway bridges and tunnels reflecting the findings of the most recent highway bridge and tunnel inspections conducted; and

"(E) establish a procedure for national certification of highway bridge inspectors and tunnel inspectors.

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

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

"(i) the standards established under this subsection; and

"(ii) the calculation or reevaluation of bridge load ratings; and

"(B) establish, in consultation with the States, and interested and knowledgeable private organizations and individuals, procedures for States to follow in reporting to the Secretary—

"(i) critical findings relating to structural or safety-related deficiencies of highway bridges; and

"(ii) monitoring activities and corrective actions taken in response to a critical finding.

"(4) REVIEWS OF STATE COMPLIANCE.—

"(A) IN GENERAL.—The Secretary shall annually review State compliance with the standards established under this section.

"(B) NONCOMPLIANCE.—If an annual review in accordance with subparagraph (A) identifies noncompliance by a State, the Secretary shall—

"(i) issue a report detailing the issues of the noncompliance by December 31 of the calendar year in which the review was made; and

"(ii) provide the State an opportunity to address the noncompliance by—

"(I) developing a corrective action plan to remedy the noncompliance; or

"(II) resolving the issues of noncompliance not later than 45 days after the date of notification.

"(5) PENALTY FOR NONCOMPLIANCE.—

"(A) IN GENERAL.—If a State fails to satisfy the requirements of paragraph (4)(B) by August 1 of the calendar year following the year of a finding of noncompliance, the Secretary shall, on October 1 of that year, and each year thereafter as may be necessary, require the State to dedicate funds apportioned to the State under sections 119 and 133 after the date of enactment of the MAP–21 to correct the noncompliance with the minimum inspection standards established under this subsection.

"(B) AMOUNT.—The amount of the funds to be directed to correcting noncompliance in accordance with subparagraph (A) shall—

"(i) be determined by the State based on an analysis of the actions needed to address the noncompliance; and

"(ii) require approval by the Secretary.

"(6) UPDATE OF STANDARDS.—Not later than 3 years after the date of enactment of the MAP–21, the Secretary shall update inspection standards to cover—

"(A) the methodology, training, and qualifications for inspectors; and

"(B) the frequency of inspection.

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

"(i) TRAINING PROGRAM FOR BRIDGE AND TUNNEL INSPECTORS.—

"(1) IN GENERAL.—The Secretary, in cooperation with the State transportation departments, shall maintain a program designed to train appropriate personnel to carry out highway bridge and tunnel inspections.

"(2) REVISIONS.—The training program shall be revised from time to time to take into account new and improved techniques.

"(j) AVAILABILITY OF FUNDS.—To carry out this section, the Secretary may use funds made available under sections 104(a), 119, 133, and 503.".

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

"144. National bridge and tunnel inventory and inspection standards.".

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

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

**"§ 148. Highway safety improvement program**

''(a) DEFINITIONS.—In this section, the following definitions apply:

''(1) HIGH RISK RURAL ROAD.—The term 'high risk rural road' means any roadway functionally classified as a rural major or minor collector or a rural local road with significant safety risks, as defined by a State in accordance with an updated State strategic highway safety plan.

''(2) HIGHWAY BASEMAP.—The term 'highway basemap' means a representation of all public roads that can be used to geolocate attribute data on a roadway.

''(3) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—The term 'highway safety improvement program' means projects, activities, plans, and reports carried out under this section.

''(4) HIGHWAY SAFETY IMPROVEMENT PROJECT.—

''(A) IN GENERAL.—The term 'highway safety improvement project' means strategies, activities, and projects on a public road that are consistent with a State strategic highway safety plan and—

''(i) correct or improve a hazardous road location or feature; or

"(ii) address a highway safety problem.

"(B) INCLUSIONS.—The term 'highway safety improvement project' includes, but is not limited to, a project for 1 or more of the following:

"(i) An intersection safety improvement.

"(ii) Pavement and shoulder widening (including addition of a passing lane to remedy an unsafe condition).

"(iii) Installation of rumble strips or another warning device, if the rumble strips or other warning devices do not adversely affect the safety or mobility of bicyclists and pedestrians, including persons with disabilities.

"(iv) Installation of a skid-resistant surface at an intersection or other location with a high frequency of crashes.

"(v) An improvement for pedestrian or bicyclist safety or safety of persons with disabilities.

"(vi) Construction and improvement of a railway-highway grade crossing safety

feature, including installation of protective devices.

''(vii) The conduct of a model traffic enforcement activity at a railway-highway crossing.

''(viii) Construction of a traffic calming feature.

''(ix) Elimination of a roadside hazard.

''(x) Installation, replacement, and other improvement of highway signage and pavement markings, or a project to maintain minimum levels of retroreflectivity, that addresses a highway safety problem consistent with a State strategic highway safety plan.

''(xi) Installation of a priority control system for emergency vehicles at signalized intersections.

''(xii) Installation of a traffic control or other warning device at a location with high crash potential.

''(xiii) Transportation safety planning.

''(xiv) Collection, analysis, and improvement of safety data.

"(xv) Planning integrated interoperable emergency communications equipment, operational activities, or traffic enforcement activities (including police assistance) relating to work zone safety.

"(xvi) Installation of guardrails, barriers (including barriers between construction work zones and traffic lanes for the safety of road users and workers), and crash attenuators.

"(xvii) The addition or retrofitting of structures or other measures to eliminate or reduce crashes involving vehicles and wildlife.

"(xviii) Installation of yellow-green signs and signals at pedestrian and bicycle crossings and in school zones.

"(xix) Construction and operational improvements on high risk rural roads.

"(xx) Geometric improvements to a road for safety purposes that improve safety.

"(xxi) A road safety audit.

"(xxii) Roadway safety infrastructure improvements consistent with the rec-

ommendations included in the publication of the Federal Highway Administration entitled 'Highway Design Handbook for Older Drivers and Pedestrians' (FHWA–RD–01–103), dated May 2001 or as subsequently revised and updated.

''(xxiii) Truck parking facilities eligible for funding under section 1401 of the MAP–21.

''(xxiv) Systemic safety improvements.

''(5) MODEL INVENTORY OF ROADWAY ELEMENTS.—The term 'model inventory of roadway elements' means the listing and standardized coding by the Federal Highway Administration of roadway and traffic data elements critical to safety management, analysis, and decisionmaking.

''(6) PROJECT TO MAINTAIN MINIMUM LEVELS OF RETROREFLECTIVITY.—The term 'project to maintain minimum levels of retroreflectivity' means a project that is designed to maintain a highway sign or pavement marking retroreflectivity at or above the minimum levels prescribed in Federal or State regulations.

''(7) ROAD SAFETY AUDIT.—The term 'road safety audit' means a formal safety performance ex-

amination of an existing or future road or intersection by an independent multidisciplinary audit team.

"(8) ROAD USERS.—The term 'road user' means a motorist, passenger, public transportation operator or user, truck driver, bicyclist, motorcyclist, or pedestrian, including a person with disabilities.

"(9) SAFETY DATA.—

"(A) IN GENERAL.—The term 'safety data' means crash, roadway, and traffic data on a public road.

"(B) INCLUSION.—The term 'safety data' includes, in the case of a railway-highway grade crossing, the characteristics of highway and train traffic, licensing, and vehicle data.

"(10) SAFETY PROJECT UNDER ANY OTHER SECTION.—

"(A) IN GENERAL.—The term 'safety project under any other section' means a project carried out for the purpose of safety under any other section of this title.

"(B) INCLUSION.—The term 'safety project under any other section' includes—

"(i) a project consistent with the State strategic highway safety plan that promotes the awareness of the public and

educates the public concerning highway safety matters (including motorcycle safety);

"(ii) a project to enforce highway safety laws; and

"(iii) a project to provide infrastructure and infrastructure-related equipment to support emergency services.

"(11) STATE HIGHWAY SAFETY IMPROVEMENT PROGRAM.—The term 'State highway safety improvement program' means a program of highway safety improvement projects, activities, plans and reports carried out as part of the Statewide transportation improvement program under section 135(g).

"(12) STATE STRATEGIC HIGHWAY SAFETY PLAN.—The term 'State strategic highway safety plan' means a comprehensive plan, based on safety data, developed by a State transportation department that—

"(A) is developed after consultation with—

"(i) a highway safety representative of the Governor of the State;

"(ii) regional transportation planning organizations and metropolitan planning organizations, if any;

"(iii) representatives of major modes of transportation;

"(iv) State and local traffic enforcement officials;

"(v) a highway-rail grade crossing safety representative of the Governor of the State;

"(vi) representatives conducting a motor carrier safety program under section 31102, 31106, or 31309 of title 49;

"(vii) motor vehicle administration agencies;

"(viii) county transportation officials;

"(ix) State representatives of non-motorized users; and

"(x) other major Federal, State, tribal, and local safety stakeholders;

"(B) analyzes and makes effective use of State, regional, local, or tribal safety data;

"(C) addresses engineering, management, operation, education, enforcement, and emergency services elements (including integrated, interoperable emergency communications) of highway safety as key factors in evaluating highway projects;

"(D) considers safety needs of, and high-fatality segments of, all public roads, including non-State-owned public roads and roads on tribal land;

"(E) considers the results of State, regional, or local transportation and highway safety planning processes;

"(F) describes a program of strategies to reduce or eliminate safety hazards;

"(G) is approved by the Governor of the State or a responsible State agency;

"(H) is consistent with section 135(g); and

"(I) is updated and submitted to the Secretary for approval as required under subsection (d)(2).

"(13) SYSTEMIC SAFETY IMPROVEMENT.—The term 'systemic safety improvement' means an improvement that is widely implemented based on high-risk roadway features that are correlated with particular crash types, rather than crash frequency.

"(b) PROGRAM.—

"(1) IN GENERAL.—The Secretary shall carry out a highway safety improvement program.

"(2) PURPOSE.—The purpose of the highway safety improvement program shall be to achieve a

significant reduction in traffic fatalities and serious injuries on all public roads, including non-State-owned public roads and roads on tribal land.

"(c) ELIGIBILITY.—

"(1) IN GENERAL.—To obligate funds apportioned under section 104(b)(3) to carry out this section, a State shall have in effect a State highway safety improvement program under which the State—

"(A) develops, implements, and updates a State strategic highway safety plan that identifies and analyzes highway safety problems and opportunities as provided in subsections (a)(12) and (d);

"(B) produces a program of projects or strategies to reduce identified safety problems; and

"(C) evaluates the strategic highway safety plan on a regularly recurring basis in accordance with subsection (d)(1) to ensure the accuracy of the data and priority of proposed strategies.

"(2) IDENTIFICATION AND ANALYSIS OF HIGHWAY SAFETY PROBLEMS AND OPPORTUNITIES.—As

part of the State highway safety improvement program, a State shall—

"(A) have in place a safety data system with the ability to perform safety problem identification and countermeasure analysis—

"(i) to improve the timeliness, accuracy, completeness, uniformity, integration, and accessibility of the safety data on all public roads, including non-State-owned public roads and roads on tribal land in the State;

"(ii) to evaluate the effectiveness of data improvement efforts;

"(iii) to link State data systems, including traffic records, with other data systems within the State;

"(iv) to improve the compatibility and interoperability of safety data with other State transportation-related data systems and the compatibility and interoperability of State safety data systems with data systems of other States and national data systems;

"(v) to enhance the ability of the Secretary to observe and analyze national

trends in crash occurrences, rates, outcomes, and circumstances; and

"(vi) to improve the collection of data on nonmotorized crashes;

"(B) based on the analysis required by subparagraph (A)—

"(i) identify hazardous locations, sections, and elements (including roadside obstacles, railway-highway crossing needs, and unmarked or poorly marked roads) that constitute a danger to motorists (including motorcyclists), bicyclists, pedestrians, and other highway users;

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

"(iii) identify the number of fatalities and serious injuries on all public roads by location in the State;

"(iv) identify highway safety improvement projects on the basis of crash experi-

ence, crash potential, crash rate, or other data-supported means; and

"(v) consider which projects maximize opportunities to advance safety;

"(C) adopt strategic and performance-based goals that—

"(i) address traffic safety, including behavioral and infrastructure problems and opportunities on all public roads;

"(ii) focus resources on areas of greatest need; and

"(iii) are coordinated with other State highway safety programs;

"(D) advance the capabilities of the State for safety data collection, analysis, and integration in a manner that—

"(i) complements the State highway safety program under chapter 4 and the commercial vehicle safety plan under section 31102 of title 49;

"(ii) includes all public roads, including public non-State-owned roads and roads on tribal land;

"(iii) identifies hazardous locations, sections, and elements on all public roads

that constitute a danger to motorists (including motorcyclists), bicyclists, pedestrians, persons with disabilities, and other highway users;

"(iv) includes a means of identifying the relative severity of hazardous locations described in clause (iii) in terms of crashes (including crash rate), serious injuries, fatalities, and traffic volume levels; and

"(v) improves the ability of the State to identify the number of fatalities and serious injuries on all public roads in the State with a breakdown by functional classification and ownership in the State;

"(E)(i) determine priorities for the correction of hazardous road locations, sections, and elements (including railway-highway crossing improvements), as identified through safety data analysis;

"(ii) identify opportunities for preventing the development of such hazardous conditions; and

"(iii) establish and implement a schedule of highway safety improvement projects for hazard correction and hazard prevention; and

"(F)(i) establish an evaluation process to analyze and assess results achieved by highway safety improvement projects carried out in accordance with procedures and criteria established by this section; and

"(ii) use the information obtained under clause (i) in setting priorities for highway safety improvement projects.

"(d) UPDATES TO STRATEGIC HIGHWAY SAFETY PLANS.—

"(1) ESTABLISHMENT OF REQUIREMENTS.—

"(A) IN GENERAL.—Not later than 1 year after the date of enactment of the MAP–21, the Secretary shall establish requirements for regularly recurring State updates of strategic highway safety plans.

"(B) CONTENTS OF UPDATED STRATEGIC HIGHWAY SAFETY PLANS.—In establishing requirements under this subsection, the Secretary shall ensure that States take into consideration, with respect to updated strategic highway safety plans—

"(i) the findings of road safety audits;

"(ii) the locations of fatalities and serious injuries;

"(iii) the locations that do not have an empirical history of fatalities and serious injuries, but possess risk factors for potential crashes;

"(iv) rural roads, including all public roads, commensurate with fatality data;

"(v) motor vehicle crashes that include fatalities or serious injuries to pedestrians and bicyclists;

"(vi) the cost-effectiveness of improvements;

"(vii) improvements to rail-highway grade crossings; and

"(viii) safety on all public roads, including non-State-owned public roads and roads on tribal land.

"(2) APPROVAL OF UPDATED STRATEGIC HIGHWAY SAFETY PLANS.—

"(A) IN GENERAL.—Each State shall—

"(i) update the strategic highway safety plans of the State in accordance with the requirements established by the Secretary under this subsection; and

"(ii) submit the updated plans to the Secretary, along with a detailed description of the process used to update the plan.

"(B) REQUIREMENTS FOR APPROVAL.—The Secretary shall not approve the process for an updated strategic highway safety plan unless—

"(i) the updated strategic highway safety plan is consistent with the requirements of this subsection and subsection (a)(12); and

"(ii) the process used is consistent with the requirements of this subsection.

"(3) PENALTY FOR FAILURE TO HAVE AN APPROVED UPDATED STRATEGIC HIGHWAY SAFETY PLAN.—If a State does not have an updated strategic highway safety plan with a process approved by the Secretary by August 1 of the fiscal year beginning after the date of establishment of the requirements under paragraph (1)—

"(A) the State shall not be eligible to receive any additional limitation pursuant to the redistribution of the limitation on obligations for Federal-aid highway and highway safety construction programs that occurs after August

1 for each succeeding fiscal year until the fiscal year during which the plan is approved; and

"(B) the Secretary shall, on October 1 of each fiscal year thereafter, transfer from funds apportioned to the State under section 104(b)(2) (other than amounts suballocated to metropolitan areas and other areas of the State under section 133(d)) an amount equal to 10 percent of the funds so apportioned for the fiscal year for use under the highway safety improvement program under this section to the apportionment of the State under section 104(b)(3) until the fiscal year in which the plan is approved.

"(e) ELIGIBLE PROJECTS.—

"(1) IN GENERAL.—Funds apportioned to the State under section 104(b)(3) may be obligated to carry out—

"(A) any highway safety improvement project on any public road or publicly owned bicycle or pedestrian pathway or trail; or

"(B) as provided in subsection (f), other safety projects.

"(2) USE OF OTHER FUNDING FOR SAFETY.—

"(A) EFFECT OF SECTION.—Nothing in this section prohibits the use of funds made available under other provisions of this title for highway safety improvement projects.

"(B) USE OF OTHER FUNDS.—States are encouraged to address the full scope of the safety needs and opportunities of the States by using funds made available under other provisions of this title (except a provision that specifically prohibits that use).

"(f) FLEXIBLE FUNDING FOR STATES WITH A STRATEGIC HIGHWAY SAFETY PLAN.—

"(1) IN GENERAL.—To further the implementation of a State strategic highway safety plan, a State may use up to 10 percent of the amount of funds apportioned to the State under section 104(b)(3) for a fiscal year to carry out safety projects under any other section as provided in the State strategic highway safety plan if the State certifies that—

"(A) the State has met needs in the State relating to railway-highway crossings for the preceding fiscal year; and

"(B) the funds are being used for the most effective projects to make progress toward

achieving the safety performance targets of the State.

"(2) OTHER TRANSPORTATION AND HIGHWAY SAFETY PLANS.—Nothing in this subsection requires a State to revise any State process, plan, or program in effect on the date of enactment of the MAP–21.

"(g) DATA IMPROVEMENT.—

"(1) DEFINITION OF DATA IMPROVEMENT ACTIVITIES.—In this subsection:

"(A) IN GENERAL.—The term 'data improvement activities' means a project or activity to further the capacity of a State to make more informed and effective safety infrastructure investment decisions.

"(B) INCLUSIONS.—The term 'data improvement activities' includes a project or activity—

"(i) to create, update, or enhance a highway basemap of all public roads in a State;

"(ii) to collect safety data, including data identified as part of the model inventory of roadway elements, for creation of or use on a highway basemap of all public roads in a State;

"(iii) to store and maintain safety data in an electronic manner;

"(iv) to develop analytical processes for safety data elements;

"(v) to acquire and implement roadway safety analysis tools; and

"(vi) to support the collection, maintenance, and sharing of safety data on all public roads and related systems associated with the analytical usage of that data.

"(2) APPORTIONMENT.—Of the funds apportioned to a State under section 104(b)(3) for a fiscal year—

"(A) not less than 8 percent of the funds apportioned for each of fiscal years 2012 through 2013 shall be available only for data improvement activities under this subsection; and

"(B) not less than 4 percent of the funds apportioned for fiscal year 2014 and each fiscal year thereafter shall be available only for data improvement activities under this subsection.

"(3) SPECIAL RULE.—A State may use funds apportioned to the State pursuant to this subsection for any project eligible under this section if the

State demonstrates to the satisfaction of the Secretary that the State has met all of the State needs for data collection to support the State strategic highway safety plan and sufficiently addressed the data improvement activities described in paragraph (1).

"(4) MODEL INVENTORY OF ROADWAY ELEMENTS.—The Secretary shall—

"(A) establish a subset of the model inventory of roadway elements that are useful for the inventory of roadway safety; and

"(B) ensure that States adopt and use the subset to improve data collection.

"(h) PERFORMANCE MEASURES AND TARGETS FOR STATE HIGHWAY SAFETY IMPROVEMENT PROGRAMS.—

"(1) ESTABLISHMENT OF PERFORMANCE MEASURES.—Not later than 1 year after the date of enactment of the MAP–21, the Secretary shall issue guidance to States on the establishment, collection, and reporting of performance measures that reflect—

"(A) serious injuries and fatalities per vehicle mile traveled;

"(B) serious injuries and fatalities per capita; and

"(C) the number of serious injuries and fatalities

"(2) ESTABLISHMENT OF STATE PERFORMANCE TARGETS.—Not later than 1 year after the Secretary has issued guidance to States on the establishment, collection, and reporting of performance measures, each State shall set performance targets that reflect—

"(A) serious injuries and fatalities per vehicle mile traveled;

"(B) serious injuries and fatalities per capita; and

"(C) the number of serious injuries and fatalities.

"(i) SPECIAL RULES.—

"(1) HIGH-RISK RURAL ROAD SAFETY.—If the fatality rate on rural roads in a State increases over the most recent 2-year period for which data are available, that State shall be required to obligate in the next fiscal year for projects on high risk rural roads an amount equal to at least 200 percent of the amount of funds the State received for fiscal year 2009 for high risk rural roads under subsection (f) of this section, as in effect on the day before the date of enactment of the MAP–21.

"(2) RAIL-HIGHWAY GRADE CROSSINGS.—If the average number of fatalities at rail-highway grade crossings in a State over the most recent 2-year period for which data are available increases over the average number of fatalities during the preceding 2-year period, that State shall be required to obligate in the next fiscal year for projects on rail-highway grade crossings an amount equal to 120 percent of the amount of funds the State received for fiscal year 2009 for rail-highway grade crossings under section 130(f) (as in effect on the day before the date of enactment of the MAP–21).

"(3) OLDER DRIVERS.—If traffic fatalities and serious injuries per capita for drivers and pedestrians over the age of 65 in a State increases during the most recent 2-year period for which data are available, that State shall be required to include, in the subsequent Strategic Highway Safety Plan of the State, strategies to address the increases in those rates, taking into account the recommendations included in the publication of the Federal Highway Administration entitled 'Highway Design Handbook for Older Drivers and Pedestrians' (FHWA–RD–01–103), and dated May 2001, or as subsequently revised and updated.

"(j) REPORTS.—

"(1) IN GENERAL.—A State shall submit to the Secretary a report that—

"(A) describes the progress being made to achieve the performance targets established under subsection (h);

"(B) describes progress being made to implement highway safety improvement projects under this section;

"(C) assesses the effectiveness of those improvements; and

"(D) describes the extent to which the improvements funded under this section have contributed to reducing—

"(i) the number and rate of fatalities on all public roads with, to the maximum extent practicable, a breakdown by functional classification and ownership in the State;

"(ii) the number and rate of serious injuries on all public roads with, to the maximum extent practicable, a breakdown by functional classification and ownership in the State; and

"(iii) the occurrences of fatalities and serious injuries at railway-highway crossings.

"(2) CONTENTS; SCHEDULE.—The Secretary shall establish the content and schedule for the submission of the report under paragraph (1).

"(3) TRANSPARENCY.—The Secretary shall make strategic highway safety plans submitted under subsection (d) and reports submitted under this subsection available to the public through—

"(A) the website of the Department; and

"(B) such other means as the Secretary determines to be appropriate.

"(4) DISCOVERY AND ADMISSION INTO EVIDENCE OF CERTAIN REPORTS, SURVEYS, AND INFORMATION.—Notwithstanding any other provision of law, reports, surveys, schedules, lists, or data compiled or collected for any purpose relating to this section, shall not be subject to discovery or admitted into evidence in a Federal or State court proceeding or considered for other purposes in any action for damages arising from any occurrence at a location identified or addressed in the reports, surveys, schedules, lists, or other data.

"(k) STATE PERFORMANCE TARGETS.—If the Secretary determines that a State has not met or made significant progress toward meeting the performance targets of the State established under subsection (h) by the date that is 2 years after the date of the establishment of the performance targets, the State shall—

"(1) use obligation authority equal to the apportionment of the State for the prior year under section 104(b)(3) only for highway safety improvement projects under this section until the Secretary determines that the State has met or made significant progress toward meeting the performance targets of the State; and

"(2) submit annually to the Secretary, until the Secretary determines that the State has met or made significant progress toward meeting the performance targets of the State, an implementation plan that—

"(A) identifies roadway features that constitute a hazard to road users;

"(B) identifies highway safety improvement projects on the basis of crash experience, crash potential, or other data-supported means;

"(C) describes how highway safety improvement program funds will be allocated, in-

cluding projects, activities, and strategies to be implemented;

"(D) describes how the proposed projects, activities, and strategies funded under the State highway safety improvement program will allow the State to make progress toward achieving the safety performance targets of the State; and

"(E) describes the actions the State will undertake to meet the performance targets of the State.

"(l) FEDERAL SHARE OF HIGHWAY SAFETY IMPROVEMENT PROJECTS.—Except as provided in sections 120 and 130, the Federal share of the cost of a highway safety improvement project carried out with funds apportioned to a State under section 104(b)(3) shall be 90 percent.".

**SEC. 1113. CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.**

Section 149 of title 23, United States Code, is amended to read as follows:

**"§ 149. Congestion mitigation and air quality improvement program**

"(a) ESTABLISHMENT.—The Secretary shall establish and implement a congestion mitigation and air quality improvement program in accordance with this section.

1 "(b) ELIGIBLE PROJECTS.—

2 "(1) IN GENERAL.—Except as provided in sub-
3 section (c), a State may obligate funds apportioned
4 to the State for the congestion mitigation and air
5 quality improvement program under section
6 104(b)(4) that are not reserved under subsection (l)
7 only for a transportation project or program if the
8 project or program is for an area in the State that
9 is or was designated as a nonattainment area for
10 ozone, carbon monoxide, or particulate matter under
11 section 107(d) of the Clean Air Act (42 U.S.C.
12 7407(d)) and classified pursuant to section 181(a),
13 186(a), 188(a), or 188(b) of the Clean Air Act (42
14 U.S.C. 7511(a), 7512(a), 7513(a), or 7513(b)) or is
15 or was designated as a nonattainment area under
16 section 107(d) of that Act after December 31, 1997,
17 or is required to prepare, and file with the Adminis-
18 trator of the Environmental Protection Agency,
19 maintenance plans under the Clean Air Act (42
20 U.S.C. 7401 et seq.); and

21 "(A)(i)(I) if the Secretary, after consulta-
22 tion with the Administrator determines, on the
23 basis of information published by the Environ-
24 mental Protection Agency pursuant to subpara-
25 graph (A) of section 108(f)(1) of the Clean Air

Act (other than clause (xvi) of that subparagraph) (42 U.S.C. 7408(f)(1)) that the project or program is likely to contribute to—

"(aa) the attainment of a national ambient air quality standard; or

"(bb) the maintenance of a national ambient air quality standard in a maintenance area; and

"(II) there exists a high level of effectiveness in reducing air pollution, in cases of projects or programs where sufficient information is available in the database established pursuant to subsection (h) to determine the relative effectiveness of such projects or programs; or

"(ii) in any case in which such information is not available, if the Secretary, after such consultation, determines that the project or program is part of a program, method, or strategy described in such section 108(f)(1)(A);

"(B) if the project or program is included in a State implementation plan that has been approved pursuant to the Clean Air Act and the project will have air quality benefits;

"(C) to establish or operate a traffic monitoring, management, and control facility or pro-

gram, including truck stop electrification systems, if the Secretary, after consultation with the Administrator, determines that the facility or program is likely to contribute to the attainment of a national ambient air quality standard;

''(D) if the program or project improves traffic flow, including projects to improve signalization, construct high-occupancy vehicle lanes, improve intersections, add turning lanes, improve transportation systems management and operations that mitigate congestion and improve air quality, and implement intelligent transportation system strategies and such other projects that are eligible for assistance under this section on the day before the date of enactment of the MAP–21, including programs or projects to improve incident and emergency response or improve mobility, such as through real-time traffic, transit, and multimodal traveler information;

''(E) if the project or program involves the purchase of integrated, interoperable emergency communications equipment;

''(F) if the project or program is for—

"(i) the purchase of diesel retrofits that are—

"(I) for motor vehicles (as defined in section 216 of the Clean Air Act (42 U.S.C. 7550)); or

"(II) verified technologies (as defined in section 791 of the Energy Policy Act of 2005 (42 U.S.C. 16131)) for nonroad vehicles and nonroad engines (as defined in section 216 of the Clean Air Act (42 U.S.C. 7550)) that are used in construction projects that are—

"(aa) located in nonattainment or maintenance areas for ozone, $PM_{10}$, or $PM_{2.5}$ (as defined under the Clean Air Act (42 U.S.C. 7401 et seq.)); and

"(bb) funded, in whole or in part, under this title; or

"(ii) the conduct of outreach activities that are designed to provide information and technical assistance to the owners and operators of diesel equipment and vehicles

regarding the purchase and installation of diesel retrofits;

"(G) if the project involves the installation of battery charging or replacement facilities for electric-drive vehicles, or refueling facilities for alternative-fuel vehicles;

"(H) if the project or program shifts traffic demand to nonpeak hours or other transportation modes, increases vehicle occupancy rates, or otherwise reduces demand for roads through such means as telecommuting, ridesharing, carsharing, alternative work hours, and pricing; or

"(I) if the Secretary, after consultation with the Administrator, determines that the project or program is likely to contribute to the attainment of a national ambient air quality standard, whether through reductions in vehicle miles traveled, fuel consumption, or through other factors.

"(2) LIMITATIONS.—Funds apportioned to a State under section 104(b)(4) and not reserved under subsection (l) may not be obligated for a project that will result in the construction of new capacity available to single-occupant vehicles unless

the project consists of a high-occupancy vehicle facility available to single-occupant vehicles only at other than peak travel times or such use by single-occupant vehicles at peak travel times is subject to a toll.

"(3) USE OF FUNDS FOR OTHER ACTIVITIES.—Notwithstanding paragraph (1) and subsection (c), the Secretary may permit a State to use amounts apportioned to the State for each of fiscal years 2012 and 2013 for the congestion mitigation and air quality improvement program under section 104(b)(4) to carry out any activity on a system that was eligible for funding under that program as in effect on December 31, 2010.

"(c) STATES FLEXIBILITY.—

"(1) STATES WITHOUT A NONATTAINMENT AREA.—If a State does not have, and never has had, a nonattainment area designated under the Clean Air Act (42 U.S.C. 7401 et seq.) for ozone, carbon monoxide, or $PM_{2.5}$, the State may use funds apportioned to the State under section 104(b)(4) (excluding the amount of funds reserved under subsection (l)) for any project in the State that—

"(A) would otherwise be eligible under subsection (b) as if the project were carried out in a nonattainment or maintenance area; or

"(B) is eligible under the transportation mobility program under section 133.

"(2) STATES WITH A NONATTAINMENT AREA.—

"(A) IN GENERAL.—If a State has a nonattainment area or maintenance area and received funds in fiscal year 2009 under section 104(b)(2)(D), as in effect on the day before the date of enactment of the MAP–21, above the amount of funds that the State would have received based on the nonattainment and maintenance area population of the State under subparagraphs (B) and (C) of section 104(b)(2), as in effect on the day before the date of enactment of the MAP–21, the State may use for any project that is eligible under the transportation mobility program under section 133 an amount of funds apportioned to such State under section 104(b)(4) (excluding the amount of funds reserved under subsection (l)) that is equal to the product obtained by multiplying—

"(i) the amount apportioned to such State under section 104(b)(4) (excluding the amount of funds reserved under subsection (l)); by

"(ii) the ratio calculated under paragraph (B).

"(B) RATIO.—For purposes of this paragraph, the ratio shall be calculated as—

"(i) the amount for fiscal year 2009 such State was permitted by section 149(c)(2), as in effect on the day before the date of enactment of the MAP–21, to obligate in any area of the State for projects eligible under section 133, as in effect on the day before the date of enactment of the MAP–21; bears to

"(ii) the total apportionment to such State for fiscal year 2009 under section 104(b)(2), as in effect on the day before the date of enactment of the MAP–21.

"(3) CHANGES IN DESIGNATION.—If a new nonattainment area is designated or a previously designated nonattainment area is redesignated as an attainment area in a State under the Clean Air Act (42 U.S.C. 7401 et seq.), the Secretary shall modify the amount such State is permitted to obligate in any area of the State for projects eligible under section 133.

"(d) APPLICABILITY OF PLANNING REQUIREMENTS.—Programming and expenditure of funds for projects under this section shall be consistent with the requirements of sections 134 and 135.

"(e) PARTNERSHIPS WITH NONGOVERNMENTAL ENTITIES.—

"(1) IN GENERAL.—Notwithstanding any other provision of this title and in accordance with this subsection, a metropolitan planning organization, State transportation department, or other project sponsor may enter into an agreement with any public, private, or nonprofit entity to cooperatively implement any project carried out with funds apportioned under section 104(b)(4).

"(2) FORMS OF PARTICIPATION BY ENTITIES.—Participation by an entity under paragraph (1) may consist of—

"(A) ownership or operation of any land, facility, vehicle, or other physical asset associated with the project;

"(B) cost sharing of any project expense;

"(C) carrying out of administration, construction management, project management, project operation, or any other management or

operational duty associated with the project; and

"(D) any other form of participation approved by the Secretary.

"(3) ALLOCATION TO ENTITIES.—A State may allocate funds apportioned under section 104(b)(4) to an entity described in paragraph (1).

"(4) ALTERNATIVE FUEL PROJECTS.—In the case of a project that will provide for the use of alternative fuels by privately owned vehicles or vehicle fleets, activities eligible for funding under this subsection—

"(A) may include the costs of vehicle refueling infrastructure, including infrastructure that would support the development, production, and use of emerging technologies that reduce emissions of air pollutants from motor vehicles, and other capital investments associated with the project;

"(B) shall include only the incremental cost of an alternative fueled vehicle, as compared to a conventionally fueled vehicle, that would otherwise be borne by a private party; and

"(C) shall apply other governmental financial purchase contributions in the calculation of net incremental cost.

"(5) PROHIBITION ON FEDERAL PARTICIPATION WITH RESPECT TO REQUIRED ACTIVITIES.—A Federal participation payment under this subsection may not be made to an entity to fund an obligation imposed under the Clean Air Act (42 U.S.C. 7401 et seq.) or any other Federal law.

"(f) PRIORITY CONSIDERATION.—States and metropolitan planning organizations shall give priority in areas designated as nonattainment or maintenance for $PM_{2.5}$ under the Clean Air Act (42 U.S.C. 7401 et seq.) in distributing funds received for congestion mitigation and air quality projects and programs from apportionments under section 104(b)(4) not required to be reserved under subsection (l) to projects that are proven to reduce $PM_{2.5}$, including diesel retrofits.

"(g) INTERAGENCY CONSULTATION.—The Secretary shall encourage States and metropolitan planning organizations to consult with State and local air quality agencies in nonattainment and maintenance areas on the estimated emission reductions from proposed congestion mitigation and air quality improvement programs and projects.

"(h) EVALUATION AND ASSESSMENT OF PROJECTS.—

"(1) DATABASE.—

"(A) IN GENERAL.—Using appropriate assessments of projects funded under the congestion mitigation and air quality program and results from other research, the Secretary shall maintain and disseminate a cumulative database describing the impacts of the projects, including specific information about each project, such as the project name, location, sponsor, cost, and, to the extent already measured by the project sponsor, cost-effectiveness, based on reductions in congestion and emissions.

"(B) AVAILABILITY.—The database shall be published or otherwise made readily available by the Secretary in electronically accessible format and means, such as the Internet, for public review.

"(2) COST EFFECTIVENESS.—

"(A) IN GENERAL.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall evaluate projects on a periodic basis and develop a table or other similar medium that illustrates the

cost-effectiveness of a range of project types eligible for funding under this section as to how the projects mitigate congestion and improve air quality.

"(B) CONTENTS.—The table described in subparagraph (A) shall show measures of cost-effectiveness, such as dollars per ton of emissions reduced, and assess those measures over a variety of timeframes to capture impacts on the planning timeframes outlined in section 134.

"(C) USE OF TABLE.—States and metropolitan planning organizations shall consider the information in the table when selecting projects or developing performance plans under subsection (k).

"(i) OPTIONAL PROGRAMMATIC ELIGIBILITY.—

"(1) IN GENERAL.—At the discretion of a metropolitan planning organization, a technical assessment of a selected program of projects may be conducted through modeling or other means to demonstrate the emissions reduction projection required under this section.

"(2) APPLICABILITY.—If an assessment described in paragraph (1) successfully demonstrates

an emissions reduction, all projects included in such assessment shall be eligible for obligation under this section without further demonstration of emissions reduction of individual projects included in such assessment.

"(j) SUBALLOCATION TO NONATTAINMENT AND MAINTENANCE AREAS.—

"(1) IN GENERAL.—An amount equal to 50 percent of the amount of funds apportioned to each State under section 104(b)(4) (excluding the amount of funds reserved under subsection (l)) shall be suballocated for projects within each area designated as nonattainment or maintenance for the pollutants described in subsection (b).

"(2) DISTRIBUTION OF FUNDS.—The distribution within any State of funds required to be suballocated under paragraph (1) to each nonattainment or maintenance area shall be in accordance with a formula developed by each State and approved by the Secretary, which shall consider the population of each such nonattainment or maintenance area and shall be weighted by the severity of pollution in the manner described in paragraph (6).

"(3) PROJECT SELECTION.—Projects under this subsection shall be selected by a State and shall be

consistent with the requirements of sections 134 and 135.

"(4) PRIORITY FOR USE OF SUBALLOCATED FUNDS IN $PM_{2.5}$ AREAS.—

"(A) IN GENERAL.—An amount equal to 50 percent of the funds suballocated under paragraph (1) for a nonattainment or maintenance area that are based all or in part on the weighted population of such area in fine particulate matter nonattainment shall be obligated to projects that reduce such fine particulate matter emissions in such area, including diesel retrofits.

"(B) CONSTRUCTION EQUIPMENT.—An amount equal to 30 percent of the funds required to be set aside under subparagraph (A) shall be obligated to carry out the objectives of section 330.

"(C) OBLIGATION PROCESS.—

"(i) IN GENERAL.—Each State or metropolitan planning organization required to obligate funds in accordance with this paragraph shall develop a process to provide funding directly to eligible entities (as defined under section 330) in order to

achieve the objectives of such section and ensure that the bid proceeding and award of the contract for any covered highway construction project carried out under that section will be—

"(I) made without regard to the particulate matter emission levels of the fleet of the eligible entity; and

"(II) consistent with existing requirements for full and open competition under section 112.

"(ii) OBLIGATION.—A State may obligate suballocated funds designated under this paragraph without regard to any process or other requirement established under this section.

"(5) FUNDS NOT SUBALLOCATED.—Except as provided in subsection (c), funds apportioned to a State under section 104(b)(4) (excluding the amount of funds reserved under subsection (l)) and not suballocated under paragraph (1) shall be made available to such State for programming in any nonattainment or maintenance area in the State.

"(6) FACTORS FOR CALCULATION OF SUBALLOCATION.—

"(A) IN GENERAL.—For the purposes of paragraph (2), each State shall weight the population of each such nonattainment or maintenance area by a factor of—

"(i) 1.0 if, at the time of the apportionment, the area is a maintenance area for ozone or carbon monoxide;

"(ii) 1.0 if, at the time of the apportionment, the area is classified as a marginal ozone nonattainment area under subpart 2 of part D of title I of the Clean Air Act (42 U.S.C. 7511 et seq.);

"(iii) 1.1 if, at the time of the apportionment, the area is classified as a moderate ozone nonattainment area under subpart 2 of part D of title I of the Clean Air Act (42 U.S.C. 7511 et seq.);

"(iv) 1.2 if, at the time of the apportionment, the area is classified as a serious ozone nonattainment area under subpart 2 of part D of title I of the Clean Air Act (42 U.S.C. 7511 et seq.);

"(v) 1.3 if, at the time of the apportionment, the area is classified as a severe ozone nonattainment area under subpart 2

of part D of title I of the Clean Air Act (42 U.S.C. 7511 et seq.);

"(vi) 1.5 if, at the time of the apportionment, the area is classified as an extreme ozone nonattainment area under subpart 2 of part D of title I of the Clean Air Act (42 U.S.C. 7511 et seq.);

"(vii) 1.0 if, at the time of the apportionment, the area is not a nonattainment or maintenance area for ozone as described in section 149(b), but is designated under section 107 of the Clean Air Act (42 U.S.C. 7407) as a nonattainment area for carbon monoxide;

"(viii) 1.0 if, at the time of the apportionment, the area is designated as nonattainment for ozone under section 107 of the Clean Air Act (42 U.S.C. 7407); or

"(ix) 1.2 if, at the time of the apportionment, the area is not a nonattainment or maintenance area as described in section 149(b) for ozone, but is designated as a nonattainment or maintenance area for fine particulate matter, 2.5 micrometers or

less, under section 107 of the Clean Air Act (42 U.S.C. 7407).

"(B) OTHER FACTORS.—If, in addition to being designated as a nonattainment or maintenance area for ozone as described in section 149(b), any county within the area was also designated under section 107 of the Clean Air Act (42 U.S.C. 7407) as a nonattainment or maintenance area for carbon monoxide, or was designated under section 107 of the Clean Air Act (42 U.S.C. 7407) as a nonattainment or maintenance area for particulate matter, 2.5 micrometers or less, or both, the weighted nonattainment or maintenance area population of the county, as determined under clauses (i) through (vi), or clause (viii), of subparagraph (A), shall be further multiplied by a factor of 1.2, or a second further factor of 1.2 if the area is designated as a nonattainment or maintenance area for both carbon monoxide and particulate matter, 2.5 micrometers or less.

"(7) EXCEPTIONS FOR CERTAIN STATES.—

"(A) A State without a nonattainment or maintenance area shall not be subject to the requirements of this subsection.

"(B) The amount of funds required to be set aside under paragraph (1) in a State that received a minimum apportionment for fiscal year 2009 under section 104(b)(2)(D), as in effect on the day before the date of enactment of the MAP–21, shall be based on the amount of funds such State would otherwise have been apportioned under section 104(b)(4) (excluding the amount of funds reserved under subsection (l)) but for the minimum apportionment in fiscal year 2009.

"(k) PERFORMANCE PLAN.—

"(1) IN GENERAL.—Each tier I metropolitan planning organization (as defined in section 134) representing a nonattainment or maintenance area shall develop a performance plan that—

"(A) includes an area baseline level for traffic congestion and on-road mobile source emissions for which the area is in nonattainment or maintenance;

"(B) identifies air quality and traffic congestion target levels based on measures established by the Secretary; and

"(C) includes a description of projects identified for funding under this section and a

description of how such projects will contribute to achieving emission and traffic congestion reduction targets.

"(2) UPDATED PLANS.—

"(A) IN GENERAL.—Performance plans shall be updated on the schedule required under paragraph (3).

"(B) CONTENTS.—An updated plan shall include a separate report that assesses the progress of the program of projects under the previous plan in achieving the air quality and traffic congestion targets of the previous plan.

"(3) RULEMAKING.—Not later than 18 months after the date of enactment of the MAP–21, the Secretary shall promulgate regulations to implement this subsection that identify performance measures for traffic congestion and on-road mobile source emissions, timelines for performance plans, and requirements under this section for assessing the implementation of projects carried out under this section.

"(l) ADDITIONAL ACTIVITIES.—

"(1) RESERVATION OF FUNDS.—Of the funds apportioned to a State under section 104(b)(4), a State shall reserve the amount of funds attributable

to the inclusion of the 10 percent of surface transportation program funds apportioned to such State for fiscal year 2009 in the formula under section 104(b)(4) for projects under this subsection.

"(2) ELIGIBLE PROJECTS.—A State may obligate the funds reserved under this subsection for any of the following projects or activities:

"(A) Transportation enhancements, as defined in section 101.

"(B) The recreational trails program under section 206.

"(C) The safe routes to school program under section 1404 of the SAFETEA–LU (23 U.S.C. 402 note; Public Law 109–59).

"(D) Planning, designing, or constructing boulevards and other roadways largely in the right-of-way of former Interstate System routes or other divided highways.

"(3) ALLOCATIONS OF FUNDS.—

"(A) CALCULATION.—Of the funds reserved in a State under this subsection—

"(i) 50 percent for a fiscal year shall be obligated under this subsection to any eligible entity in proportion to their relative shares of the population of the State—

"(I) in urbanized areas of the State with an urbanized area population of over 200,000;

"(II) in areas of the State other than urban areas with a population greater than 5,000; and

"(III) in other areas of the State; and

"(ii) 50 percent shall be obligated in any area of the State.

"(B) METROPOLITAN AREAS.—Funds attributed to an urbanized area under subparagraph (A)(i)(I) may be obligated in the metropolitan area established under section 134 that encompasses the urbanized area.

"(C) DISTRIBUTION AMONG URBANIZED AREAS OF OVER 200,000 POPULATION.—

"(i) IN GENERAL.—Except as provided in subparagraph (A)(ii), the amount of funds that a State is required to obligate under subparagraph (A)(i)(I) shall be obligated in urbanized areas described in subparagraph (A)(i)(I) based on the relative population of the areas.

"(ii) OTHER FACTORS.—The State may obligate the funds described in clause (i) based on other factors if the State and the relevant metropolitan planning organizations jointly apply to the Secretary for the permission to base the obligation on other factors and the Secretary grants the request.

"(D) ACCESS TO FUNDS.—

"(i) IN GENERAL.—Each State or metropolitan planning organization required to obligate funds in accordance with subparagraph (A) shall develop a competitive process to allow eligible entities to submit projects for funding that achieve the objectives of this subsection.

"(ii) DEFINITION OF ELIGIBLE ENTITY.—In this subsection, the term 'eligible entity' means—

"(I) a local government;

"(II) a regional transportation authority;

"(III) a transit agency;

"(IV) a natural resource or public land agency;

"(V) a school district, local education agency, or school;

"(VI) a tribal government; and

"(VII) any other local or regional governmental entity with responsibility for or oversight of transportation or recreational trails (other than a tier I metropolitan planning organization or a State agency) that the State determines to be eligible, consistent with the goals of this subsection.

"(E) SELECTION OF PROJECTS.—Each tier I and tier II metropolitan planning organization shall select projects carried out within the boundaries of the applicable metropolitan planning area, in consultation with the relevant State, for funds reserved in a State under this subsection and suballocated to the metropolitan planning area under subparagraph (A)(i).

"(4) FLEXIBILITY OF EXCESS RESERVED FUNDING.—Beginning in the second fiscal year after the date of enactment of the MAP–21, if on August 1 of that fiscal year the unobligated balance of available funds apportioned to a State under section

104(b)(4) and reserved by a State under this subsection exceeds 150 percent of such reserved amount in such fiscal year, the State may thereafter obligate the amount of excess funds for any activity—

"(A) that is eligible to receive funding under this subsection; or

"(B) for which the Secretary has approved the obligation of funds for any State under this section.

"(5) PROVISION OF ADEQUATE DATA, MODELING, AND SUPPORT.—In any case in which a State requests reasonable technical support or otherwise requests data (including planning models and other modeling), clarification, or guidance regarding the content of any final rule or applicable regulation material to State actions under this section, the Secretary and any other agency shall provide that support, clarification, or guidance in a timely manner.

"(6) TREATMENT OF PROJECTS.—Notwithstanding any other provision of law, projects funded under this subsection shall be treated as projects on a Federal-aid highway under this chapter.

"(7) CONTINUATION OF CERTAIN RECREATIONAL TRAILS PROJECTS.—Each State that does not opt out of this paragraph shall—

"(A) obligate an amount of funds reserved under this section equal to the amount of the funds apportioned to the State for fiscal year 2009 under section 104(h)(2) for projects relating to recreational trails under section 206;

"(B) return 1 percent of those funds to the Secretary for the administration of that program; and

"(C) comply with the provisions of the administration of the recreational trails program under section 206, including the use of apportioned funds described under subsection (d)(3)(A) of that section.

"(8) STATE FLEXIBILITY.—A State may opt out of the recreational trails program under paragraph (7) if the Governor of the State notifies the Secretary not later than 30 days prior to apportionments being made for any fiscal year.".

**SEC. 1114. TERRITORIAL AND PUERTO RICO HIGHWAY PROGRAM.**

(a) IN GENERAL.—Section 165 of title 23, United States Code, is amended to read as follows:

**"§ 165. Territorial and Puerto Rico highway program**

''(a) DIVISION OF FUNDS.—Of funds made available in a fiscal year for the territorial and Puerto Rico highway program—

''(1) 75 percent shall be for the Puerto Rico highway program under subsection (b); and

''(2) 25 percent shall be for the territorial highway program under subsection (c).

''(b) PUERTO RICO HIGHWAY PROGRAM.—

''(1) IN GENERAL.—The Secretary shall allocate funds made available to carry out this subsection to the Commonwealth of Puerto Rico to carry out a highway program in the Commonwealth.

''(2) TREATMENT OF FUNDS.—Amounts made available to carry out this subsection for a fiscal year shall be administered as follows:

''(A) APPORTIONMENT.—

''(i) IN GENERAL.—For the purpose of imposing any penalty under this title or title 49, the amounts shall be treated as being apportioned to Puerto Rico under sections 104(b) and 144 (as in effect for fiscal year 1997) for each program funded under those sections in an amount determined by multiplying—

"(I) the aggregate of the amounts for the fiscal year; by

"(II) the proportion that—

"(aa) the amount of funds apportioned to Puerto Rico for each such program for fiscal year 1997; bears to

"(bb) the total amount of funds apportioned to Puerto Rico for all such programs for fiscal year 1997.

"(ii) EXCEPTION.—Funds identified under clause (i) as having been apportioned for the national highway system, the surface transportation program, and the Interstate maintenance program shall be deemed to have been apportioned 50 percent for the national highway performance program and 50 percent for the transportation mobility program for purposes of imposing such penalties.

"(B) PENALTY.—The amounts treated as being apportioned to Puerto Rico under each section referred to in subparagraph (A) shall be deemed to be required to be apportioned to

Puerto Rico under that section for purposes of the imposition of any penalty under this title or title 49.

"(C) ELIGIBLE USES OF FUNDS.—Of amounts allocated to Puerto Rico for the Puerto Rico Highway Program for a fiscal year—

"(i) at least 50 percent shall be available only for purposes eligible under section 119;

"(ii) at least 25 percent shall be available only for purposes eligible under section 148; and

"(iii) any remaining funds may be obligated for activities eligible under chapter 1.

"(3) EFFECT ON APPORTIONMENTS.—Except as otherwise specifically provided, Puerto Rico shall not be eligible to receive funds apportioned to States under this title.

"(c) TERRITORIAL HIGHWAY PROGRAM.—

"(1) TERRITORY DEFINED.—In this subsection, the term 'territory' means any of the following territories of the United States:

"(A) American Samoa.

"(B) The Commonwealth of the Northern Mariana Islands.

"(C) Guam.

"(D) The United States Virgin Islands.

"(2) PROGRAM.—

"(A) IN GENERAL.—Recognizing the mutual benefits that will accrue to the territories and the United States from the improvement of highways in the territories, the Secretary may carry out a program to assist each government of a territory in the construction and improvement of a system of arterial and collector highways, and necessary inter-island connectors, that is—

"(i) designated by the Governor or chief executive officer of each territory; and

"(ii) approved by the Secretary.

"(B) FEDERAL SHARE.—The Federal share of Federal financial assistance provided to territories under this subsection shall be in accordance with section 120(g).

"(3) TECHNICAL ASSISTANCE.—

"(A) IN GENERAL.—To continue a long-range highway development program, the Sec-

retary may provide technical assistance to the governments of the territories to enable the territories, on a continuing basis—

"(i) to engage in highway planning;

"(ii) to conduct environmental evaluations;

"(iii) to administer right-of-way acquisition and relocation assistance programs; and

"(iv) to design, construct, operate, and maintain a system of arterial and collector highways, including necessary inter-island connectors.

"(B) FORM AND TERMS OF ASSISTANCE.—Technical assistance provided under subparagraph (A), and the terms for the sharing of information among territories receiving the technical assistance, shall be included in the agreement required by paragraph (5).

"(4) NONAPPLICABILITY OF CERTAIN PROVISIONS.—

"(A) IN GENERAL.—Except to the extent that provisions of this chapter are determined by the Secretary to be inconsistent with the needs of the territories and the intent of this

subsection, this chapter (other than provisions of this chapter relating to the apportionment and allocation of funds) shall apply to funds made available under this subsection.

"(B) APPLICABLE PROVISIONS.—The agreement required by paragraph (5) for each territory shall identify the sections of this chapter that are applicable to that territory and the extent of the applicability of those sections.

"(5) AGREEMENT.—

"(A) IN GENERAL.—Except as provided in subparagraph (D), none of the funds made available under this subsection shall be available for obligation or expenditure with respect to any territory until the chief executive officer of the territory has entered into an agreement (including an agreement entered into under section 215 as in effect on the day before the enactment of this section) with the Secretary providing that the government of the territory shall—

"(i) implement the program in accordance with applicable provisions of this chapter and paragraph (4);

"(ii) design and construct a system of arterial and collector highways, including necessary inter-island connectors, in accordance with standards that are—

"(I) appropriate for each territory; and

"(II) approved by the Secretary;

"(iii) provide for the maintenance of facilities constructed or operated under this subsection in a condition to adequately serve the needs of present and future traffic; and

"(iv) implement standards for traffic operations and uniform traffic control devices that are approved by the Secretary.

"(B) TECHNICAL ASSISTANCE.—The agreement required by subparagraph (A) shall—

"(i) specify the kind of technical assistance to be provided under the program;

"(ii) include appropriate provisions regarding information sharing among the territories; and

"(iii) delineate the oversight role and responsibilities of the territories and the Secretary.

"(C) REVIEW AND REVISION OF AGREEMENT.—The agreement entered into under subparagraph (A) shall be reevaluated and, as necessary, revised, at least every 2 years.

"(D) EXISTING AGREEMENTS.—With respect to an agreement under this subsection or an agreement entered into under section 215 of this title as in effect on the day before the date of enactment of this subsection—

"(i) the agreement shall continue in force until replaced by an agreement entered into in accordance with subparagraph (A); and

"(ii) amounts made available under this subsection under the existing agreement shall be available for obligation or expenditure so long as the agreement, or the existing agreement entered into under subparagraph (A), is in effect.

"(6) ELIGIBLE USES OF FUNDS.—

"(A) IN GENERAL.—Funds made available under this subsection may be used only for the

following projects and activities carried out in a territory:

"(i) Eligible transportation mobility program projects described in section 133(c).

"(ii) Cost-effective, preventive maintenance consistent with section 116(d).

"(iii) Ferry boats, terminal facilities, and approaches, in accordance with subsections (b) and (c) of section 129.

"(iv) Engineering and economic surveys and investigations for the planning, and the financing, of future highway programs.

"(v) Studies of the economy, safety, and convenience of highway use.

"(vi) The regulation and equitable taxation of highway use.

"(vii) Such research and development as are necessary in connection with the planning, design, and maintenance of the highway system.

"(B) PROHIBITION ON USE OF FUNDS FOR ROUTINE MAINTENANCE.—None of the funds

made available under this subsection shall be obligated or expended for routine maintenance.

"(7) LOCATION OF PROJECTS.—Territorial highway program projects (other than those described in paragraphs (2), (4), (7), (8), (14), and (19) of section 133(c)) may not be undertaken on roads functionally classified as local.".

(b) CONFORMING AMENDMENTS.—

(1) CLERICAL AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 165 and inserting the following:

"165. Territorial and Puerto Rico highway program.".

(2) OBSOLETE TEXT.—Section 215 of that title, and the item relating to that section in the analysis for chapter 2, are repealed.

**SEC. 1115. NATIONAL FREIGHT PROGRAM.**

(a) IN GENERAL.—Chapter 1 of title 23, United States Code, is amended by adding at the end the following:

**"§ 167. National freight program**

"(a) NATIONAL FREIGHT PROGRAM.—It is the policy of the United States to improve the condition and performance of the national freight network to ensure that the national freight network provides the foundation for

the United States to compete in the global economy and achieve each goal described in subsection (b).

"(b) GOALS.—The goals of the national freight program are—

"(1) to invest in infrastructure improvements and to implement operational improvements that—

"(A) strengthen the contribution of the national freight network to the economic competitiveness of the United States;

"(B) reduce congestion; and

"(C) increase productivity, particularly for domestic industries and businesses that create high-value jobs;

"(2) to reduce the environmental impacts of freight movement on the national freight network;

"(3) to improve the safety, security, and resilience of freight transportation;

"(4) to improve the state of good repair of the national freight network;

"(5) to use advanced technology to improve the safety and efficiency of the national freight network;

"(6) to incorporate concepts of performance, innovation, competition, and accountability into the operation and maintenance of the national freight network; and

"(7) to improve the economic efficiency of the national freight network.

"(c) ESTABLISHMENT OF PROGRAM.—

"(1) IN GENERAL.—The Secretary shall establish and implement a national freight program in accordance with this section to strategically direct Federal resources toward improved system performance for efficient movement of freight on highways, including national highway system freight intermodal connectors and aerotropolis transportation systems.

"(2) NETWORK COMPONENTS.—The national freight network shall consist of—

"(A) the primary freight network, as designated by the Secretary under subsection (f) (referred to in this section as the 'primary freight network') as most critical to the movement of freight;

"(B) the portions of the Interstate System not designated as part of the primary freight network; and

"(C) critical rural freight corridors established under subsection (g).

"(d) USE OF APPORTIONED FUNDS.—

"(1) PROJECTS ON THE NATIONAL FREIGHT NETWORK.—At a minimum, following designation of the primary freight network under subsection (f), a State shall obligate funds apportioned under section 104(b)(5) to improve the movement of freight on the national freight network.

"(2) LOCATION OF PROJECTS.—A project carried out using funds apportioned under paragraph (1) shall be located—

"(A) on the primary freight network as described under subsection (f);

"(B) on a portion of the Interstate System not designated as primary freight network;

"(C) on roads off of the Interstate System or primary freight network, if that use of funds will provide—

"(i) a more significant improvement to freight movement on the Interstate System or the primary freight network;

"(ii) critical freight access to the Interstate System or the primary freight network; or

"(iii) mitigation of the congestion impacts from freight movement;

"(D) on a national highway system freight intermodal connector;

"(E) on critical rural freight corridors, as designated under subsection (g) (except that not more than 20 percent of the total anticipated apportionment of a State under section 104(b)(5) during fiscal years 2012 and 2013 may be used for projects on critical rural freight corridors); or

"(F) within the boundaries of public and private intermodal facilities, but shall only include surface infrastructure necessary to facilitate direct intermodal interchange, transfer, and access into and out of the facility.

"(3) PRIMARY FREIGHT NETWORK FUNDING.—Beginning for each fiscal year after the Secretary designates the primary freight network, a State shall obligate from funds apportioned under section 104(b)(5) for the primary freight network the lesser of—

"(A) an amount equal to the product obtained by multiplying—

"(i) an amount equal to 110 percent of the apportionment of the State for the fiscal year under section 104(b)(5); and

"(ii) the proportion that—

"(I) the total designated primary freight network mileage of the State; bears to

"(II) the sum of the designated primary freight network mileage of the State and the total Interstate system mileage of the State that is not designated as part of the primary freight network; or

"(B) an amount equal to the total apportionment of the State under section 104(b)(5).

"(e) ELIGIBILITY.—

"(1) ELIGIBLE PROJECTS.—To be eligible for funding under this section, a project shall demonstrate the improvement made by the project to the efficient movement of freight on the national freight network.

"(2) FREIGHT RAIL AND MARITIME PROJECTS.—

"(A) IN GENERAL.—A State may obligate an amount equal to not more than 10 percent of the total apportionment to the State under section 104(b)(5) over the period of fiscal years

2012 and 2013 for public or private freight rail or maritime projects.

"(B) ELIGIBILITY.—For a State to be eligible to obligate funds in the manner described in subparagraph (A), the Secretary shall concur with the State that—

"(i) the project for which the State seeks to obligate funds under this paragraph would make freight rail improvements to enhance cross-border commerce within 5 miles of the international border between the United States and Canada or Mexico or make significant improvement to freight movements on the national freight network; and

"(ii) the public benefit of the project—

"(I) exceeds the Federal investment; and

"(II) provides a better return than a highway project on a segment of the primary freight network.

"(3) ELIGIBLE PROJECT COSTS.—A State may obligate funds apportioned to the State under sec-

tion 104(b)(5) for the national freight program for any of the following costs of an eligible project:

"(A) Development phase activities, including planning, feasibility analysis, revenue forecasting, environmental review, preliminary engineering and design work, and other preconstruction activities.

"(B) Construction, reconstruction, rehabilitation, acquisition of real property (including land relating to the project and improvements to land), construction contingencies, acquisition of equipment, and operational improvements directly relating to improving system performance, including but not limited to any segment of the primary freight network that falls below the minimum level established pursuant to section 119(f).

"(C) Intelligent transportation systems and other technology to improve the flow of freight.

"(D) Efforts to reduce the environmental impacts of freight movement on the national freight network.

"(E) Environmental mitigation.

"(F) Railway-highway grade separation.

"(G) Geometric improvements to interchanges and ramps.

"(H) Truck-only lanes.

"(I) Climbing and runaway truck lanes.

"(J) Adding or widening of shoulders.

"(K) Truck parking facilities eligible for funding under section 1401 of the MAP–21.

"(L) Real-time traffic, truck parking, roadway condition, and multimodal transportation information systems.

"(M) Electronic screening and credentialing systems for vehicles, including weigh-in-motion truck inspection technologies.

"(N) Traffic signal optimization including synchronized and adaptive signals.

"(O) Work zone management and information systems.

"(P) Highway ramp metering.

"(Q) Electronic cargo and border security technologies that improve truck freight movement.

"(R) Intelligent transportation systems that would increase truck freight efficiencies inside the boundaries of intermodal facilities.

"(S) Any other activities to improve the flow of freight on the national freight network.

"(4) OTHER ELIGIBLE COSTS.—In addition to eligible project costs, a State may use funds apportioned under section 104(b)(5) for—

"(A) carrying out diesel retrofit or alternative fuel projects defined in section 149 for class 8 vehicles; or

"(B) the necessary costs of—

"(i) conducting analyses and data collection;

"(ii) developing and updating performance targets to carry out this section; or

"(iii) reporting to the Secretary to comply with subsection (i).

"(5) ELIGIBLE PROJECT COSTS PRIOR TO DESIGNATION OF THE PRIMARY FREIGHT NETWORK.—Prior to the date of designation of the primary freight network, a State may obligate funds apportioned to the State under section 104(b)(5) to improve freight movement on the Interstate System for—

"(A) construction, reconstruction, resurfacing, restoration, and rehabilitation of segments of the Interstate System;

"(B) operational improvements for segments of the Interstate System;

"(C) construction of, and operational improvements for, a Federal-aid highway not on the Interstate System, and construction of a transit project eligible for assistance under chapter 53 of title 49, United States Code, if—

"(i) the highway or transit project is in the same corridor as, and in proximity to a highway designated as a part of, the Interstate System;

"(ii) the construction or improvements would improve the level of service on the Interstate System described in subparagraph (A) and improve freight traffic flow; and

"(iii) the construction or improvements are more cost-effective for freight movement than an improvement to the Interstate System described in subparagraph (A);

"(D) highway safety improvements for segments of the Interstate System;

"(E) transportation planning in accordance with sections 134 and 135;

"(F) the costs of conducting analysis and data collection to comply with this section;

"(G) truck parking facilities eligible for funding under section 1401 of the MAP–21;

"(H) infrastructure-based intelligent transportation systems capital improvements;

"(I) environmental restoration and pollution abatement in accordance with section 328; and

"(J) in accordance with all applicable Federal law (including regulations), participation in natural habitat and wetlands mitigation efforts relating to projects funded under this title, which may include participation in natural habitat and wetlands mitigation banks, contributions to statewide and regional efforts to conserve, restore, enhance, and create natural habitats and wetlands, and development of statewide and regional natural habitat and wetlands conservation and mitigation plans, including any such banks, efforts, and plans developed in

accordance with applicable Federal law (including regulations), on the conditions that—

"(i) contributions to those mitigation efforts may—

"(I) take place concurrent with or in advance of project construction; and

"(II) occur in advance of project construction only if the efforts are consistent with all applicable requirements of Federal law (including regulations) and State transportation planning processes; and

"(ii) with respect to participation in a natural habitat or wetland mitigation effort relating to a project funded under this title that has an impact that occurs within the service area of a mitigation bank, preference is given, to the maximum extent practicable, to the use of the mitigation bank if the bank contains sufficient available credits to offset the impact and the bank is approved in accordance with applicable Federal law (including regulations).

"(f) DESIGNATION OF PRIMARY FREIGHT NETWORK.—

"(1) INITIAL DESIGNATION OF PRIMARY FREIGHT NETWORK.—

"(A) DESIGNATION.—Not later than 1 year after the date of enactment of this section, the Secretary shall designate a primary freight network—

"(i) based on an inventory of national freight volume conducted by the Administrator of the Federal Highway Administration, in consultation with stakeholders, including system users, transport providers, and States; and

"(ii) that shall be comprised of not more than 27,000 centerline miles of existing roadways that are most critical to the movement of freight.

"(B) FACTORS FOR DESIGNATION.—In designating the primary freight network, the Secretary shall consider—

"(i) the origins and destinations of freight movement in the United States;

"(ii) the total freight tonnage and value of freight moved by all modes of transportation;

"(iii) the percentage of annual average daily truck traffic in the annual average daily traffic on principal arterials;

"(iv) the annual average daily truck traffic on principal arterials;

"(v) land and maritime ports of entry;

"(vi) population centers; and

"(vii) network connectivity.

"(2) ADDITIONAL MILES ON PRIMARY FREIGHT NETWORK.—In addition to the miles initially designated under paragraph (1), the Secretary may increase the number of miles designated as part of the primary freight network by not more than 3,000 additional centerline miles of roadways (which may include existing or planned roads) critical to future efficient movement of goods on the primary freight network.

"(3) REDESIGNATION OF PRIMARY FREIGHT NETWORK.—During calendar year 2015 and every 10 years thereafter, using the designation factors described in paragraph (1), the Secretary shall redesig-

nate the primary freight network (including additional mileage described in subsection (f)(2)).

"(g) CRITICAL RURAL FREIGHT CORRIDORS.—A State may designate a road within the borders of the State as a critical rural freight corridor if the road—

"(1) is a rural principal arterial roadway and has a minimum of 25 percent of the annual average daily traffic of the road measured in passenger vehicle equivalent units from trucks (FHWA vehicle class 8 to 13); or

"(2) connects the primary freight network, a roadway described in paragraph (1), or Interstate System to facilities that handle more than—

"(A) 50,000 20-foot equivalent units per year; or

"(B) 500,000 tons per year of bulk commodities.

"(h) NATIONAL FREIGHT STRATEGIC PLAN.—

"(1) INITIAL DEVELOPMENT OF NATIONAL FREIGHT STRATEGIC PLAN.—Not later than 3 years after the date of enactment of this section, the Secretary shall, in consultation with appropriate public and private transportation stakeholders, develop and post on the Department of Transportation public

website a national freight strategic plan that shall include—

"(A) an assessment of the condition and performance of the national freight network;

"(B) an identification of highway bottlenecks on the national freight network that create significant freight congestion problems, based on a quantitative methodology developed by the Secretary, which shall, at a minimum, include information from the Freight Analysis Network of the Federal Highway Administration;

"(C) forecasts of freight volumes for the 20-year period beginning in the year during which the plan is issued;

"(D) an identification of major trade gateways and national freight corridors that connect major population centers, trade gateways, and other major freight generators for current and forecasted traffic and freight volumes, the identification of which shall be revised, as appropriate, in subsequent plans;

"(E) an assessment of statutory, regulatory, technological, institutional, financial, and other barriers to improved freight transpor-

tation performance (including opportunities for overcoming the barriers);

"(F) best practices for improving the performance of the national freight network;

"(G) best practices to mitigate the impacts of freight movement on communities;

"(H) a process for addressing multistate projects and encouraging jurisdictions to collaborate; and

"(I) strategies to improve maritime, freight rail, and freight intermodal connectivity.

"(2) UPDATES TO NATIONAL FREIGHT STRATEGIC PLAN.—Not later than 5 years after the date of completion of the first national freight strategic plan under paragraph (1), and every 5 years thereafter, the Secretary shall update and repost on the Department of Transportation public website a revised national freight strategic plan.

"(i) FREIGHT PERFORMANCE TARGETS.—

"(1) RULEMAKING.—Not later than 2 years after the date of enactment of this section, the Secretary, in consultation with State departments of transportation and other appropriate public and private transportation stakeholders, shall publish a rulemaking that establishes performance measures

for freight movement on the primary freight network.

"(2) STATE TARGETS AND REPORTING.—Not later than 1 year after the date on which the Secretary publishes the rulemaking under paragraph (1), each State shall—

"(A) develop and periodically update State performance targets for freight movement on the primary freight network—

"(i) in consultation with appropriate public and private stakeholders; and

"(ii) using measures determined by the Secretary; and

"(B) for every 2-year period, submit to the Secretary a report that contains a description of—

"(i) the progress of the State toward meeting the targets; and

"(ii) the ways in which the State is addressing congestion at freight bottlenecks within the State.

"(3) COMPLIANCE.—

"(A) PERFORMANCE TARGETS.—To obligate funding apportioned under section

104(b)(5), each State shall develop performance targets in accordance with paragraph (2).

"(B) DETERMINATION OF SECRETARY.—If the Secretary determines that a State has not met or made significant progress toward meeting the performance targets of the State by the date that is 2 years after the date of establishment of the performance targets, until the date on which the Secretary determines that the State has met (or has made significant progress towards meeting) the State performance targets, the State shall submit to the Secretary, on a biennial basis, a freight performance improvement plan that includes—

"(i) an identification of significant freight system trends, needs, and issues within the State;

"(ii) a description of the freight policies and strategies that will guide the freight-related transportation investments of the State;

"(iii) an inventory of freight bottlenecks within the State and a description of the ways in which the State is allocating funds to improve those bottlenecks; and

"(iv) a description of the actions the State will undertake to meet the performance targets of the State.

"(j) FREIGHT TRANSPORTATION CONDITIONS AND PERFORMANCE REPORTS.—Not later than 2 years after the date of enactment of this section, and biennially thereafter, the Secretary shall prepare a report that contains a description of the conditions and performance of the national freight network in the United States.

"(k) TRANSPORTATION INVESTMENT DATA AND PLANNING TOOLS.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Secretary shall—

"(A) begin development of new tools and improvement of existing tools or improve existing tools to support an outcome-oriented, performance-based approach to evaluate proposed freight-related and other transportation projects, including—

"(i) methodologies for systematic analysis of benefits and costs;

"(ii) tools for ensuring that the evaluation of freight-related and other transportation projects could consider safety,

economic competitiveness, environmental sustainability, and system condition in the project selection process; and

"(iii) other elements to assist in effective transportation planning;

"(B) identify transportation-related model data elements to support a broad range of evaluation methods and techniques to assist in making transportation investment decisions; and

"(C) at a minimum, in consultation with other relevant Federal agencies, consider any improvements to existing freight flow data collection efforts that could reduce identified freight data gaps and deficiencies and help improve forecasts of freight transportation demand.

"(2) CONSULTATION.—The Secretary shall consult with Federal, State, and other stakeholders to develop, improve, and implement the tools and collect the data in paragraph (1).

"(l) DEFINITION OF AEROTROPOLIS TRANSPORTATION SYSTEM.—For the purposes of this section, the term 'aerotropolis transportation system' means a planned and coordinated multimodal freight and passenger trans-

portation network that, as determined by the Secretary, provides efficient, cost-effective, sustainable, and intermodal connectivity to a defined region of economic significance centered around a major airport.

"(m) TREATMENT OF PROJECTS.—Notwithstanding any other provision of law, projects funded under this section shall be treated as projects on a Federal-aid highway under this chapter.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by adding at the end the following:

"167. National freight program.".

**SEC. 1116. FEDERAL LANDS AND TRIBAL TRANSPORTATION PROGRAMS.**

(a) IN GENERAL.—Chapter 2 of title 23, United States Code, is amended by striking sections 201 through 204 and inserting the following:

**"§ 201. Federal lands and tribal transportation programs**

"(a) PURPOSE.—Recognizing the need for all public Federal and tribal transportation facilities to be treated under uniform policies similar to the policies that apply to Federal-aid highways and other public transportation facilities, the Secretary of Transportation, in collaboration with the Secretaries of the appropriate Federal land management agencies, shall coordinate a uniform policy for all

public Federal and tribal transportation facilities that shall apply to Federal lands transportation facilities, tribal transportation facilities, and Federal lands access transportation facilities.

"(b) AVAILABILITY OF FUNDS.—

"(1) AVAILABILITY.—Funds authorized for the tribal transportation program, the Federal lands transportation program, and the Federal lands access program shall be available for contract upon apportionment, or on October 1 of the fiscal year for which the funds were authorized if no apportionment is required.

"(2) AMOUNT REMAINING.—Any amount remaining unexpended for a period of 3 years after the close of the fiscal year for which the funds were authorized shall lapse.

"(3) OBLIGATIONS.—The Secretary of the department responsible for the administration of funds under this subsection may incur obligations, approve projects, and enter into contracts under such authorizations, which shall be considered to be contractual obligations of the United States for the payment of the cost thereof, the funds of which shall be considered to have been expended when obligated.

"(4) EXPENDITURE.—

"(A) IN GENERAL.—Any funds authorized for any fiscal year after the date of enactment of this section under the Federal lands transportation program, the Federal lands access program, and the tribal transportation program shall be considered to have been expended if a sum equal to the total of the sums authorized for the fiscal year and previous fiscal years have been obligated.

"(B) CREDITED FUNDS.—Any funds described in subparagraph (A) that are released by payment of final voucher or modification of project authorizations shall be—

"(i) credited to the balance of unobligated authorizations; and

"(ii) immediately available for expenditure.

"(5) APPLICABILITY.—This section shall not apply to funds authorized before the date of enactment of this paragraph.

"(6) CONTRACTUAL OBLIGATION.—

"(A) IN GENERAL.—Notwithstanding any other provision of law (including regulations), the authorization by the Secretary, or the Secretary of the appropriate Federal land manage-

ment agency if the agency is the contracting office, of engineering and related work for the development, design, and acquisition associated with a construction project, whether performed by contract or agreement authorized by law, or the approval by the Secretary of plans, specifications, and estimates for construction of a project, shall be considered to constitute a contractual obligation of the Federal Government to pay the total eligible cost of—

"(i) any project funded under this title; and

"(ii) any project funded pursuant to agreements authorized by this title or any other title.

"(B) EFFECT.—Nothing in this paragraph—

"(i) affects the application of the Federal share associated with the project being undertaken under this section; or

"(ii) modifies the point of obligation associated with Federal salaries and expenses.

"(7) FEDERAL SHARE.—

"(A) TRIBAL AND FEDERAL LANDS TRANSPORTATION PROGRAM.—The Federal share of the cost of a project carried out under the Federal lands transportation program or the tribal transportation program shall be 100 percent.

"(B) FEDERAL LANDS ACCESS PROGRAM.—The Federal share of the cost of a project carried out under the Federal lands access program shall be determined in accordance with section 120.

"(c) TRANSPORTATION PLANNING.—

"(1) TRANSPORTATION PLANNING PROCEDURES.—In consultation with the Secretary of each appropriate Federal land management agency, the Secretary shall implement transportation planning procedures for Federal lands and tribal transportation facilities that are consistent with the planning processes required under sections 134 and 135.

"(2) APPROVAL OF TRANSPORTATION IMPROVEMENT PROGRAM.—The transportation improvement program developed as a part of the transportation planning process under this section shall be approved by the Secretary.

"(3) INCLUSION IN OTHER PLANS.—Each regionally significant tribal transportation program,

Federal lands transportation program, and Federal lands access program project shall be—

"(A) developed in cooperation with State and metropolitan planning organizations; and

"(B) included in appropriate tribal transportation program plans, Federal lands transportation program plans, Federal lands access program plans, State and metropolitan plans, and transportation improvement programs.

"(4) INCLUSION IN STATE PROGRAMS.—The approved tribal transportation program, Federal lands transportation program, and Federal lands access program transportation improvement programs shall be included in appropriate State and metropolitan planning organization plans and programs without further action on the transportation improvement program.

"(5) ASSET MANAGEMENT.—The Secretary and the Secretary of each appropriate Federal land management agency shall, to the extent appropriate, implement safety, bridge, pavement, and congestion management systems for facilities funded under the tribal transportation program and the Federal lands transportation program in support of asset management.

"(6) DATA COLLECTION.—

"(A) DATA COLLECTION.—The Secretaries of the appropriate Federal land management agencies shall collect and report data necessary to implement the Federal lands transportation program, the Federal lands access program, and the tribal transportation program, including—

"(i) inventory and condition information on Federal lands transportation facilities and tribal transportation facilities; and

"(ii) bridge inspection and inventory information on any Federal bridge open to the public.

"(B) STANDARDS.—The Secretary, in coordination with the Secretaries of the appropriate Federal land management agencies, shall define the collection and reporting data standards.

"(7) ADMINISTRATIVE EXPENSES.—To implement the activities described in this subsection, including direct support of transportation planning activities among Federal land management agencies, the Secretary may use not more than 5 percent for

each fiscal year of the funds authorized for programs under sections 203 and 204.

"(d) REIMBURSABLE AGREEMENTS.—In carrying out work under reimbursable agreements with any State, local, or tribal government under this title, the Secretary—

"(1) may, without regard to any other provision of law (including regulations), record obligations against accounts receivable from the entity; and

"(2) shall credit amounts received from the entity to the appropriate account, which shall occur not later than 90 days after the date of the original request by the Secretary for payment.

"(e) TRANSFERS.—

"(1) IN GENERAL.—To enable the efficient use of funds made available for the Federal lands transportation program and the Federal lands access program, the funds may be transferred by the Secretary within and between each program with the concurrence of, as appropriate—

"(A) the Secretary;

"(B) the affected Secretaries of the respective Federal land management agencies;

"(C) State departments of transportation; and

"(D) local government agencies.

"(2) CREDIT.—The funds described in paragraph (1) shall be credited back to the loaning entity with funds that are currently available for obligation at the time of the credit.

**"§ 202. Tribal transportation program**

"(a) USE OF FUNDS.—

"(1) IN GENERAL.—Funds made available under the tribal transportation program shall be used by the Secretary of Transportation and the Secretary of the Interior to pay the costs of—

"(A)(i) transportation planning, research, maintenance, engineering, rehabilitation, restoration, construction, and reconstruction of tribal transportation facilities;

"(ii) adjacent vehicular parking areas;

"(iii) interpretive signage;

"(iv) acquisition of necessary scenic easements and scenic or historic sites;

"(v) provisions for pedestrians and bicycles;

"(vi) environmental mitigation in or adjacent to tribal land—

"(I) to improve public safety and reduce vehicle-caused wildlife mortality while maintaining habitat connectivity; and

"(II) to mitigate the damage to wildlife, aquatic organism passage, habitat, and ecosystem connectivity, including the costs of constructing, maintaining, replacing, or removing culverts and bridges, as appropriate;

"(vii) construction and reconstruction of roadside rest areas, including sanitary and water facilities; and

"(viii) other appropriate public road facilities as determined by the Secretary;

"(B) operation and maintenance of transit programs and facilities that are located on, or provide access to, tribal land, or are administered by a tribal government; and

"(C) any transportation project eligible for assistance under this title that is located within, or that provides access to, tribal land, or is associated with a tribal government.

"(2) CONTRACT.—In connection with an activity described in paragraph (1), the Secretary and the Secretary of the Interior may enter into a contract or other appropriate agreement with respect to the activity with—

"(A) a State (including a political subdivision of a State); or

"(B) an Indian tribe.

"(3) INDIAN LABOR.—Indian labor may be employed, in accordance with such rules and regulations as may be promulgated by the Secretary of the Interior, to carry out any construction or other activity described in paragraph (1).

"(4) FEDERAL EMPLOYMENT.—No maximum limitation on Federal employment shall be applicable to the construction or improvement of tribal transportation facilities.

"(5) FUNDS FOR CONSTRUCTION AND IMPROVEMENT.—All funds made available for the construction and improvement of tribal transportation facilities shall be administered in conformity with regulations and agreements jointly approved by the Secretary and the Secretary of the Interior.

"(6) TRIBAL TECHNICAL ASSISTANCE CENTERS.—The Secretary of the Interior may reserve amounts from administrative funds of the Bureau of Indian Affairs that are associated with the tribal transportation program to fund tribal technical assistance centers under section 504(b).

"(7) MAINTENANCE.—

"(A) USE OF FUNDS.—Notwithstanding any other provision of this title, of the amount of funds allocated to an Indian tribe from the tribal transportation program, for the purpose of maintenance (excluding road sealing, which shall not be subject to any limitation), the Secretary shall not use an amount more than the greater of—

"(i) an amount equal to 25 percent; or

"(ii) $500,000.

"(B) RESPONSIBILITY OF BUREAU OF INDIAN AFFAIRS AND SECRETARY OF THE INTERIOR.—

"(i) BUREAU OF INDIAN AFFAIRS.—The Bureau of Indian Affairs shall retain primary responsibility, including annual funding request responsibility, for Bureau of Indian Affairs road maintenance programs on Indian reservations.

"(ii) SECRETARY OF THE INTERIOR.—The Secretary of the Interior shall ensure that funding made available under this subsection for maintenance of tribal transportation facilities for each fiscal year is

supplementary to, and not in lieu of, any obligation of funds by the Bureau of Indian Affairs for road maintenance programs on Indian reservations.

"(C) TRIBAL-STATE ROAD MAINTENANCE AGREEMENTS.—

"(i) IN GENERAL.—An Indian tribe and a State may enter into a road maintenance agreement under which an Indian tribe shall assume the responsibility of the State for—

"(I) tribal transportation facilities; and

"(II) roads providing access to tribal transportation facilities.

"(ii) REQUIREMENTS.—Agreements entered into under clause (i) shall—

"(I) be negotiated between the State and the Indian tribe; and

"(II) not require the approval of the Secretary.

"(8) COOPERATION.—

"(A) IN GENERAL.—The cooperation of States, counties, or other local subdivisions may be accepted in construction and improvement.

"(B) FUNDS RECEIVED.—Any funds received from a State, county, or local subdivision shall be credited to appropriations available for the tribal transportation program.

"(9) COMPETITIVE BIDDING.—

"(A) CONSTRUCTION.—

"(i) IN GENERAL.—Subject to clause (ii) and subparagraph (B), construction of each project shall be performed by contract awarded by competitive bidding.

"(ii) EXCEPTION.—Clause (i) shall not apply if the Secretary or the Secretary of the Interior affirmatively finds that, under the circumstances relating to the project, a different method is in the public interest.

"(B) APPLICABILITY.—Notwithstanding subparagraph (A), section 23 of the Act of June 25, 1910 (25 U.S.C. 47) and section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e(b)) shall apply to all funds administered by the Secretary of the Interior that are appropriated for the construction and improvement of tribal transportation facilities.

"(b) FUNDS DISTRIBUTION.—

"(1) NATIONAL TRIBAL TRANSPORTATION FACILITY INVENTORY.—

"(A) IN GENERAL.—The Secretary of the Interior, in cooperation with the Secretary, shall maintain a comprehensive national inventory of tribal transportation facilities that are eligible for assistance under the tribal transportation program.

"(B) TRANSPORTATION FACILITIES INCLUDED IN THE INVENTORY.—For purposes of identifying the tribal transportation system and determining the relative transportation needs among Indian tribes, the Secretary shall include, at a minimum, transportation facilities that are eligible for assistance under the tribal transportation program that an Indian tribe has requested, including facilities that—

"(i) were included in the Bureau of Indian Affairs system inventory prior to October 1, 2004;

"(ii) are owned by an Indian tribal government;

"(iii) are owned by the Bureau of Indian Affairs;

"(iv) were constructed or reconstructed with funds from the Highway Account of the Transportation Trust Fund under the Indian reservation roads program since 1983;

"(v) are public roads or bridges within the exterior boundary of Indian reservations, Alaska Native villages, and other recognized Indian communities (including communities in former Indian reservations in the State of Oklahoma) in which the majority of residents are American Indians or Alaska Natives;

"(vi) are public roads within or providing access to an Indian reservation or Indian trust land or restricted Indian land that is not subject to fee title alienation without the approval of the Federal Government, or Indian or Alaska Native villages, groups, or communities in which Indians and Alaska Natives reside, whom the Secretary of the Interior has determined are eligible for services generally available to Indians under Federal laws specifically applicable to Indians; or

"(vii) are primary access routes proposed by tribal governments, including roads between villages, roads to landfills, roads to drinking water sources, roads to natural resources identified for economic development, and roads that provide access to intermodal terminals, such as airports, harbors, or boat landings.

"(C) LIMITATION ON PRIMARY ACCESS ROUTES.—For purposes of this paragraph, a proposed primary access route is the shortest practicable route connecting 2 points of the proposed route.

"(D) ADDITIONAL FACILITIES.—Nothing in this paragraph precludes the Secretary from including additional transportation facilities that are eligible for funding under the tribal transportation program in the inventory used for the national funding allocation if such additional facilities are included in the inventory in a uniform and consistent manner nationally.

"(E) BRIDGES.—All bridges in the inventory shall be recorded in the national bridge inventory administered by the Secretary under section 144.

"(2) REGULATIONS.—Notwithstanding sections 563(a) and 565(a) of title 5, the Secretary of the Interior shall maintain any regulations governing the tribal transportation program.

"(3) BASIS FOR FUNDING FORMULA.—

"(A) BASIS.—

"(i) IN GENERAL.—After making the set asides authorized under subsections (c), (d), and (e) on October 1 of each fiscal year, the Secretary shall distribute the remainder authorized to be appropriated for the tribal transportation program under this section among Indian tribes as follows:

"(I) For fiscal year 2012—

"(aa) for each Indian tribe, 80 percent of the total relative need distribution factor and population adjustment factor for the fiscal year 2011 funding amount made available to that Indian tribe; and

"(bb) the remainder using tribal shares as described in subparagraphs (B) and (C).

"(II) For fiscal year 2013—

"(aa) for each Indian tribe, 60 percent of the total relative need distribution factor and population adjustment factor for the fiscal year 2011 funding amount made available to that Indian tribe; and

"(bb) the remainder using tribal shares as described in subparagraphs (B) and (C).

"(III) For fiscal year 2014—

"(aa) for each Indian tribe, 40 percent of the total relative need distribution factor and population adjustment factor for the fiscal year 2011 funding amount made available to that Indian tribe; and

"(bb) the remainder using tribal shares as described in subparagraphs (B) and (C).

"(IV) For fiscal year 2015—

"(aa) for each Indian tribe, 20 percent of the total relative need distribution factor and pop-

ulation adjustment factor for the fiscal year 2011 funding amount made available to that Indian tribe; and

"(bb) the remainder using tribal shares as described in subparagraphs (B) and (C).

"(V) For fiscal year 2016 and thereafter, using tribal shares as described in subparagraphs (B) and (C).

"(ii) TRIBAL HIGH PRIORITY PROJECTS.—The High Priority Projects program as included in the Tribal Transportation Allocation Methodology of part 170 of title 25, Code of Federal Regulations (as in effect on the date of enactment of the MAP–21), shall not continue in effect.

"(B) TRIBAL SHARES.—Tribal shares under this program shall be determined using the national tribal transportation facility inventory as calculated for fiscal year 2012, and the most recent data on American Indian and Alaska Native population within each Indian tribe's American Indian/Alaska Native Reservation or

Statistical Area, as computed under the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.), in the following manner:

"(i) 30 percent in the ratio that the total eligible lane mileage in each tribe bears to the total eligible lane mileage of all American Indians and Alaskan Natives. For the purposes of this calculation—

"(I) eligible lane mileage shall be computed based on the inventory described in paragraph (1), using only facilities included in the inventory described in clause (i), (ii), or (iii) of paragraph (1)(B); and

"(II) paved roads and gravel surfaced roads are deemed to equal 2 lane miles per mile of inventory, and earth surfaced roads and unimproved roads shall be deemed to equal 1 lane mile per mile of inventory.

"(ii) 35 percent in the ratio that the total population in each tribe bears to the total population of all American Indians and Alaskan Natives.

"(iii) 35 percent shall be divided equally among each Bureau of Indian Affairs region for distribution of tribal shares as follows:

"(I) ¼ of 1 percent shall be distributed equally among Indian tribes with populations of 1 to 25.

"(II) ¾ of 1 percent shall be distributed equally among Indian tribes with populations of 26 to 100.

"(III) 3¾ percent shall be distributed equally among Indian tribes with populations of 101 to 1,000.

"(IV) 20 percent shall be distributed equally among Indian tribes with populations of 1,001 to 10,000.

"(V) 74¾ percent shall be distributed equally among Indian tribes with populations of 10,001 to 60,000 where 3 or more Indian tribes occupy this category in a single Bureau of Indian Affairs region, and Bureau of Indian Affairs regions containing less than 3 Indian tribes in this category

shall receive funding in accordance with subclause (IV) and clause (iv).

"(VI) ½ of 1 percent shall be distributed equally among Indian tribes with populations of 60,001 or more.

"(iv) For a Bureau of Indian Affairs region that has no Indian tribes meeting the population criteria under 1 or more of subclauses (I) through (VI) of clause (iii), the region shall redistribute any funds subject to such clause or clauses among any such clauses for which the region has Indian tribes meeting such criteria proportionally in accordance with the percentages listed in such clauses until such funds are completely distributed.

"(C) TRIBAL SUPPLEMENTAL FUNDING.—

"(i) TRIBAL SUPPLEMENTAL FUNDING AMOUNT.—Of funds made available for each fiscal year for the tribal transportation program, the Secretary shall set aside the following amount for a tribal supplemental program:

"(I) If the amount made available for the tribal transportation program is less than or equal to $275,000,000, 30 percent of such amount.

"(II) If the amount made available for the tribal transportation program exceeds $275,000,000—

"(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:

"(aa) TRIBAL SUPPLEMENTAL AMOUNTS.—The Secretary shall determine—

"(AA) which such Indian tribes would be entitled under subparagraph (A) to receive in a fiscal year less funding than they would receive in fiscal year 2011 pursuant to the Tribal Transportation Allocation Methodology described in subpart C of part 170 of title 25, Code of Federal Regulations (as in effect on the date of enactment of the MAP–21); and

"(BB) the combined amount that such Indian tribes would be entitled to receive in fiscal year 2011 pursuant to such Tribal Transportation Allocation Methodology in excess of the amount that they would be entitled to receive in the fiscal year under subparagraph (B); and

"(bb) Subject to subclause (III), distribute to each Indian tribe that meets the criteria described in item (aa)(AA) a share of funding under this subparagraph in proportion to the share of the combined amount determined under item (aa)(BB) attributable to such Indian tribe.

"(III) CEILING.—An Indian tribe may not receive under subclause (II) and based on its tribal share under subparagraph (A) a combined amount that exceeds the amount that such In-

dian tribe would be entitled to receive in fiscal year 2011 pursuant to the Tribal Transportation Allocation Methodology described in subpart C of part 170 of title 25, Code of Federal Regulations (as in effect on the date of enactment of the MAP–21).

"(IV) OTHER AMOUNTS.—If the amount made available for a region under subclause (I) exceeds the amount distributed among Indian tribes within that region under subclause (II), the Secretary shall distribute the remainder of such region's funding under such subclause among all Indian tribes in that region in proportion to the combined amount that each such Indian tribe received under subparagraph (A) and subclauses (I), (II), and (III).

"(4) TRANSFERRED FUNDS.—

"(A) IN GENERAL.—Not later than 30 days after the date on which funds are made available to the Secretary of the Interior under this paragraph, the funds shall be distributed

to, and made available for immediate use by, eligible Indian tribes, in accordance with the formula for distribution of funds under the tribal transportation program.

"(B) USE OF FUNDS.—Notwithstanding any other provision of this section, funds made available to Indian tribes for tribal transportation facilities shall be expended on projects identified in a transportation improvement program approved by the Secretary.

"(5) HEALTH AND SAFETY ASSURANCES.—Notwithstanding any other provision of law, an Indian tribal government may approve plans, specifications, and estimates and commence road and bridge construction with funds made available from the tribal transportation program through a contract or agreement under Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), if the Indian tribal government—

"(A) provides assurances in the contract or agreement that the construction will meet or exceed applicable health and safety standards;

"(B) obtains the advance review of the plans and specifications from a State-licensed civil engineer that has certified that the plans

and specifications meet or exceed the applicable health and safety standards; and

"(C) provides a copy of the certification under subparagraph (A) to the Deputy Assistant Secretary for Tribal Government Affairs, Department of Transportation, or the Assistant Secretary for Indian Affairs, Department of the Interior, as appropriate.

"(6) CONTRACTS AND AGREEMENTS WITH INDIAN TRIBES.—

"(A) IN GENERAL.—Notwithstanding any other provision of law or any interagency agreement, program guideline, manual, or policy directive, all funds made available through the Secretary of the Interior under this chapter and section 125(e) for tribal transportation facilities to pay for the costs of programs, services, functions, and activities, or portions of programs, services, functions, or activities, that are specifically or functionally related to the cost of planning, research, engineering, and construction of any tribal transportation facility shall be made available, upon request of the Indian tribal government, to the Indian tribal government for contracts and agreements for such planning, re-

search, engineering, and construction in accordance with Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

"(B) EXCLUSION OF AGENCY PARTICIPATION.—All funds, including contract support costs, for programs, functions, services, or activities, or portions of programs, services, functions, or activities, including supportive administrative functions that are otherwise contractible to which subparagraph (A) applies, shall be paid in accordance with subparagraph (A), without regard to the organizational level at which the Department of the Interior has previously carried out such programs, functions, services, or activities.

"(7) CONTRACTS AND AGREEMENTS WITH INDIAN TRIBES.—

"(A) IN GENERAL.—Notwithstanding any other provision of law or any interagency agreement, program guideline, manual, or policy directive, all funds made available through the Secretary of the Interior to an Indian tribal government under this chapter for a tribal transportation facility program or project shall be made available, on the request of the Indian

tribal government, to the Indian tribal government for use in carrying out, in accordance with the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), contracts and agreements for the planning, research, design, engineering, construction, and maintenance relating to the program or project.

"(B) EXCLUSION OF AGENCY PARTICIPATION.—In accordance with subparagraph (A), all funds, including contract support costs, for a program or project to which subparagraph (A) applies shall be paid to the Indian tribal government without regard to the organizational level at which the Department of the Interior has previously carried out, or the Department of Transportation has previously carried out under the tribal transportation program, the programs, functions, services, or activities involved.

"(C) CONSORTIA.—Two or more Indian tribes that are otherwise eligible to participate in a program or project to which this chapter applies may form a consortium to be considered as a single Indian tribe for the purpose of participating in the project under this section.

"(D) SECRETARY AS SIGNATORY.—Notwithstanding any other provision of law, the Secretary is authorized to enter into a funding agreement with an Indian tribal government to carry out a tribal transportation facility program or project under subparagraph (A) that is located on an Indian reservation or provides access to the reservation or a community of the Indian tribe.

"(E) FUNDING.—The amount an Indian tribal government receives for a program or project under subparagraph (A) shall equal the sum of the funding that the Indian tribal government would otherwise receive for the program or project in accordance with the funding formula established under this subsection and such additional amounts as the Secretary determines equal the amounts that would have been withheld for the costs of the Bureau of Indian Affairs for administration of the program or project.

"(F) ELIGIBILITY.—

"(i) IN GENERAL.—Subject to clause (ii) and the approval of the Secretary, funds may be made available under sub-

1 paragraph (A) to an Indian tribal govern-
2 ment for a program or project in a fiscal
3 year only if the Indian tribal government
4 requesting such funds demonstrates to the
5 satisfaction of the Secretary financial sta-
6 bility and financial management capability
7 during the 3 fiscal years immediately pre-
8 ceding the fiscal year for which the request
9 is being made.

10 ''(ii) CONSIDERATIONS.—An Indian
11 tribal government that had no uncorrected
12 significant and material audit exceptions in
13 the required annual audit of the contracts
14 or self-governance funding agreements
15 made by the Indian tribe with any Federal
16 agency under the Indian Self-Determina-
17 tion and Education Assistance Act (25
18 U.S.C. 450 et seq.) during the 3-fiscal year
19 period referred in clause (i) shall be con-
20 clusive evidence of the financial stability
21 and financial management capability of the
22 Indian tribe for purposes of clause (i).

23 ''(G) ASSUMPTION OF FUNCTIONS AND DU-
24 TIES.—An Indian tribal government receiving
25 funding under subparagraph (A) for a program

or project shall assume all functions and duties that the Secretary of the Interior would have performed with respect to a program or project under this chapter, other than those functions and duties that inherently cannot be legally transferred under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

"(H) POWERS.—An Indian tribal government receiving funding under subparagraph (A) for a program or project shall have all powers that the Secretary of the Interior would have exercised in administering the funds transferred to the Indian tribal government for such program or project under this section if the funds had not been transferred, except to the extent that such powers are powers that inherently cannot be legally transferred under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

"(I) DISPUTE RESOLUTION.—In the event of a disagreement between the Secretary or the Secretary of the Interior and an Indian tribe over whether a particular function, duty, or power may be lawfully transferred to the Indian

tribe under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), the Indian tribe shall have the right to pursue all alternative dispute resolution and appeal procedures authorized by that Act, including regulations issued to carry out the Act.

"(J) TERMINATION OF CONTRACT OR AGREEMENT.—On the date of the termination of a contract or agreement under this section by an Indian tribal government, the Secretary shall transfer all funds that would have been allocated to the Indian tribal government under the contract or agreement to the Secretary of the Interior to provide continued transportation services in accordance with applicable law.

"(c) PLANNING.—

"(1) IN GENERAL.—For each fiscal year, not more than 2 percent of the funds made available for the tribal transportation program shall be allocated among Indian tribal governments that apply for transportation planning pursuant to the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

"(2) REQUIREMENT.—An Indian tribal government, in cooperation with the Secretary of the Inte-

rior and, as appropriate, with a State, local government, or metropolitan planning organization, shall carry out a transportation planning process in accordance with section 201(c).

"(3) SELECTION AND APPROVAL OF PROJECTS.—A project funded under this section shall be—

"(A) selected by the Indian tribal government from the transportation improvement program; and

"(B) subject to the approval of the Secretary of the Interior and the Secretary.

"(d) TRIBAL TRANSPORTATION FACILITY BRIDGES.—

"(1) NATIONWIDE PRIORITY PROGRAM.—The Secretary shall maintain a nationwide priority program for improving deficient bridges eligible for the tribal transportation program.

"(2) FUNDING.—Before making any distribution under subsection (b), the Secretary shall set aside not more than 2 percent of the funds made available under the tribal transportation program for each fiscal year to be allocated—

"(A) to carry out any planning, design, engineering, preconstruction, construction, and in-

spection of a project to replace, rehabilitate, seismically retrofit, paint, apply calcium magnesium acetate, sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and deicing composition; or

"(B) to implement any countermeasure for deficient tribal transportation facility bridges, including multiple-pipe culverts.

"(3) ELIGIBLE BRIDGES.—To be eligible to receive funding under this subsection, a bridge described in paragraph (1) shall—

"(A) have an opening of not less than 20 feet;

"(B) be classified as a tribal transportation facility; and

"(C) be structurally deficient or functionally obsolete.

"(4) APPROVAL REQUIREMENT.—The Secretary may make funds available under this subsection for preliminary engineering, construction, and construction engineering activities after approval of required documentation and verification of eligibility in accordance with this title.

"(e) SAFETY.—

"(1) FUNDING.—Before making any distribution under subsection (b), the Secretary shall set aside not more than 2 percent of the funds made available under the tribal transportation program for each fiscal year to be allocated based on an identification and analysis of highway safety issues and opportunities on tribal land, as determined by the Secretary, on application of the Indian tribal governments for eligible projects described in section 148(a)(4).

"(2) PROJECT SELECTION.—An Indian tribal government, in cooperation with the Secretary of the Interior and, as appropriate, with a State, local government, or metropolitan planning organization, shall select projects from the transportation improvement program, subject to the approval of the Secretary and the Secretary of the Interior.

"(f) FEDERAL-AID ELIGIBLE PROJECTS.—Before approving as a project on a tribal transportation facility any project eligible for funds apportioned under section 104 in a State, the Secretary shall, for projects on tribal transportation facilities, determine that the obligation of funds for the project is supplementary to and not in lieu of the obligation of a fair and equitable share of funds apportioned to the State under section 104.

**"§ 203. Federal lands transportation program**

''(a) USE OF FUNDS.—

''(1) IN GENERAL.—Funds made available under the Federal lands transportation program shall be used by the Secretary of Transportation and the Secretary of the appropriate Federal land management agency to pay the costs of—

''(A) program administration, transportation planning, research, preventive maintenance, engineering, rehabilitation, restoration, construction, and reconstruction of Federal lands transportation facilities, and—

''(i) adjacent vehicular parking areas;

''(ii) acquisition of necessary scenic easements and scenic or historic sites;

''(iii) provision for pedestrians and bicycles;

''(iv) environmental mitigation in or adjacent to Federal land open to the public—

''(I) to improve public safety and reduce vehicle-caused wildlife mortality while maintaining habitat connectivity; and

''(II) to mitigate the damage to wildlife, aquatic organism passage,

habitat, and ecosystem connectivity, including the costs of constructing, maintaining, replacing, or removing culverts and bridges, as appropriate;

''(v) construction and reconstruction of roadside rest areas, including sanitary and water facilities;

''(vi) congestion mitigation; and

''(vii) other appropriate public road facilities, as determined by the Secretary;

''(B) operation and maintenance of transit facilities; and

''(C) any transportation project eligible for assistance under this title that is on a public road within or adjacent to, or that provides access to, Federal lands open to the public.

''(2) CONTRACT.—In connection with an activity described in paragraph (1), the Secretary and the Secretary of the appropriate Federal land management agency may enter into a contract or other appropriate agreement with respect to the activity with—

''(A) a State (including a political subdivision of a State); or

''(B) an Indian tribe.

"(3) ADMINISTRATION.—All appropriations for the construction and improvement of Federal lands transportation facilities shall be administered in conformity with regulations and agreements jointly approved by the Secretary and the Secretary of the appropriate Federal land managing agency.

"(4) COOPERATION.—

"(A) IN GENERAL.—The cooperation of States, counties, or other local subdivisions may be accepted in construction and improvement.

"(B) FUNDS RECEIVED.—Any funds received from a State, county, or local subdivision shall be credited to appropriations available for the class of Federal lands transportation facilities to which the funds were contributed.

"(5) COMPETITIVE BIDDING.—

"(A) IN GENERAL.—Subject to subparagraph (B), construction of each project shall be performed by contract awarded by competitive bidding.

"(B) EXCEPTION.—Subparagraph (A) shall not apply if the Secretary or the Secretary of the appropriate Federal land management agency affirmatively finds that, under the cir-

cumstances relating to the project, a different method is in the public interest.

"(b) AGENCY PROGRAM DISTRIBUTIONS.—

"(1) IN GENERAL.—On October 1, 2011, and on October 1 of each fiscal year thereafter, the Secretary shall allocate the sums authorized to be appropriated for the fiscal year for the Federal lands transportation program on the basis of applications of need, as determined by the Secretary—

"(A) in consultation with the Secretaries of the applicable Federal land management agencies; and

"(B) in coordination with the transportation plans required under section 201 of the respective transportation systems of—

"(i) the National Park Service;

"(ii) the Forest Service;

"(iii) the United States Fish and Wildlife Service;

"(iv) the Corps of Engineers; and

"(v) the Bureau of Land Management.

"(2) APPLICATIONS.—

"(A) REQUIREMENTS.—Each application submitted by a Federal land management agen-

cy shall include proposed programs at various potential funding levels, as defined by the Secretary following collaborative discussions with applicable Federal land management agencies.

"(B) CONSIDERATION BY SECRETARY.—In evaluating an application submitted under subparagraph (A), the Secretary shall consider the extent to which the programs support—

"(i) the transportation goals of—

"(I) a state of good repair of transportation facilities;

"(II) a reduction of bridge deficiencies, and

"(III) an improvement of safety;

"(ii) high-use Federal recreational sites or Federal economic generators; and

"(iii) the resource and asset management goals of the Secretary of the respective Federal land management agency.

"(C) PERMISSIVE CONTENTS.—Applications may include proposed programs the duration of which extend over a multiple-year period to support long-term transportation planning and resource management initiatives.

"(c) NATIONAL FEDERAL LANDS TRANSPORTATION FACILITY INVENTORY.—

"(1) IN GENERAL.—The Secretaries of the appropriate Federal land management agencies, in cooperation with the Secretary, shall maintain a comprehensive national inventory of public Federal lands transportation facilities.

"(2) TRANSPORTATION FACILITIES INCLUDED IN THE INVENTORIES.—To identify the Federal lands transportation system and determine the relative transportation needs among Federal land management agencies, the inventories shall include, at a minimum, facilities that—

"(A) provide access to high-use Federal recreation sites or Federal economic generators, as determined by the Secretary in coordination with the respective Secretaries of the appropriate Federal land management agencies; and

"(B) are owned by 1 of the following agencies:

"(i) The National Park Service.

"(ii) The Forest Service.

"(iii) The United States Fish and Wildlife Service.

"(iv) The Bureau of Land Management.

"(v) The Corps of Engineers.

"(3) AVAILABILITY.—The inventories shall be made available to the Secretary.

"(4) UPDATES.—The Secretaries of the appropriate Federal land management agencies shall update the inventories of the appropriate Federal land management agencies, as determined by the Secretary after collaborative discussions with the Secretaries of the appropriate Federal land management agencies.

"(5) REVIEW.—A decision to add or remove a facility from the inventory shall not be considered a Federal action for purposes of review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(d) BICYCLE SAFETY.—The Secretary of the appropriate Federal land management agency shall prohibit the use of bicycles on each federally owned road that has a speed limit of 30 miles per hour or greater and an adjacent paved path for use by bicycles within 100 yards of the road unless the Secretary determines that the bicycle level of service on that roadway is rated B or higher.

**"§ 204. Federal lands access program**

"(a) USE OF FUNDS.—

"(1) IN GENERAL.—Funds made available under the Federal lands access program shall be used by the Secretary of Transportation and the Secretary of the appropriate Federal land management agency to pay the cost of—

"(A) transportation planning, research, engineering, preventive maintenance, rehabilitation, restoration, construction, and reconstruction of Federal lands access transportation facilities located on or adjacent to, or that provide access to, Federal land, and—

"(i) adjacent vehicular parking areas;

"(ii) acquisition of necessary scenic easements and scenic or historic sites;

"(iii) provisions for pedestrians and bicycles;

"(iv) environmental mitigation in or adjacent to Federal land—

"(I) to improve public safety and reduce vehicle-caused wildlife mortality while maintaining habitat connectivity; and

"(II) to mitigate the damage to wildlife, aquatic organism passage,

habitat, and ecosystem connectivity, including the costs of constructing, maintaining, replacing, or removing culverts and bridges, as appropriate;

''(v) construction and reconstruction of roadside rest areas, including sanitary and water facilities; and

''(vi) other appropriate public road facilities, as determined by the Secretary;

''(B) operation and maintenance of transit facilities; and

''(C) any transportation project eligible for assistance under this title that is within or adjacent to, or that provides access to, Federal land.

''(2) CONTRACT.—In connection with an activity described in paragraph (1), the Secretary and the Secretary of the appropriate Federal land management agency may enter into a contract or other appropriate agreement with respect to the activity with—

''(A) a State (including a political subdivision of a State); or

''(B) an Indian tribe.

"(3) ADMINISTRATION.—All appropriations for the construction and improvement of Federal lands access transportation facilities shall be administered in conformity with regulations and agreements approved by the Secretary.

"(4) COOPERATION.—

"(A) IN GENERAL.—The cooperation of States, counties, or other local subdivisions may be accepted in construction and improvement.

"(B) FUNDS RECEIVED.—Any funds received from a State, county, or local subdivision for a Federal lands access transportation facility project shall be credited to appropriations available under the Federal lands access program.

"(5) COMPETITIVE BIDDING.—

"(A) IN GENERAL.—Subject to subparagraph (B), construction of each project shall be performed by contract awarded by competitive bidding.

"(B) EXCEPTION.—Subparagraph (A) shall not apply if the Secretary or the Secretary of the appropriate Federal land management agency affirmatively finds that, under the cir-

cumstances relating to the project, a different method is in the public interest.

"(b) PROGRAM DISTRIBUTIONS.—

"(1) IN GENERAL.—Funding made available to carry out the Federal lands access program shall be allocated among those States that have Federal land, in accordance with the following formula:

"(A) 80 percent of the available funding for use in those States that contain at least 1 ½ percent of the total public land in the United States managed by the agencies described in paragraph (2), to be distributed as follows:

"(i) 30 percent in the ratio that—

"(I) recreational visitation within each such State; bears to

"(II) the recreational visitation within all such States.

"(ii) 5 percent in the ratio that—

"(I) the Federal land area within each such State; bears to

"(II) the Federal land area in all such States.

"(iii) 55 percent in the ratio that—

"(I) the Federal public road miles within each such State; bears to

"(II) the Federal public road miles in all such States.

"(iv) 10 percent in the ratio that—

"(I) the number of Federal public bridges within each such State; bears to

"(II) the number of Federal public bridges in all such States.

"(B) 20 percent of the available funding for use in those States that do not contain at least 1½ percent of the total public land in the United States managed by the agencies described in paragraph (2), to be distributed as follows:

"(i) 30 percent in the ratio that—

"(I) recreational visitation within each such State; bears to

"(II) the recreational visitation within all such States.

"(ii) 5 percent in the ratio that—

"(I) the Federal land area within each such State; bears to

"(II) the Federal land area in all such States.

"(iii) 55 percent in the ratio that—

"(I) the Federal public road miles within each such State; bears to

"(II) the Federal public road miles in all such States.

"(iv) 10 percent in the ratio that—

"(I) the number of Federal public bridges within each such State; bears to

"(II) the number of Federal public bridges in all such States.

"(2) DATA SOURCE.—Data necessary to distribute funding under paragraph (1) shall be provided by the following Federal land management agencies:

"(A) The National Park Service.

"(B) The Forest Service.

"(C) The United States Fish and Wildlife Service.

"(D) The Bureau of Land Management.

"(E) The Corps of Engineers.

"(c) PROGRAMMING DECISIONS COMMITTEE.—

"(1) IN GENERAL.—Programming decisions shall be made within each State by a committee comprised of—

"(A) a representative of the Federal Highway Administration;

"(B) a representative of the State Department of Transportation; and

"(C) a representative of any appropriate political subdivision of the State.

"(2) CONSULTATION REQUIREMENT.—The committee described in paragraph (1) shall consult with each applicable Federal agency in each State before any joint discussion or final programming decision.

"(3) PROJECT PREFERENCE.—In making a programming decision under paragraph (1), the committee shall give preference to projects that provide access to, are adjacent to, or are located within high-use Federal recreation sites or Federal economic generators, as identified by the Secretaries of the appropriate Federal land management agencies.".

(b) PUBLIC LANDS DEVELOPMENT ROADS AND TRAILS.—Section 214 of title 23, United States Code, is repealed.

(c) CONFORMING AMENDMENTS.—

(1) CHAPTER 2 ANALYSIS.—The analysis for chapter 2 of title 23, United States Code, is amended:

(A) By striking the items relating to sections 201 through 204 and inserting the following:

"201. Federal lands and tribal transportation programs.
"202. Tribal transportation program.
"203. Federal lands transportation program.
"204. Federal lands access program.".

(B) By striking the item relating to section 214.

(2) DEFINITION.—Section 138(a) of title 23, United States Code, is amended in the third sentence by striking "park road or parkway under section 204 of this title" and inserting "Federal lands transportation facility".

(3) RULES, REGULATIONS, AND RECOMMENDATIONS.—Section 315 of title 23, United States Code, is amended by striking "204(f)" and inserting "202(a)(5), 203(a)(3),".

**SEC. 1117. ALASKA HIGHWAY.**

Section 218 of title 23, United States Code, is amended to read as follows:

**"§ 218. Alaska Highway**

"(a) DEFINITION OF ALASKA MARINE HIGHWAY SYSTEM.—In this section, the term 'Alaska Marine Highway System' includes each existing or planned transportation facility and equipment in the State of Alaska relating to the ferry system of the State, including the lease,

purchase, or construction of vessels, terminals, docks, floats, ramps, staging areas, parking lots, bridges, and approaches thereto, and necessary roads.

"(b) AUTHORIZATION OF SECRETARY.—

"(1) IN GENERAL.—Recognizing the benefits that will accrue to the State of Alaska and to the United States from the reconstruction of the Alaska Highway from the Alaskan border to Haines Junction in Canada and the Haines Cutoff Highway from Haines Junction in Canada to Haines, the Secretary is authorized, upon agreement with the State of Alaska, to expend on such highway or the Alaska Marine Highway System any Federal-aid highway funds apportioned to the State of Alaska under this title to provide for necessary reconstruction of such highway.

"(2) LIMITATION.—No expenditures shall be made for the construction of the portion of the highways that are in located in Canada until the date on which an agreement has been reached by the Government of Canada and the Government of the United States, which shall provide in part, that the Canadian Government—

"(A) will provide, without participation of funds authorized under this title, all necessary

right-of-way for the construction of the highways;

"(B) will not impose any highway toll, or permit any toll to be charged for the use of the highways by vehicles or persons;

"(C) will not levy or assess, directly or indirectly, any fee, tax, or other charge for the use of the highways by vehicles or persons from the United States that does not apply equally to vehicles or persons of Canada;

"(D) will continue to grant reciprocal recognition of vehicle registration and drivers' licenses in accordance with agreements between the United States and Canada; and

"(E) will maintain the highways after the date of completion of the highways in proper condition adequately to serve the needs of present and future traffic.

"(c) SUPERVISION OF SECRETARY.—The survey and construction work undertaken in Canada pursuant to this section shall be under the general supervision of the Secretary.".

**SEC. 1118. PROJECTS OF NATIONAL AND REGIONAL SIGNIFICANCE.**

(a) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a program in accordance with this section to provide grants for projects of national and regional significance.

(b) PURPOSE OF PROGRAM.—The purpose of the projects of national and regional significance program shall be to fund critical high-cost surface transportation infrastructure projects that are difficult to complete with existing Federal, State, local, and private funds and that will—

(1) generate national and regional economic benefits and increase global economic competitiveness;

(2) reduce congestion and its impacts;

(3) improve roadways vital to national energy security;

(4) improve movement of freight and people; and

(5) improve transportation safety.

(c) DEFINITIONS.—In this section:

(1) ELIGIBLE APPLICANT.—The term ''eligible applicant'' means a State department of transportation or a group of State departments of transportation, a local government, a tribal government or

consortium of tribal governments, a transit agency, a port authority, a metropolitan planning organization, other political subdivisions of State or local governments, or a multi-State or multi-jurisdictional group of the aforementioned entities.

(2) ELIGIBLE PROJECT.—The term ''eligible project'' means a surface transportation project or a program of integrated surface transportation projects closely related in the function they perform that—

(A) is a capital project or projects—

(i) eligible for Federal financial assistance under title 23, United States Code, or under chapter 53 of title 49, United States Code; or

(ii) for surface transportation infrastructure to facilitate intermodal interchange, transfer, and access into and out of intermodal facilities, including ports; and

(B) has eligible project costs that are reasonably anticipated to equal or exceed the lesser of—

(i) $500,000,000;

(ii) for a project located in a single State, 30 percent of the amount of Federal-aid highway funds apportioned for the most recently completed fiscal year to the State; or

(iii) for a project located in more than 1 State, 75 percent of the amount of Federal-aid highway funds apportioned for the most recently completed fiscal year to the State in which the project is located that has the largest apportionment.

(3) ELIGIBLE PROJECT COSTS.—The term ''eligible project costs'' means the costs of—

(A) development phase activities, including planning, feasibility analysis, revenue forecasting, environmental review, preliminary engineering and design work, and other preconstruction activities;

(B) construction, reconstruction, rehabilitation, and acquisition of real property (including land related to the project and improvements to land), environmental mitigation, construction contingencies, acquisition of equipment directly related to improving system performance, and operational improvements; and

(C) all financing costs, including subsidy costs under the Transportation Infrastructure Finance and Innovation Act program.

(d) SOLICITATIONS AND APPLICATIONS.—

(1) GRANT SOLICITATIONS.—The Secretary shall establish criteria for project evaluation and conduct a transparent and competitive national solicitation process to select projects for funding to carry out the purposes of this section.

(2) APPLICATIONS.—

(A) IN GENERAL.—An eligible applicant seeking a grant under this section for an eligible project shall submit an application to the Secretary in such form and in accordance with such requirements as the Secretary shall establish.

(B) CONTENTS.—An application under this subsection shall, at a minimum, include data on current system performance and estimated system improvements that will result from completion of the eligible project, including projections for 2, 7, and 15 years after completion.

(C) RESUBMISSION OF APPLICATIONS.—An eligible applicant whose project is not selected

by the Secretary may resubmit an application in any subsequent solicitation.

(e) CRITERIA FOR PROJECT EVALUATION AND SELECTION.—

(1) IN GENERAL.—The Secretary may select a project only if the Secretary determines that the project—

(A) will significantly improve the performance of the national surface transportation network, nationally or regionally;

(B) is based on the results of preliminary engineering;

(C) cannot be readily and efficiently completed without Federal support from this program;

(D) is justified based on the ability of the project—

(i) to generate national economic benefits that reasonably exceed its costs, including increased access to jobs, labor, and other critical economic inputs;

(ii) to reduce long-term congestion, including impacts in the State, region, and Nation, and increase speed, reliability, and

accessibility of the movement of people or freight; and

(iii) to improve transportation safety, including reducing transportation accidents, and serious injuries and fatalities; and

(E) is supported by an acceptable degree of non-Federal financial commitments, including evidence of stable and dependable financing sources to construct, maintain, and operate the infrastructure facility.

(2) ADDITIONAL CONSIDERATIONS.—In evaluating a project under this section, in addition to the criteria in paragraph (1), the Secretary shall consider the extent to which the project—

(A) leverages Federal investment by encouraging non-Federal contributions to the project, including contributions from public-private partnerships;

(B) is able to begin construction within 18 months of being selected;

(C) incorporates innovative project delivery and financing where practical;

(D) stimulates collaboration between States and among State and local governments;

(E) helps maintain or protect the environment;

(F) improves roadways vital to national energy security;

(G) uses innovative technologies, including intelligent transportation systems, that enhance the efficiency of the project; and

(H) contributes to an equitable geographic distribution of funds under this section and an appropriate balance in addressing the needs of urban and rural communities.

(f) GRANT REQUIREMENTS.—

(1) IN GENERAL.—A grant for a project under this section shall be subject to the following requirements:

(A) A qualifying highway project eligible for funding under title 23, United States Code, or public transportation project eligible under chapter 53 of title 49, United States Code, shall comply with all applicable requirements of such title or chapter except that, if the project contains elements or activities that are not eligible for funding under such title or chapter but are eligible for funding under this section, the ele-

ments or activities shall comply with the requirements described in subparagraph (B).

(B) A qualifying surface transportation project not eligible under title 23, United States Code, or chapter 53 of title 49, United States Code, shall comply with the requirements of subchapter IV of chapter 31 of title 40, United States Code, section 10a–d of title 41, United States Code, and such other terms, conditions, and requirements as the Secretary determines are necessary and appropriate for the type of project.

(2) DETERMINATION OF APPLICABLE MODAL REQUIREMENTS.—In the event that a project has cross-modal components, the Secretary shall have the discretion to designate the requirements that shall apply to the project based on predominant components.

(3) OTHER TERMS AND CONDITIONS.—The Secretary shall require that all grants under this section be subject to all terms, conditions, and requirements that the Secretary decides are necessary or appropriate for purposes of this section, including requirements for the disposition of net increases in value of

real property resulting from the project assisted under this section.

(g) FEDERAL SHARE OF PROJECT COST.—

(1) IN GENERAL.—If a project funded under this section is to construct or improve a privately owned facility or would primarily benefit a private entity, the Federal share shall be the lesser of 50 percent of the total project cost or the quantified public benefit of the project. For all other projects funded under this section—

(A) the Federal share of funds under this section shall be up to 50 percent of the project cost; and

(B) the project sponsor may use other eligible Federal transportation funds to cover up to an additional 30 percent of the project costs.

(2) PRE-APPROVAL COSTS.—The Secretary may allow costs incurred prior to project approval to be used as a credit toward the non-Federal share of the cost of the project. Such costs must be adequately documented, necessary, reasonable, and allocable to the current phase of the project and such costs may not be included as a cost or used to meet cost-sharing or matching requirements of any other federally-financed project.

(h) REPORT TO THE SECRETARY.—For each project funded under this section, the project sponsor shall reassess system performance and report to the Secretary 2, 7, and 15 years after completion of the project to assess if the project outcomes have met pre-construction projections.

(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, to remain available until expended, $1,000,000,000 for fiscal year 2013.

(j) TREATMENT OF PROJECTS.—Notwithstanding any other provision of law, projects funded under this section shall be treated as projects on a Federal-aid highway under chapter 1 of title 23, United States Code.

(k) REPORTS.—

(1) SECRETARY.—

(A) IN GENERAL.—Not later than 30 days after the date on which the Secretary selects a project for funding under this section, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that describes the reasons for selecting the

project, based on the criteria described in subsection (e).

(B) INCLUSIONS.—The report submitted under subparagraph (A) shall specify each criteria described in subsection (e) that the project meets.

(C) AVAILABILITY.—The Secretary shall make available on the website of the Department the report submitted under subparagraph (A).

(2) COMPTROLLER GENERAL.—

(A) ASSESSMENT.—The Comptroller General of the United States shall conduct an assessment of the establishment, solicitation, selection, and justification process with respect to the funding of projects under this section.

(B) REPORT.—Not later than 3 years after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that describes—

(i) the process by which each project was selected;

(ii) the factors that went into the selection of each project; and

(iii) the justification for the selection of each project based on the criteria described in subsection (e).

(3) INSPECTOR GENERAL.—

(A) ASSESSMENT.—The Inspector General of the Department shall conduct an assessment of the establishment, solicitation, selection, and justification process with respect to the funding of projects under this section.

(B) INITIAL REPORT.—Not later than 2 years after the date of enactment of this Act, the Inspector General of the Department shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that describes the initial results of the assessment conducted under subparagraph (A).

(C) FINAL REPORT.—Not later than 4 years after the date of enactment of this Act, the Inspector General of the Department shall

submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a final report that describes the findings of the Inspector General of the Department with respect to the assessment conducted under subparagraph (A).

(l) REGULATIONS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall promulgate final regulations implementing the program authorized under this section.

(2) INTERIM PROVISIONS.—Until the date on which the Secretary promulgates final regulations under paragraph (1), any amounts made available under subsection (i) to carry out this section shall be distributed in accordance with—

(A) the guidance and policies developed for the distribution of grants under the program using the notice of funding availability entitled ''Notice of Funding Availability for the Department of Transportation's National Infrastructure Investments Under the Full-Year Continuing Appropriations, 2012; and Request for

Comments'' (77 Fed. Reg. 4863 (January 31, 2012)); or

(B) such guidance and policies as subsequently revised and updated.

**SEC. 1119. CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL FACILITIES.**

(a) CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL FACILITIES.—Section 147 of title 23, United States Code, is amended—

(1) by striking subsections (c), (d), and (e);

(2) by redesignating subsection (f) as subsection (g); and

(3) by inserting after subsection (b) the following:

''(c) DISTRIBUTION OF FUNDS.—Of the amounts made available to ferry systems and public entities responsible for developing ferries under this section for a fiscal year, 100 percent shall be allocated in accordance with the formula set forth in subsection (d).

''(d) FORMULA.—Of the amounts allocated pursuant to subsection (c)—

''(1) 20 percent shall be allocated among eligible entities in the proportion that—

"(A) the number of ferry passengers carried by each ferry system in the most recent fiscal year; bears to

"(B) the number of ferry passengers carried by all ferry systems in the most recent fiscal year;

"(2) 50 percent shall be allocated among eligible entities in the proportion that—

"(A) the number of vehicles carried by each ferry system in the most recent fiscal year; bears to

"(B) the number of vehicles carried by all ferry systems in the most recent fiscal year; and

"(3) 30 percent shall be allocated among eligible entities in the proportion that—

"(A) the total route miles serviced by each ferry system; bears to

"(B) the total route miles serviced by all ferry systems.

"(e) FERRY BOAT COORDINATION TEAM.—

"(1) ESTABLISHMENT.—The Secretary shall establish within the Federal Highway Administration a Ferry Boat Coordination Team to carry out paragraph (2).

"(2) PURPOSES.—The purposes of the ferry boat coordination team shall be—

"(A) to coordinate Federal programs affecting ferry and ferry facility construction, maintenance, operations, and security; and

"(B) to promote transportation by ferry as a component of the United States transportation system.

"(3) FUNCTIONS.—The ferry boat coordination team shall—

"(A) coordinate programs relating to ferry transportation carried out by—

"(i) the Department of Transportation, including programs carried out by the Federal Highway Administration, the Federal Transit Administration, the Maritime Administration, and the Research and Innovative Technology Administration;

"(ii) the Department of Homeland Security; and

"(iii) other Federal and State agencies, as appropriate;

"(B) ensure resource accountability for programs carried out by the Secretary relating to ferry transportation;

"(C) provide strategic leadership for research, development, testing, and deployment of technologies relating to ferry transportation; and

"(D) promote ferry transportation as a means to reduce costs associated with traffic congestion.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $67,000,000 for each of fiscal years 2012 and 2013.".

(b) NATIONAL FERRY DATABASE.—Section 1801(e) of the SAFETEA–LU (23 U.S.C. 129 note; Public Law 109–59) is amended—

(1) in paragraph (2), by inserting ", including any Federal, State, and local government funding sources," after "sources"; and

(2) in paragraph (4)—

(A) in subparagraph (B), by striking "and" at the end;

(B) by redesignating subparagraph (C) as subparagraph (D);

(C) by inserting after subparagraph (B), the following:

"(C) ensure that the database is consistent with the national transit database maintained

by the Federal Transit Administration; and''; and

(D) in subparagraph (D) (as redesignated by subparagraph (B)), by striking ''2009'' and inserting ''2013''.

# Subtitle B—Performance Management

**SEC. 1201. METROPOLITAN TRANSPORTATION PLANNING.**

Section 134 of title 23, United States Code, is amended to read as follows:

**''§ 134. Metropolitan transportation planning**

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

''(1) to encourage and promote the safe, cost-effective, and efficient management, operation, and development of surface transportation systems that will serve efficiently the mobility needs of individuals and freight, reduce transportation-related fatalities and serious injuries, and foster economic growth and development within and between States and urbanized areas, while fitting the needs and complexity of individual communities, maximizing value for taxpayers, leveraging cooperative investments, and minimizing transportation-related fuel consumption and air pollution through the metropolitan and

statewide transportation planning processes identified in this title;

"(2) to encourage the continued improvement, evolution, and coordination of the metropolitan and statewide transportation planning processes by and among metropolitan planning organizations, State departments of transportation, regional planning organizations, interstate partnerships, and public transportation and intercity service operators as guided by the planning factors identified in subsection (h) of this section and section 135(d);

"(3) to encourage and promote transportation needs and decisions that are integrated with other planning needs and priorities; and

"(4) to maximize the effectiveness of transportation investments.

"(b) DEFINITIONS.—In this section and section 135, the following definitions shall apply:

"(1) EXISTING MPO.—The term 'existing MPO' means a metropolitan planning organization that was designated as a metropolitan planning organization on the day before the date of enactment of the MAP–21.

"(2) LOCAL OFFICIAL.—The term 'local official' means any elected or appointed official of general

purpose local government with responsibility for transportation in a designated area.

"(3) MAINTENANCE AREA.—The term 'maintenance area' means an area that was designated as an air quality nonattainment area, but was later redesignated by the Administrator of the Environmental Protection Agency as an air quality attainment area, under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)).

"(4) METROPOLITAN PLANNING AREA.—The term 'metropolitan planning area' means a geographical area determined by agreement between the metropolitan planning organization for the area and the applicable Governor under subsection (c).

"(5) METROPOLITAN PLANNING ORGANIZATION.—The term 'metropolitan planning organization' means the policy board of an organization established pursuant to subsection (c).

"(6) METROPOLITAN TRANSPORTATION PLAN.—The term 'metropolitan transportation plan' means a plan developed by a metropolitan planning organization under subsection (i).

"(7) NONATTAINMENT AREA.—The term 'nonattainment area' has the meaning given the term in section 171 of the Clean Air Act (42 U.S.C. 7501).

1 "(8) NONMETROPOLITAN AREA.—
2 "(A) IN GENERAL.—The term 'nonmetro-
3 politan area' means a geographical area outside
4 the boundaries of a designated metropolitan
5 planning area.
6 "(B) INCLUSIONS.—The term 'nonmetro-
7 politan area' includes—
8 "(i) a small urbanized area with a
9 population of more than 50,000, but fewer
10 than 200,000, individuals, as calculated ac-
11 cording to the most recent decennial cen-
12 sus; and
13 "(ii) a nonurbanized area.
14 "(9) NONMETROPOLITAN PLANNING ORGANIZA-
15 TION.—The term 'nonmetropolitan planning organi-
16 zation' means an organization that—
17 "(A) was designated as a metropolitan
18 planning organization as of the day before the
19 date of enactment of the MAP–21; and
20 "(B) is not designated as a tier I MPO or
21 tier II MPO.
22 "(10) REGIONALLY SIGNIFICANT.—The term
23 'regionally significant', with respect to a transpor-
24 tation project, program, service, or strategy, means
25 a project, program, service, or strategy that—

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

"(B) would normally be included in the modeling of a transportation network of a metropolitan area.

"(11) RURAL PLANNING ORGANIZATION.—The term 'rural planning organization' means an organization that—

"(A) is responsible for the planning, coordination, and implementation of statewide transportation plans and programs outside of a metropolitan area, with an emphasis on addressing the needs of rural areas of the State; and

"(B) is not designated as a tier I or tier II metropolitan planning organization or a nonmetropolitan planning organization.

"(12) STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM.—The term 'statewide transportation improvement program' means a statewide transportation improvement program developed by a State under section 135(g).

"(13) STATEWIDE TRANSPORTATION PLAN.—The term 'statewide transportation plan' means a plan developed by a State under section 135(f).

"(14) TIER I MPO.—The term 'tier I MPO' means a metropolitan planning organization designated as a tier I MPO under subsection (e)(4)(A).

"(15) TIER II MPO.—The term 'tier II MPO' means a metropolitan planning organization designated as a tier I MPO under subsection (e)(4)(B).

"(16) TRANSPORTATION IMPROVEMENT PROGRAM.—The term 'transportation improvement program' means a program developed by a metropolitan planning organization under subsection (j).

"(17) URBANIZED AREA.—The term 'urbanized area' means a geographical area with a population of 50,000 or more individuals, as calculated according to the most recent decennial census.

"(c) DESIGNATION OF METROPOLITAN PLANNING ORGANIZATIONS.—

"(1) IN GENERAL.—To carry out the metropolitan transportation planning process under this section, a metropolitan planning organization shall be designated for each urbanized area with a population of 200,000 or more individuals, as calculated according to the most recent decennial census—

"(A) by agreement between the applicable Governor and local officials that, in the aggregate, represent at least 75 percent of the affected population (including the largest incorporated city (based on population), as calculated according to the most recent decennial census); or

"(B) in accordance with procedures established by applicable State or local law.

"(2) SMALL URBANIZED AREAS.—To carry out the metropolitan transportation planning process under this section, a metropolitan planning organization may be designated for any urbanized area with a population of 50,000 or more individuals, but fewer than 200,000 individuals, as calculated according to the most recent decennial census—

"(A) by agreement between the applicable Governor and local officials that, in the aggregate, represent at least 75 percent of the affected population (including the largest incorporated city (based on population), as calculated according to the most recent decennial census); and

"(B) with the consent of the Secretary, based on a finding that the resulting metropoli-

tan planning organization has met the minimum requirements under subsection (e)(4)(B).

"(3) STRUCTURE.—Not later than 1 year after the date of enactment of the MAP–21, a metropolitan planning organization shall consist of—

"(A) elected local officials in the relevant metropolitan area;

"(B) officials of public agencies that administer or operate major modes of transportation in the relevant metropolitan area, including providers of public transportation; and

"(C) appropriate State officials.

"(4) EFFECT OF SUBSECTION.—Nothing in this subsection interferes with any authority under any State law in effect on December 18, 1991, of a public agency with multimodal transportation responsibilities—

"(A) to develop the metropolitan transportation plans and transportation improvement programs for adoption by a metropolitan planning organization; or

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

"(5) CONTINUING DESIGNATION.—

"(A) POPULATION OF 200,000 OR MORE.—A designation of an existing MPO for an urbanized area with a population of 200,000 or more individuals, as calculated according to the most recent decennial census, shall remain in effect—

"(i) for the period during which the structure of the existing MPO complies with the requirements of paragraph (1); or

"(ii) until the date on which the existing MPO is redesignated under paragraph (6); and

"(B) POPULATION OF FEWER THAN 200,000.—

"(i) IN GENERAL.—A designation of an existing MPO for an urbanized area with a population of fewer than 200,000 individuals, as calculated according to the most recent decennial census, shall remain in effect until the date on which the existing MPO is redesignated under paragraph (6) unless—

"(I) the existing MPO requests that its planning responsibilities be transferred to the State or to another

planning organization designated by the State; or

"(II) the Secretary determines 3 years after the date on which the Secretary issues a rule pursuant to subsection (e)(4)(B)(i), that the existing MPO is not meeting the minimum requirements established by the rule.

"(ii) JUSTIFICATION.—The Secretary shall, in a timely manner, provide a substantive written justification to each metropolitan planning organization that is the subject of a negative determination of the Secretary under clause (i)(II).

"(C) EXTENSION.—If a metropolitan planning organization for an urbanized area with a population of less than 200,000 that would otherwise be terminated under subparagraph (B), requests a probationary continuation before the termination of the metropolitan planning organization, the Secretary shall—

"(i) delay the termination of the metropolitan planning organization under subparagraph (B) for a period of 1 year;

"(ii) provide additional technical assistance to all metropolitan planning organizations provided an extension under this paragraph to assist the metropolitan planning organization in meeting the minimum requirements under subsection (e)(4)(B)(i); and

"(iii) make a determination not later than 1 year after the date on which the Secretary issues an extension, regardless of whether the metropolitan planning organization has met the minimum requirements established under subsection (e)(4)(B)(ii).

"(D) DESIGNATION AS TIER II MPO.—If the Secretary determines that the existing MPO has met the minimum requirements under the rule issued under subsection (e)(4)(B)(i), the Secretary shall designate the existing MPO as a tier II MPO.

"(6) REDESIGNATION.—

"(A) IN GENERAL.—The designation of a metropolitan planning organization under this subsection shall remain in effect until the date on which the metropolitan planning organization is redesignated, as appropriate, in accord-

ance with the requirements of this subsection pursuant to an agreement between—

"(i) the applicable Governor; and

"(ii) affected local officials who, in the aggregate, represent at least 75 percent of the existing metropolitan planning area population (including the largest incorporated city (based on population), as calculated according to the most recent decennial census).

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

"(7) ABSENCE OF DESIGNATION.—

"(A) IN GENERAL.—A metropolitan planning organization that is the subject of a negative determination of the Secretary under paragraph (5)(B)(ii) shall submit to the State in which the metropolitan planning organization is located, or to a planning organization designated by the State, by not later than 180 days after the date on which a notice of the negative determination is received, a 6-month plan that includes a description of a method—

"(i) to transfer the responsibilities of the metropolitan planning organization to the State; and

"(ii) to dissolve the metropolitan planning organization.

"(B) ACTION ON DISSOLUTION.—On submission of a plan under subparagraph (A), the metropolitan planning area served by the applicable metropolitan planning organization shall—

"(i) continue to receive metropolitan transportation planning funds until the earlier of—

"(I) the date of dissolution of the metropolitan planning organization; and

"(II) the date that is 4 years after the date of enactment of the MAP–21; and

"(ii) be treated by the State as a nonmetropolitan area for purposes of this title.

"(8) DESIGNATION OF MULTIPLE MPOS.—

"(A) IN GENERAL.—More than 1 metropolitan planning organization may be designated within an existing metropolitan plan-

ning area only if the applicable Governor and an existing MPO determine that the size and complexity of the existing metropolitan planning area make the designation of more than 1 metropolitan planning organization for the metropolitan planning area appropriate.

"(B) SERVICE JURISDICTIONS.—If more than 1 metropolitan planning organization is designated for an existing metropolitan planning area under subparagraph (A), the existing metropolitan planning area shall be split into multiple metropolitan planning areas, each of which shall be served by the existing MPO or a new metropolitan planning organization.

"(C) TIER DESIGNATION.—The tier designation of each metropolitan planning organization subject to a designation under this paragraph shall be determined based on the size of each respective metropolitan planning area, in accordance with subsection (e)(4).

"(d) METROPOLITAN PLANNING AREA BOUNDARIES.—

"(1) IN GENERAL.—For purposes of this section, the boundaries of a metropolitan planning area shall be determined by agreement between the appli-

cable metropolitan planning organization and the Governor of the State in which the metropolitan planning area is located.

"(2) INCLUDED AREA.—Each metropolitan planning area—

"(A) shall encompass at least the relevant existing urbanized area and any contiguous area expected to become urbanized within a 20-year forecast period under the applicable metropolitan transportation plan; and

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

"(3) IDENTIFICATION OF NEW URBANIZED AREAS.—The designation by the Bureau of the Census of a new urbanized area within the boundaries of an existing metropolitan planning area shall not require the redesignation of the relevant existing MPO.

"(4) NONATTAINMENT AND MAINTENANCE AREAS.—

"(A) EXISTING METROPOLITAN PLANNING AREAS.—

"(i) IN GENERAL.—Except as provided in clause (ii), notwithstanding para-

graph (2), in the case of an urbanized area designated as a nonattainment area or maintenance area as of the date of enactment of the MAP–21, the boundaries of the existing metropolitan planning area as of that date of enactment shall remain in force and effect.

"(ii) EXCEPTION.—Notwithstanding clause (i), the boundaries of an existing metropolitan planning area described in that clause may be adjusted by agreement of the applicable Governor and the affected metropolitan planning organizations in accordance with paragraph (1).

"(B) NEW METROPOLITAN PLANNING AREAS.—In the case of an urbanized area designated as a nonattainment area or maintenance area after the date of enactment of the MAP–21, the boundaries of the applicable metropolitan planning area—

"(i) shall be established in accordance with subsection (c)(1);

"(ii) shall encompass the areas described in paragraph (2)(A);

"(iii) may encompass the areas described in paragraph (2)(B); and

"(iv) may address any appropriate nonattainment area or maintenance area.

"(e) REQUIREMENTS.—

"(1) DEVELOPMENT OF PLANS AND TIPS.—To accomplish the policy objectives described in subsection (a), each metropolitan planning organization, in cooperation with the applicable State and public transportation operators, shall develop metropolitan transportation plans and transportation improvement programs for metropolitan planning areas of the State through a performance-driven, outcome-based approach to metropolitan transportation planning consistent with subsection (h).

"(2) CONTENTS.—The metropolitan transportation plans and transportation improvement programs for each metropolitan area shall provide for the development and integrated management and operation of transportation systems and facilities (including accessible pedestrian walkways, bicycle transportation facilities, and intermodal facilities that support intercity transportation) that will function as—

"(A) an intermodal transportation system for the metropolitan planning area; and

"(B) an integral part of an intermodal transportation system for the applicable State and the United States.

"(3) PROCESS OF DEVELOPMENT.—The process for developing metropolitan transportation plans and transportation improvement programs shall—

"(A) provide for consideration of all modes of transportation; and

"(B) be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation needs to be addressed.

"(4) TIERING.—

"(A) TIER I MPOS.—

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

"(I) as certified by the Governor of each applicable State, the metropolitan planning organization operates within, and primarily serves, a metropolitan planning area with a population of 1,000,000 or more individ-

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

"(II) the Secretary determines the metropolitan planning organization—

"(aa) meets the minimum technical requirements under clause (iv); and

"(bb) not later than 2 years after the date of enactment of the MAP–21, will fully implement the processes described in subsections (h) though (j).

"(ii) ABSENCE OF DESIGNATION.—In the absence of designation as a tier I MPO under clause (i), a metropolitan planning organization shall operate as a tier II MPO until the date on which the Secretary determines the metropolitan planning organization can meet the minimum technical requirements under clause (iv).

"(iii) REDESIGNATION AS TIER I.—A metropolitan planning organization operating within a metropolitan planning area with a population of 200,000 or more and

fewer than 1,000,000 individuals and primarily within urbanized areas with populations of 200,000 or more individuals, as calculated according to the most recent decennial census, that is designated as a tier II MPO under subparagraph (B) may request, with the support of the applicable Governor, a redesignation as a tier I MPO on a determination by the Secretary that the metropolitan planning organization has met the minimum technical requirements under clause (iv).

"(iv) MINIMUM TECHNICAL REQUIREMENTS.—Not later than 1 year after the date of enactment of the MAP–21, the Secretary shall issue a rule that establishes the minimum technical requirements necessary for a metropolitan planning organization to be designated as a tier I MPO, including, at a minimum, modeling, data, staffing, and other technical requirements.

"(B) TIER II MPOS.—

"(i) IN GENERAL.—Not later than 1 year after the date of enactment of the MAP–21, the Secretary shall issue a rule

that establishes minimum requirements necessary for a metropolitan planning organization to be designated as a tier II MPO.

"(ii) REQUIREMENTS.—The minimum requirements established under clause (i) shall—

"(I) be limited to ensuring that each metropolitan planning organization has the capabilities necessary to develop the metropolitan transportation plan and transportation improvement program under this section; and

"(II) include—

"(aa) only the staffing capabilities necessary to operate the metropolitan planning organization; and

"(bb) a requirement that the metropolitan planning organization has the technical capacity to conduct the travel demand model and forecasting necessary, as appropriate based on the size and

resources of the metropolitan planning organization, to fulfill the requirements of this section, except that in cases in which a metropolitan planning organization has a formal agreement with a State to conduct the modeling on behalf of the metropolitan planning organization, the metropolitan planning organization shall be exempt from the technical capacity requirement.

''(iii) LIMITATION.—The rule issued pursuant to this subparagraph shall only include the minimum requirements established under clause (ii).

''(iv) INCLUSION.—A metropolitan planning organization operating primarily within an urbanized area with a population of 200,000 or more individuals, as calculated according to the most recent decennial census, and that does not qualify as a tier I MPO under subparagraph (A)(i), shall—

"(I) be designated as a tier II MPO; and

"(II) follow the processes under subsection (k).

"(C) CONSOLIDATION.—

"(i) IN GENERAL.—Metropolitan planning organizations operating within contiguous, adjacent, or geographically linked urbanized areas may elect to consolidate in order to meet the population thresholds required to achieve designation as a tier I or tier II MPO under this paragraph.

"(ii) EFFECT OF SUBSECTION.—Nothing in this subsection requires or prevents consolidation among multiple metropolitan planning organizations located within a single urbanized area.

"(f) COORDINATION IN MULTISTATE AREAS.—

"(1) IN GENERAL.—The Secretary shall encourage each Governor with responsibility for a portion of a multistate metropolitan area and the appropriate metropolitan planning organizations to provide coordinated transportation planning for the entire metropolitan area.

"(2) COORDINATION ALONG DESIGNATED TRANSPORTATION CORRIDORS.—The Secretary shall encourage each Governor with responsibility for a portion of a multistate metropolitan area and the appropriate metropolitan planning organizations to provide coordinated transportation planning for the entire designated transportation corridor.

"(3) COORDINATION WITH INTERSTATE COMPACTS.—The Secretary shall encourage metropolitan planning organizations to take into consideration, during the development of metropolitan transportation plans and transportation improvement programs, any relevant transportation studies concerning planning for regional transportation (including high-speed and intercity rail corridor studies, commuter rail corridor studies, intermodal terminals, and interstate highways) in support of freight, intercity, or multistate area projects and services that have been developed pursuant to interstate compacts or agreements, or by organizations established under section 135.

"(g) ENGAGEMENT IN METROPOLITAN TRANSPORTATION PLAN AND TIP DEVELOPMENT.—

"(1) NONATTAINMENT AND MAINTENANCE AREAS.—If more than 1 metropolitan planning orga-

nization has authority within a metropolitan area, nonattainment area, or maintenance area, each metropolitan planning organization shall consult with all other metropolitan planning organizations designated for the metropolitan area, nonattainment area, or maintenance area and the State in the development of metropolitan transportation plans and transportation improvement programs under this section.

"(2) TRANSPORTATION IMPROVEMENTS LOCATED IN MULTIPLE METROPOLITAN PLANNING AREAS.—If a transportation improvement project funded under this title or chapter 53 of title 49 is located within the boundaries of more than 1 metropolitan planning area, the affected metropolitan planning organizations shall coordinate metropolitan transportation plans and transportation improvement programs regarding the project.

"(3) COORDINATION OF ADJACENT PLANNING ORGANIZATIONS.—

"(A) IN GENERAL.—A metropolitan planning organization that is adjacent or located in reasonably close proximity to another metropolitan planning organization shall coordinate with that metropolitan planning organization with

respect to planning processes, including preparation of metropolitan transportation plans and transportation improvement programs, to the maximum extent practicable.

"(B) NONMETROPOLITAN PLANNING ORGANIZATIONS.—A metropolitan planning organization that is adjacent or located in reasonably close proximity to a nonmetropolitan planning organization shall consult with that nonmetropolitan planning organization with respect to planning processes, to the maximum extent practicable.

"(4) RELATIONSHIP WITH OTHER PLANNING OFFICIALS.—

"(A) IN GENERAL.—The Secretary shall encourage each metropolitan planning organization to cooperate with Federal, tribal, State, and local officers and entities responsible for other types of planning activities that are affected by transportation in the relevant area (including planned growth, economic development, infrastructure services, housing, other public services, nonmotorized users, environmental protection, airport operations, high-speed and intercity passenger rail, freight rail,

port access, and freight movements), to the maximum extent practicable, to ensure that the metropolitan transportation planning process, metropolitan transportation plans, and transportation improvement programs are developed in cooperation with other related planning activities in the area.

"(B) INCLUSION.—Cooperation under subparagraph (A) shall include the design and delivery of transportation services within the metropolitan area that are provided by—

"(i) recipients of assistance under sections 202, 203, and 204;

"(ii) recipients of assistance under chapter 53 of title 49;

"(iii) government agencies and nonprofit organizations (including representatives of the agencies and organizations) that receive Federal assistance from a source other than the Department of Transportation to provide nonemergency transportation services; and

"(iv) sponsors of regionally significant programs, projects, and services that are

related to transportation and receive assistance from any public or private source.

"(5) COORDINATION OF OTHER FEDERALLY REQUIRED PLANNING PROGRAMS.—The Secretary shall encourage each metropolitan planning organization to coordinate, to the maximum extent practicable, the development of metropolitan transportation plans and transportation improvement programs with other relevant federally required planning programs.

"(h) SCOPE OF PLANNING PROCESS.—

"(1) IN GENERAL.—The metropolitan transportation planning process for a metropolitan planning area under this section shall provide for consideration of projects and strategies that will—

"(A) support the economic vitality of the metropolitan area, especially by enabling global competitiveness, travel and tourism (where applicable), productivity, and efficiency;

"(B) increase the safety of the transportation system for motorized and nonmotorized users;

"(C) increase the security of the transportation system for motorized and nonmotorized users;

"(D) increase the accessibility and mobility of individuals and freight;

"(E) protect and enhance the environment, promote energy conservation, improve the quality of life, and promote consistency between transportation improvements and State and local planned growth and economic development patterns;

"(F) enhance the integration and connectivity of the transportation system, across and between modes, for individuals and freight;

"(G) increase efficient system management and operation; and

"(H) emphasize the preservation of the existing transportation system.

"(2) PERFORMANCE-BASED APPROACH.—

"(A) IN GENERAL.—The metropolitan transportation planning process shall provide for the establishment and use of a performance-based approach to transportation decision-making to support the national goals described in section 150(b) of this title and in section 5301(c) of title 49.

"(B) PERFORMANCE TARGETS.—

"(i) SURFACE TRANSPORTATION PERFORMANCE TARGETS.—

"(I) IN GENERAL.—Each metropolitan planning organization shall establish performance targets that address the performance measures described in sections 119(f), 148(h), 149(k), where applicable, and 167(i) to use in tracking attainment of critical outcomes for the region of the metropolitan planning organization.

"(II) COORDINATION.—Selection of performance targets by a metropolitan planning organization shall be coordinated with the relevant State to ensure consistency, to the maximum extent practicable.

"(ii) PUBLIC TRANSPORTATION PERFORMANCE TARGETS.—Each metropolitan planning organization shall adopt the performance targets identified by providers of public transportation pursuant to sections 5326(c) and 5329(d) of title 49, for use in tracking attainment of critical outcomes

for the region of the metropolitan planning organization.

"(C) TIMING.—Each metropolitan planning organization shall establish the performance targets under subparagraph (B) not later than 90 days after the date on which the relevant State or provider of public transportation establishes the performance targets.

"(D) INTEGRATION OF OTHER PERFORMANCE-BASED PLANS.—A metropolitan planning organization shall integrate in the metropolitan transportation planning process, directly or by reference, the goals, objectives, performance measures, and targets described in other State plans and processes, as well as asset management and safety plans developed by providers of public transportation, required as part of a performance-based program, including plans such as—

"(i) the State National Highway System asset management plan;

"(ii) asset management plans developed by providers of public transportation;

"(iii) the State strategic highway safety plan;

"(iv) safety plans developed by providers of public transportation;

"(v) the congestion mitigation and air quality performance plan, where applicable;

"(vi) the national freight strategic plan; and

"(vii) the statewide transportation plan.

"(E) USE OF PERFORMANCE MEASURES AND TARGETS.—The performance measures and targets established under this paragraph shall be used, at a minimum, by the relevant metropolitan planning organization as the basis for development of policies, programs, and investment priorities reflected in the metropolitan transportation plan and transportation improvement program.

"(3) FAILURE TO CONSIDER FACTORS.—The failure to take into consideration 1 or more of the factors specified in paragraphs (1) and (2) shall not be subject to review by any court under this title, chapter 53 of title 49, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a metropolitan transportation plan, a transportation

improvement program, a project or strategy, or the certification of a planning process.

"(4) PARTICIPATION BY INTERESTED PARTIES.—

"(A) IN GENERAL.—Each metropolitan planning organization shall provide to affected individuals, public agencies, and other interested parties (including State representatives of nonmotorized users) notice and a reasonable opportunity to comment on the metropolitan transportation plan and transportation improvement program and any relevant scenarios.

"(B) CONTENTS OF PARTICIPATION PLAN.—Each metropolitan planning organization shall establish a participation plan that—

"(i) is developed in consultation with interested parties and local officials; and

"(ii) provides that interested parties and local officials shall have reasonable opportunities to comment on the contents of the metropolitan transportation plan of the metropolitan planning organization.

"(C) METHODS.—In carrying out subparagraph (A), the metropolitan planning organization shall, to the maximum extent practicable—

"(i) develop the metropolitan transportation plan and transportation improvement program in consultation with interested parties, as appropriate, including by the formation of advisory groups representative of the community and interested parties (including State representatives of nonmotorized users) that participate in the development of the metropolitan transportation plan and transportation improvement program;

"(ii) hold any public meetings at times and locations that are, as applicable—

"(I) convenient; and

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

"(iii) employ visualization techniques to describe metropolitan transportation plans and transportation improvement programs; and

"(iv) make public information available in appropriate electronically accessible formats and means, such as the Internet,

to afford reasonable opportunity for consideration of public information under subparagraph (A).

"(i) DEVELOPMENT OF METROPOLITAN TRANSPORTATION PLAN.—

"(1) DEVELOPMENT.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), not later than 5 years after the date of enactment of the MAP–21, and not less frequently than once every 5 years thereafter, each metropolitan planning organization shall prepare and update, respectively, a metropolitan transportation plan for the relevant metropolitan planning area in accordance with this section.

"(B) EXCEPTIONS.—A metropolitan planning organization shall prepare or update, as appropriate, the metropolitan transportation plan not less frequently than once every 4 years if the metropolitan planning organization is operating within—

"(i) a nonattainment area; or

"(ii) a maintenance area.

"(2) OTHER REQUIREMENTS.—A metropolitan transportation plan under this section shall—

"(A) be in a form that the Secretary determines to be appropriate;

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

"(C) contain, at a minimum—

"(i) an identification of the existing transportation infrastructure, including highways, local streets and roads, bicycle and pedestrian facilities, public transportation facilities and services, commuter rail facilities and services, high-speed and intercity passenger rail facilities and services, freight facilities (including freight railroad and port facilities), multimodal and intermodal facilities, and intermodal connectors that, evaluated in the aggregate, function as an integrated metropolitan transportation system;

"(ii) a description of the performance measures and performance targets used in assessing the existing and future performance of the transportation system in accordance with subsection (h)(2);

"(iii) a description of the current and projected future usage of the transpor-

tation system, including a projection based on a preferred scenario, and further including, to the extent practicable, an identification of existing or planned transportation rights-of-way, corridors, facilities, and related real properties;

"(iv) a system performance report evaluating the existing and future condition and performance of the transportation system with respect to the performance targets described in subsection (h)(2) and updates in subsequent system performance reports, including—

"(I) progress achieved by the metropolitan planning organization in meeting the performance targets in comparison with system performance recorded in previous reports;

"(II) an accounting of the performance of the metropolitan planning organization on outlay of obligated project funds and delivery of projects that have reached substantial completion in relation to—

"(aa) the projects included in the transportation improvement program; and

"(bb) the projects that have been removed from the previous transportation improvement program; and

"(III) when appropriate, an analysis of how the preferred scenario has improved the conditions and performance of the transportation system and how changes in local policies, investments, and growth have impacted the costs necessary to achieve the identified performance targets;

"(v) recommended strategies and investments for improving system performance over the planning horizon, including transportation systems management and operations strategies, maintenance strategies, demand management strategies, asset management strategies, capacity and enhancement investments, State and local economic development and land use improvements, intelligent transportation sys-

tems deployment, and technology adoption strategies, as determined by the projected support of the performance targets described in subsection (h)(2);

''(vi) recommended strategies and investments to improve and integrate disability-related access to transportation infrastructure, including strategies and investments based on a preferred scenario, when appropriate;

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

''(viii) a description of interstate compacts entered into in order to promote coordinated transportation planning in multistate areas, if applicable;

''(ix) an optional illustrative list of projects containing investments that—

''(I) are not included in the metropolitan transportation plan; but

"(II) would be so included if resources in addition to the resources identified in the financial plan under paragraph (4) were available;

"(x) a discussion (developed in consultation with Federal, State, and tribal wildlife, land management, and regulatory agencies) of types of potential environmental and stormwater mitigation activities and potential areas to carry out those activities, including activities that may have the greatest potential to restore and maintain the environmental functions affected by the metropolitan transportation plan; and

"(xi) recommended strategies and investments, including those developed by the State as part of interstate compacts, agreements, or organizations, that support intercity transportation.

"(3) SCENARIO DEVELOPMENT.—

"(A) IN GENERAL.—When preparing the metropolitan transportation plan, the metropolitan planning organization may, while fitting the needs and complexity of its community, develop

multiple scenarios for consideration as a part of the development of the metropolitan transportation plan, in accordance with subparagraph (B).

"(B) COMPONENTS OF SCENARIOS.—The scenarios—

"(i) shall include potential regional investment strategies for the planning horizon;

"(ii) shall include assumed distribution of population and employment;

"(iii) may include a scenario that, to the maximum extent practicable, maintains baseline conditions for the performance measures identified in subsection (h)(2);

"(iv) may include a scenario that improves the baseline conditions for as many of the performance measures identified in subsection (h)(2) as possible;

"(v) shall be revenue constrained based on the total revenues expected to be available over the forecast period of the plan; and

"(vi) may include estimated costs and potential revenues available to support each scenario.

"(C) METRICS.—In addition to the performance measures identified in subsection (h)(2), scenarios developed under this paragraph may be evaluated using locally-developed metrics for the following categories:

"(i) Congestion and mobility, including transportation use by mode.

"(ii) Freight movement.

"(iii) Safety.

"(iv) Efficiency and costs to taxpayers.

"(4) FINANCIAL PLAN.—A financial plan referred to in paragraph (2)(C)(vii) shall—

"(A) be prepared by each metropolitan planning organization to support the metropolitan transportation plan; and

"(B) contain a description of each of the following:

"(i) Projected resource requirements for implementing projects, strategies, and services recommended in the metropolitan transportation plan, including existing and

projected system operating and maintenance needs, proposed enhancement and expansions to the system, projected available revenue from Federal, State, local, and private sources, and innovative financing techniques to finance projects and programs.

''(ii) The projected difference between costs and revenues, and strategies for securing additional new revenue (such as by capture of some of the economic value created by any new investment).

''(iii) Estimates of future funds, to be developed cooperatively by the metropolitan planning organization, any public transportation agency, and the State, that are reasonably expected to be available to support the investment priorities recommended in the metropolitan transportation plan.

''(iv) Each applicable project only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

"(5) COORDINATION WITH CLEAN AIR ACT AGENCIES.—The metropolitan planning organization for any metropolitan area that is a nonattainment area or maintenance area shall coordinate the development of a transportation plan with the process for development of the transportation control measures of the State implementation plan required by the Clean Air Act (42 U.S.C. 7401 et seq.).

"(6) PUBLICATION.—On approval by the relevant metropolitan planning organization, a metropolitan transportation plan involving Federal participation shall be, at such times and in such manner as the Secretary shall require—

"(A) published or otherwise made readily available by the metropolitan planning organization for public review, including (to the maximum extent practicable) in electronically accessible formats and means, such as the Internet; and

"(B) submitted for informational purposes to the applicable Governor.

"(7) CONSULTATION.—

"(A) IN GENERAL.—In each metropolitan area, the metropolitan planning organization shall consult, as appropriate, with Federal, trib-

al, State, and local agencies responsible for land use management, natural resources, environmental protection, conservation, and historic preservation concerning the development of a metropolitan transportation plan.

"(B) ISSUES.—The consultation under subparagraph (A) shall involve, as available, consideration of—

"(i) metropolitan transportation plans with Federal, tribal, State, and local conservation plans or maps; and

"(ii) inventories of natural or historic resources.

"(8) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—Notwithstanding paragraph (4), a State or metropolitan planning organization shall not be required to select any project from the illustrative list of additional projects included in the metropolitan transportation plan under paragraph (2)(C)(ix).

"(j) TRANSPORTATION IMPROVEMENT PROGRAM.—

"(1) DEVELOPMENT.—

"(A) IN GENERAL.—In cooperation with the applicable State and any affected public transportation operator, the metropolitan plan-

ning organization designated for a metropolitan area shall develop a transportation improvement program for the metropolitan planning area that—

"(i) contains projects consistent with the current metropolitan transportation plan;

"(ii) reflects the investment priorities established in the current metropolitan transportation plan; and

"(iii) once implemented, will make significant progress toward achieving the performance targets established under subsection (h)(2).

"(B) OPPORTUNITY FOR PARTICIPATION.—In developing the transportation improvement program, the metropolitan planning organization, in cooperation with the State and any affected public transportation operator, shall provide an opportunity for participation by interested parties, in accordance with subsection (h)(4).

"(C) UPDATING AND APPROVAL.—The transportation improvement program shall be—

"(i) updated not less frequently than once every 4 years, on a cycle compatible with the development of the relevant statewide transportation improvement program under section 135; and

"(ii) approved by the applicable Governor.

"(2) CONTENTS.—

"(A) PRIORITY LIST.—The transportation improvement program shall include a priority list of proposed federally supported projects and strategies to be carried out during the 4-year period beginning on the date of adoption of the transportation improvement program, and each 4-year period thereafter, using existing and reasonably available revenues in accordance with the financial plan under paragraph (3).

"(B) DESCRIPTIONS.—Each project described in the transportation improvement program shall include sufficient descriptive material (such as type of work, termini, length, and other similar factors) to identify the project or phase of the project and the effect that the project or project phase will have in addressing the targets described in subsection (h)(2).

"(C) PERFORMANCE TARGET ACHIEVEMENT.—The transportation improvement program shall include, to the maximum extent practicable, a description of the anticipated effect of the transportation improvement program on attainment of the performance targets established in the metropolitan transportation plan, linking investment priorities to those performance targets.

"(D) ILLUSTRATIVE LIST OF PROJECTS.—In developing a transportation improvement program, an optional illustrative list of projects may be prepared containing additional investment priorities that—

"(i) are not included in the transportation improvement program; but

"(ii) would be so included if resources in addition to the resources identified in the financial plan under paragraph (3) were available.

"(3) FINANCIAL PLAN.—A financial plan referred to in paragraph (2)(D)(ii) shall—

"(A) be prepared by each metropolitan planning organization to support the transportation improvement program; and

"(B) contain a description of each of the following:

"(i) Projected resource requirements for implementing projects, strategies, and services recommended in the transportation improvement program, including existing and projected system operating and maintenance needs, proposed enhancement and expansions to the system, projected available revenue from Federal, State, local, and private sources, and innovative financing techniques to finance projects and programs.

"(ii) The projected difference between costs and revenues, and strategies for securing additional new revenue (such as by capture of some of the economic value created by any new investment).

"(iii) Estimates of future funds, to be developed cooperatively by the metropolitan planning organization, any public transportation agency, and the State, that are reasonably expected to be available to support the investment priorities recommended in the transportation improvement program.

"(iv) Each applicable project, only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

"(4) INCLUDED PROJECTS.—

"(A) PROJECTS UNDER THIS TITLE AND CHAPTER 53 OF TITLE 49.—A transportation improvement program developed under this subsection for a metropolitan area shall include a description of the projects within the area that are proposed for funding under chapter 1 of this title and chapter 53 of title 49.

"(B) PROJECTS UNDER CHAPTER 2.—

"(i) REGIONALLY SIGNIFICANT.—Each regionally significant project proposed for funding under chapter 2 shall be identified individually in the transportation improvement program.

"(ii) NONREGIONALLY SIGNIFICANT.—A description of each project proposed for funding under chapter 2 that is not determined to be regionally significant shall be contained in 1 line item or identi-

fied individually in the transportation improvement program.

"(5) OPPORTUNITY FOR PARTICIPATION.—Before approving a transportation improvement program, a metropolitan planning organization, in cooperation with the State and any affected public transportation operator, shall provide an opportunity for participation by interested parties in the development of the transportation improvement program, in accordance with subsection (h)(4).

"(6) SELECTION OF PROJECTS.—

"(A) IN GENERAL.—Each tier I MPO and tier II MPO shall select projects carried out within the boundaries of the applicable metropolitan planning area from the transportation improvement program, in consultation with the relevant State and on concurrence of the affected facility owner, for funds apportioned to the State under section 104(b)(2) and suballocated to the metropolitan planning area under section 133(d).

"(B) PROJECTS UNDER CHAPTER 53 OF TITLE 49.—In the case of projects under chapter 53 of title 49, the selection of federally funded projects in metropolitan areas shall be

carried out, from the approved transportation improvement program, by the designated recipients of public transportation funding in cooperation with the metropolitan planning organization.

"(C) CMAQ PROJECTS.—Each tier I MPO shall select projects carried out within the boundaries of the applicable metropolitan planning area from the transportation improvement program, in consultation with the relevant State and on concurrence of the affected facility owner, for funds apportioned to the State under section 104(b)(4) and suballocated to the metropolitan planning area under section 149(j).

"(D) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, approval by the Secretary shall not be required to carry out a project included in a transportation improvement program in place of another project in the transportation improvement program.

"(7) PUBLICATION.—

"(A) IN GENERAL.—A transportation improvement program shall be published or otherwise made readily available by the applicable

metropolitan planning organization for public review in electronically accessible formats and means, such as the Internet.

"(B) ANNUAL LIST OF PROJECTS.—An annual list of projects, including investments in pedestrian walkways, bicycle transportation facilities, and intermodal facilities that support intercity transportation, for which Federal funds have been obligated during the preceding fiscal year shall be published or otherwise made available by the cooperative effort of the State, public transportation operator, and metropolitan planning organization in electronically accessible formats and means, such as the Internet, in a manner that is consistent with the categories identified in the relevant transportation improvement program.

"(k) PLANNING REQUIREMENTS FOR TIER II MPOS.—

"(1) IN GENERAL.—The Secretary may provide for the performance-based development of a metropolitan transportation plan and transportation improvement program for the metropolitan planning area of a tier II MPO, as the Secretary determines to be appropriate, taking into account—

"(A) the complexity of transportation needs in the area; and

"(B) the technical capacity of the metropolitan planning organization.

"(2) EVALUATION OF PERFORMANCE-BASED PLANNING.—In reviewing a tier II MPO under subsection (m), the Secretary shall take into consideration the effectiveness of the tier II MPO in implementing and maintaining a performance-based planning process that—

"(A) addresses the performance targets described in subsection (h)(2); and

"(B) demonstrates progress on the achievement of those performance targets.

"(l) CERTIFICATION.—

"(1) IN GENERAL.—The Secretary shall—

"(A) ensure that the metropolitan transportation planning process of a metropolitan planning organization is being carried out in accordance with applicable Federal law; and

"(B) subject to paragraph (2), certify, not less frequently than once every 4 years, that the requirements of subparagraph (A) are met with respect to the metropolitan transportation planning process.

"(2) REQUIREMENTS FOR CERTIFICATION.—The Secretary may make a certification under paragraph (1)(B) if—

"(A) the metropolitan transportation planning process complies with the requirements of this section and other applicable Federal law;

"(B) representation on the metropolitan planning organization board includes officials of public agencies that administer or operate major modes of transportation in the relevant metropolitan area, including providers of public transportation; and

"(C) a transportation improvement program for the metropolitan planning area has been approved by the relevant metropolitan planning organization and applicable Governor.

"(3) DELEGATION OF AUTHORITY.—The Secretary may—

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

"(B) make the certification under paragraph (1) in consultation with the State.

"(4) EFFECT OF FAILURE TO CERTIFY.—

"(A) WITHHOLDING OF PROJECT FUNDS.—If a metropolitan transportation planning process of a metropolitan planning organization is not certified under paragraph (1), the Secretary may withhold up to 20 percent of the funds attributable to the metropolitan planning area of the metropolitan planning organization for projects funded under this title and chapter 53 of title 49.

"(B) RESTORATION OF WITHHELD FUNDS.—Any funds withheld under subparagraph (A) shall be restored to the metropolitan planning area on the date of certification of the metropolitan transportation planning process by the Secretary.

"(5) PUBLIC INVOLVEMENT.—In making a determination regarding certification under this subsection, the Secretary shall provide for public involvement appropriate to the metropolitan planning area under review.

"(m) PERFORMANCE-BASED PLANNING PROCESSES EVALUATION.—

"(1) IN GENERAL.—The Secretary shall establish criteria to evaluate the effectiveness of the performance-based planning processes of metropolitan

planning organizations under this section, taking into consideration the following:

"(A) The extent to which the metropolitan planning organization has achieved, or is currently making substantial progress toward achieving, the performance targets specified in subsection (h)(2), taking into account whether the metropolitan planning organization developed meaningful performance targets.

"(B) The extent to which the metropolitan planning organization has used proven best practices that help ensure transportation investment that is efficient and cost-effective.

"(C) The extent to which the metropolitan planning organization—

"(i) has developed an investment process that relies on public input and awareness to ensure that investments are transparent and accountable; and

"(ii) provides regular reports allowing the public to access the information being collected in a format that allows the public to meaningfully assess the performance of the metropolitan planning organization.

"(2) REPORT.—

"(A) IN GENERAL.—Not later than 5 years after the date of enactment of the MAP–21, the Secretary shall submit to Congress a report evaluating—

"(i) the overall effectiveness of performance-based planning as a tool for guiding transportation investments; and

"(ii) the effectiveness of the performance-based planning process of each metropolitan planning organization under this section.

"(B) PUBLICATION.—The report under subparagraph (A) shall be published or otherwise made available in electronically accessible formats and means, including on the Internet.

"(n) ADDITIONAL REQUIREMENTS FOR CERTAIN NONATTAINMENT AREAS.—

"(1) IN GENERAL.—Notwithstanding any other provision of this title or chapter 53 of title 49, Federal funds may not be advanced in any metropolitan planning area classified as a nonattainment area or maintenance area for any highway project that will result in a significant increase in the carrying capacity for single-occupant vehicles, unless the owner or operator of the project demonstrates that the project

will achieve or make substantial progress toward achieving the performance targets described in subsection (h)(2).

"(2) APPLICABILITY.—This subsection applies to any nonattainment area or maintenance area within the boundaries of a metropolitan planning area, as determined under subsection (c).

"(o) EFFECT OF SECTION.—Nothing in this section provides to any metropolitan planning organization the authority to impose any legal requirement on any transportation facility, provider, or project not subject to the requirements of this title or chapter 53 of title 49.

"(p) FUNDING.—Funds apportioned under section 104(b)(6) of this title and set aside under section 5305(g) of title 49 shall be available to carry out this section.

"(q) CONTINUATION OF CURRENT REVIEW PRACTICE.—

"(1) IN GENERAL.—In consideration of the factors described in paragraph (2), any decision by the Secretary concerning a metropolitan transportation plan or transportation improvement program shall not be considered to be a Federal action subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

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

"(A) metropolitan transportation plans and transportation improvement programs are subject to a reasonable opportunity for public comment;

"(B) the projects included in metropolitan transportation plans and transportation improvement programs are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

"(C) decisions by the Secretary concerning metropolitan transportation plans and transportation improvement programs have not been reviewed under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) as of January 1, 1997.

"(r) SCHEDULE FOR IMPLEMENTATION.—The Secretary shall issue guidance on a schedule for implementation of the changes made by this section, taking into consideration the established planning update cycle for metropolitan planning organizations. The Secretary shall not require a metropolitan planning organization to deviate from its established planning update cycle to implement changes made by this section. Metropolitan planning orga-

nizations shall reflect changes made to their transportation plan or transportation improvement program updates by not later than 2 years after the date of issuance of guidance by the Secretary.''.

**SEC. 1202. STATEWIDE AND NONMETROPOLITAN TRANSPORTATION PLANNING.**

(a) IN GENERAL.—Section 135 of title 23, United States Code, is amended to read as follows:

**''§ 135. Statewide and nonmetropolitan transportation planning**

''(a) STATEWIDE TRANSPORTATION PLANS AND STIPS.—

''(1) DEVELOPMENT.—

''(A) IN GENERAL.—To accomplish the policy objectives described in section 134(a), each State shall develop a statewide transportation plan and a statewide transportation improvement program for all areas of the State in accordance with this section.

''(B) INCORPORATION OF METROPOLITAN TRANSPORTATION PLANS AND TIPS.—Each State shall incorporate in the statewide transportation plan and statewide transportation improvement program, without change or by reference, the metropolitan transportation plans

and transportation improvement programs, respectively, for each metropolitan planning area in the State.

"(C) NONMETROPOLITAN AREAS.—Each State shall consult with local officials in small urbanized areas with a population of 50,000 or more individuals, but fewer than 200,000 individuals, as calculated according to the most recent decennial census, and nonurbanized areas of the State in preparing the nonmetropolitan portions of statewide transportation plans and statewide transportation improvement programs.

"(2) CONTENTS.—The statewide transportation plan and statewide transportation improvement program developed for each State shall provide for the development and integrated management and operation of transportation systems and facilities (including accessible pedestrian walkways, bicycle transportation facilities, and intermodal facilities that support intercity transportation) that will function as—

"(A) an intermodal transportation system for the State; and

"(B) an integral part of an intermodal transportation system for the United States.

"(3) PROCESS.—The process for developing the statewide transportation plan and statewide transportation improvement program shall—

"(A) provide for consideration of all modes of transportation; and

"(B) be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation needs to be addressed.

"(b) COORDINATION AND CONSULTATION.—

"(1) IN GENERAL.—Each State shall—

"(A) coordinate planning carried out under this section with—

"(i) the transportation planning activities carried out under section 134 for metropolitan areas of the State; and

"(ii) statewide trade and economic development planning activities and related multistate planning efforts;

"(B) coordinate planning carried out under this section with the transportation planning activities carried out by each nonmetropolitan planning organization in the State, as applicable;

"(C) consult on planning carried out under this section with the transportation planning activities carried out by each rural planning organization in the State, as applicable; and

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

"(2) MULTISTATE AREAS.—

"(A) IN GENERAL.—The Secretary shall encourage each Governor with responsibility for a portion of a multistate metropolitan planning area and the appropriate metropolitan planning organizations to provide coordinated transportation planning for the entire metropolitan area.

"(B) COORDINATION ALONG DESIGNATED TRANSPORTATION CORRIDORS.—The Secretary shall encourage each Governor with responsibility for a portion of a multistate transportation corridor to provide coordinated transportation planning for the entire designated corridor.

"(C) INTERSTATE COMPACTS.—For purposes of this section, any 2 or more States—

"(i) may enter into compacts, agreements, or organizations not in conflict with any Federal law for cooperative efforts and mutual assistance in support of activities authorized under this section, as the activities relate to interstate areas and localities within the States;

"(ii) may establish such agencies (joint or otherwise) as the States determine to be appropriate for ensuring the effectiveness of the agreements and compacts; and

"(iii) are encouraged to enter into such compacts, agreements, or organizations as are appropriate to develop planning documents in support of intercity or multistate area projects, facilities, and services, the relevant components of which shall be reflected in statewide transportation improvement programs and statewide transportation plans.

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

"(c) RELATIONSHIP WITH OTHER PLANNING OFFICIALS.—

"(1) IN GENERAL.—The Secretary shall encourage each State to cooperate with Federal, tribal, State, and local officers and entities responsible for other types of planning activities that are affected by transportation in the relevant area (including planned growth, economic development, infrastructure services, housing, other public services, environmental protection, airport operations, high-speed and intercity passenger rail, freight rail, port access, and freight movements), to the maximum extent practicable, to ensure that the statewide and nonmetropolitan planning process, statewide transportation plans, and statewide transportation improvement programs are developed with due consideration for other related planning activities in the State.

"(2) INCLUSION.—Cooperation under paragraph (1) shall include the design and delivery of transportation services within the State that are provided by—

"(A) recipients of assistance under sections 202, 203, and 204;

"(B) recipients of assistance under chapter 53 of title 49;

"(C) government agencies and nonprofit organizations (including representatives of the agencies and organizations) that receive Federal assistance from a source other than the Department of Transportation to provide non-emergency transportation services; and

"(D) sponsors of regionally significant programs, projects, and services that are related to transportation and receive assistance from any public or private source.

"(d) SCOPE OF PLANNING PROCESS.—

"(1) IN GENERAL.—The statewide transportation planning process for a State under this section shall provide for consideration of projects, strategies, and services that will—

"(A) support the economic vitality of the United States, the State, nonmetropolitan areas, and metropolitan areas, especially by enabling global competitiveness, travel and tourism (where applicable), productivity, and efficiency;

"(B) increase the safety of the transportation system for motorized and nonmotorized users;

"(C) increase the security of the transportation system for motorized and nonmotorized users;

"(D) increase the accessibility and mobility of individuals and freight;

"(E) protect and enhance the environment, promote energy conservation, improve the quality of life, and promote consistency between transportation improvements and State and local planned growth and economic development patterns;

"(F) enhance the integration and connectivity of the transportation system, across and between modes, for individuals and freight;

"(G) increase efficient system management and operation; and

"(H) emphasize the preservation of the existing transportation system.

"(2) PERFORMANCE-BASED APPROACH.—

"(A) IN GENERAL.—The statewide transportation planning process shall provide for the establishment and use of a performance-based approach to transportation decisionmaking to support the national goals described in section

150(b) of this title and section 5301(c) of title 49.

"(B) SURFACE TRANSPORTATION PERFORMANCE TARGETS.—

"(i) IN GENERAL.—Each State shall establish performance targets that address the performance measures described in sections 119(f), 148(h), and 167(i) to use in tracking attainment of critical outcomes for the region of the State.

"(ii) COORDINATION.—Selection of performance targets by a State shall be coordinated with relevant metropolitan planning organizations to ensure consistency, to the maximum extent practicable.

"(C) PUBLIC TRANSPORTATION PERFORMANCE TARGETS.—For providers of public transportation operating in urbanized areas with a population of fewer than 200,000 individuals, as calculated according to the most recent decennial census, and not represented by a metropolitan planning organization, each State shall adopt the performance targets identified by such providers of public transportation pursuant to sections 5326(c) and 5329(d) of title 49

for use in tracking attainment of critical outcomes for the region of the metropolitan planning organization.

"(D) INTEGRATION OF OTHER PERFORMANCE-BASED PLANS.—A State shall integrate into the statewide transportation planning process, directly or by reference, the goals, objectives, performance measures, and performance targets described in this paragraph in other State plans and processes, and asset management and safety plans developed by providers of public transportation in urbanized areas with a population of fewer than 200,000 individuals, as calculated according to the most recent decennial census, and not represented by a metropolitan planning organization, required as part of a performance-based program, including plans such as—

"(i) the State National Highway System asset management plan;

"(ii) asset management plans developed by providers of public transportation;

"(iii) the State strategic highway safety plan;

"(iv) a congestion mitigation and air quality performance plan developed under section 149(k) by a tier I metropolitan planning organization (as defined in section 134) representing a nonattainment or maintenance area;

"(v) safety plans developed by providers of public transportation; and

"(vi) the national freight strategic plan.

"(E) USE OF PERFORMANCE MEASURES AND TARGETS.—The performance measures and targets established under this paragraph shall be used, at a minimum, by a State as the basis for development of policies, programs, and investment priorities reflected in the statewide transportation plan and statewide transportation improvement program.

"(3) FAILURE TO CONSIDER FACTORS.—The failure to take into consideration 1 or more of the factors specified in paragraphs (1) and (2) shall not be subject to review by any court under this title, chapter 53 of title 49, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a statewide transportation plan, a statewide trans-

portation improvement program, a project or strategy, or the certification of a planning process.

"(4) PARTICIPATION BY INTERESTED PARTIES.—

"(A) IN GENERAL.—Each State shall provide to—

"(i) nonmetropolitan local elected officials an opportunity to participate in accordance with subparagraph (B)(i); and

"(ii) affected individuals, public agencies, and other interested parties notice and a reasonable opportunity to comment on the statewide transportation plan and statewide transportation improvement program.

"(B) METHODS.—In carrying out this paragraph, the State shall—

"(i) develop and document a consultative process to carry out subparagraph (A)(i) that is separate and discrete from the public involvement process developed under clause (ii);

"(ii) develop the statewide transportation plan and statewide transportation improvement program in consultation with

interested parties, as appropriate, including by the formation of advisory groups representative of the State and interested parties that participate in the development of the statewide transportation plan and statewide transportation improvement program;

"(iii) hold any public meetings at times and locations that are, as applicable—

"(I) convenient; and

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

"(iv) employ visualization techniques to describe statewide transportation plans and statewide transportation improvement programs; and

"(v) make public information available in appropriate electronically accessible formats and means, such as the Internet, to afford reasonable opportunity for consideration of public information under subparagraph (A).

"(e) COORDINATION AND CONSULTATION.—

"(1) METROPOLITAN AREAS.—

"(A) IN GENERAL.—Each State shall develop a statewide transportation plan and statewide transportation improvement program for each metropolitan area in the State by incorporating, without change or by reference, at a minimum, as prepared by each metropolitan planning organization designated for the metropolitan area under section 134—

"(i) all regionally significant projects to be carried out during the 10-year period beginning on the effective date of the relevant existing metropolitan transportation plan; and

"(ii) all projects to be carried out during the 4-year period beginning on the effective date of the relevant transportation improvement program.

"(B) PROJECTED COSTS.—Each metropolitan planning organization shall provide to each applicable State a description of the projected costs of implementing the projects included in the metropolitan transportation plan of the metropolitan planning organization for purposes

of metropolitan financial planning and fiscal constraint.

"(2) NONMETROPOLITAN AREAS.—With respect to nonmetropolitan areas in a State, the statewide transportation plan and statewide transportation improvement program of the State shall be developed in consultation with affected nonmetropolitan local officials with responsibility for transportation, including providers of public transportation.

"(3) INDIAN TRIBAL AREAS.—With respect to each area of a State under the jurisdiction of an Indian tribe, the statewide transportation plan and statewide transportation improvement program of the State shall be developed in consultation with—

"(A) the tribal government; and

"(B) the Secretary of the Interior.

"(4) FEDERAL LAND MANAGEMENT AGENCIES.—With respect to each area of a State under the jurisdiction of a Federal land management agency, the statewide transportation plan and statewide transportation improvement program of the State shall be developed in consultation with the relevant Federal land management agency.

"(5) CONSULTATION, COMPARISON, AND CONSIDERATION.—

"(A) IN GENERAL.—A statewide transportation plan shall be developed, as appropriate, in consultation with Federal, tribal, State, and local agencies responsible for land use management, natural resources, infrastructure permitting, environmental protection, conservation, and historic preservation.

"(B) COMPARISON AND CONSIDERATION.—Consultation under subparagraph (A) shall involve the comparison of statewide transportation plans to, as available—

"(i) Federal, tribal, State, and local conservation plans or maps; and

"(ii) inventories of natural or historic resources.

"(f) STATEWIDE TRANSPORTATION PLAN.—

"(1) DEVELOPMENT.—

"(A) IN GENERAL.—Each State shall develop a statewide transportation plan, the forecast period of which shall be not less than 20 years for all areas of the State, that provides for the development and implementation of the intermodal transportation system of the State.

"(B) INITIAL PERIOD.—A statewide transportation plan shall include, at a minimum, for

the first 10-year period of the statewide transportation plan, the identification of existing and future transportation facilities that will function as an integrated statewide transportation system, giving emphasis to those facilities that serve important national, statewide, and regional transportation functions.

"(C) SUBSEQUENT PERIOD.—For the second 10-year period of the statewide transportation plan (referred to in this subsection as the 'outer years period'), a statewide transportation plan—

"(i) may include identification of future transportation facilities; and

"(ii) shall describe the policies and strategies that provide for the development and implementation of the intermodal transportation system of the State.

"(D) OTHER REQUIREMENTS.—A statewide transportation plan shall—

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

"(I) the projected aggregate cost of projects anticipated by a State to be implemented; and

"(II) the revenues necessary to support the projects;

"(ii) include, in such form as the Secretary determines to be appropriate, a description of—

"(I) the existing transportation infrastructure, including an identification of highways, local streets and roads, bicycle and pedestrian facilities, public transportation facilities and services, commuter rail facilities and services, high-speed and intercity passenger rail facilities and services, freight facilities (including freight railroad and port facilities), multimodal and intermodal facilities, and intermodal connectors that, evaluated in the aggregate, function as an integrated transportation system;

"(II) the performance measures and performance targets used in assessing the existing and future per-

formance of the transportation system described in subsection (d)(2);

"(III) the current and projected future usage of the transportation system, including, to the maximum extent practicable, an identification of existing or planned transportation rights-of-way, corridors, facilities, and related real properties;

"(IV) a system performance report evaluating the existing and future condition and performance of the transportation system with respect to the performance targets described in subsection (d)(2) and updates to subsequent system performance reports, including—

"(aa) progress achieved by the State in meeting performance targets, as compared to system performance recorded in previous reports; and

"(bb) an accounting of the performance by the State on outlay of obligated project funds and

delivery of projects that have reached substantial completion, in relation to the projects currently on the statewide transportation improvement program and those projects that have been removed from the previous statewide transportation improvement program;

''(V) recommended strategies and investments for improving system performance over the planning horizon, including transportation systems management and operations strategies, maintenance strategies, demand management strategies, asset management strategies, capacity and enhancement investments, land use improvements, intelligent transportation systems deployment and technology adoption strategies as determined by the projected support of performance targets described in subsection (d)(2);

''(VI) recommended strategies and investments to improve and inte-

grate disability-related access to transportation infrastructure;

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

"(VIII) a description of interstate compacts entered into in order to promote coordinated transportation planning in multistate areas, if applicable;

"(IX) an optional illustrative list of projects containing investments that—

"(aa) are not included in the statewide transportation plan; but

"(bb) would be so included if resources in addition to the resources identified in the financial plan under paragraph (2) were available;

"(X) a discussion (developed in consultation with Federal, State, and tribal wildlife, land management, and regulatory agencies) of types of potential environmental and stormwater mitigation activities and potential areas to carry out those activities, including activities that may have the greatest potential to restore and maintain the environmental functions affected by the statewide transportation plan; and

"(XI) recommended strategies and investments, including those developed by the State as part of interstate compacts, agreements, or organizations, that support intercity transportation; and

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

"(2) FINANCIAL PLAN.—A financial plan referred to in paragraph (1)(D)(ii)(VII) shall—

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

"(B) contain a description of each of the following:

"(i) Projected resource requirements during the 20-year planning horizon for implementing projects, strategies, and services recommended in the statewide transportation plan, including existing and projected system operating and maintenance needs, proposed enhancement and expansions to the system, projected available revenue from Federal, State, local, and private sources, and innovative financing techniques to finance projects and programs.

"(ii) The projected difference between costs and revenues, and strategies for securing additional new revenue (such as by capture of some of the economic value created by any new investment).

"(iii) Estimates of future funds, to be developed cooperatively by the State, any public transportation agency, and relevant metropolitan planning organizations, that are reasonably expected to be available to support the investment priorities rec-

ommended in the statewide transportation plan.

"(iv) Each applicable project, only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

"(v) For the outer years period of the statewide transportation plan, a description of the aggregate cost ranges or bands, subject to the condition that any future funding source shall be reasonably expected to be available to support the projected cost ranges or bands.

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

"(4) PUBLICATION.—A statewide transportation plan involving Federal and non-Federal participation programs, projects, and strategies shall be

published or otherwise made readily available by the State for public review, including (to the maximum extent practicable) in electronically accessible formats and means, such as the Internet, in such manner as the Secretary shall require.

"(5) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—Notwithstanding paragraph (2), a State shall not be required to select any project from the illustrative list of additional projects included in the statewide transportation plan under paragraph (1)(D)(ii)(IX).

"(6) USE OF POLICY PLANS.—Notwithstanding any other provision of this section, a State that has in effect, as of the date of enactment of the MAP–21, a statewide transportation plan that follows a policy plan approach—

"(A) may, for 4 years after the date of enactment of the MAP–21, continue to use a policy plan approach to the statewide transportation plan; and

"(B) shall be subject to the requirements of this subsection only to the extent that such requirements were applicable under this section (as in effect on the day before the date of enactment of the MAP–21).

"(g) STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAMS.—

"(1) DEVELOPMENT.—

"(A) IN GENERAL.—In consultation with nonmetropolitan officials with responsibility for transportation and affected public transportation operators, the State shall develop a statewide transportation improvement program for the State that—

"(i) includes projects consistent with the statewide transportation plan;

"(ii) reflects the investment priorities established in the statewide transportation plan; and

"(iii) once implemented, makes significant progress toward achieving the performance targets described in subsection (d)(2).

"(B) OPPORTUNITY FOR PARTICIPATION.—In developing a statewide transportation improvement program, the State, in cooperation with affected public transportation operators, shall provide an opportunity for participation by interested parties (including State representatives of nonmotorized users) in the development

of the statewide transportation improvement program, in accordance with subsection (e).

"(C) OTHER REQUIREMENTS.—

"(i) IN GENERAL.—A statewide transportation improvement program shall—

"(I) cover a period of not less than 4 years; and

"(II) be updated not less frequently than once every 4 years, or more frequently, as the Governor determines to be appropriate.

"(ii) INCORPORATION OF TIPS.—A statewide transportation improvement program shall incorporate any relevant transportation improvement program developed by a metropolitan planning organization under section 134, without change.

"(iii) PROJECTS.—Each project included in a statewide transportation improvement program shall be—

"(I) consistent with the statewide transportation plan developed under this section for the State;

"(II) identical to a project or phase of a project described in a rel-

evant transportation improvement program; and

"(III) for any project located in a nonattainment area or maintenance area, carried out in accordance with the applicable State air quality implementation plan developed under the Clean Air Act (42 U.S.C. 7401 et seq.).

"(2) CONTENTS.—

"(A) PRIORITY LIST.—A statewide transportation improvement program shall include a priority list of proposed federally supported projects and strategies, to be carried out during the 4-year period beginning on the date of adoption of the statewide transportation improvement program, and during each 4-year period thereafter, using existing and reasonably available revenues in accordance with the financial plan under paragraph (3).

"(B) DESCRIPTIONS.—Each project or phase of a project included in a statewide transportation improvement program shall include sufficient descriptive material (such as type of

work, termini, length, estimated completion date, and other similar factors) to identify—

"(i) the project or project phase; and

"(ii) the effect that the project or project phase will have in addressing the performance targets described in subsection (d)(2).

"(C) PERFORMANCE TARGET ACHIEVEMENT.—A statewide transportation improvement program shall include, to the maximum extent practicable, a discussion of the anticipated effect of the statewide transportation improvement program toward achieving the performance targets established in the statewide transportation plan, linking investment priorities to those performance targets.

"(D) ILLUSTRATIVE LIST OF PROJECTS.—An optional illustrative list of projects may be prepared containing additional investment priorities that—

"(i) are not included in the statewide transportation improvement program; but

"(ii) would be so included if resources in addition to the resources identified in

the financial plan under paragraph (3) were available.

"(3) FINANCIAL PLAN.—A financial plan referred to in paragraph (2)(D)(ii) shall—

"(A) be prepared by each State to support the statewide transportation improvement program; and

"(B) contain a description of each of the following:

"(i) Projected resource requirements for implementing projects, strategies, and services recommended in the statewide transportation improvement program, including existing and projected system operating and maintenance needs, proposed enhancement and expansions to the system, projected available revenue from Federal, State, local, and private sources, and innovative financing techniques to finance projects and programs.

"(ii) The projected difference between costs and revenues, and strategies for securing additional new revenue (such as by capture of some of the economic value created by any new investment).

"(iii) Estimates of future funds, to be developed cooperatively by the State and relevant metropolitan planning organizations and public transportation agencies, that are reasonably expected to be available to support the investment priorities recommended in the statewide transportation improvement program.

"(iv) Each applicable project, only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

"(4) INCLUDED PROJECTS.—

"(A) PROJECTS UNDER THIS TITLE AND CHAPTER 53 OF TITLE 49.—A statewide transportation improvement program developed under this subsection for a State shall include the projects within the State that are proposed for funding under chapter 1 of this title and chapter 53 of title 49.

"(B) PROJECTS UNDER CHAPTER 2.—

"(i) REGIONALLY SIGNIFICANT.—Each regionally significant project proposed for funding under chapter 2 shall be

identified individually in the statewide transportation improvement program.

"(ii) NONREGIONALLY SIGNIFICANT.—A description of each project proposed for funding under chapter 2 that is not determined to be regionally significant shall be contained in 1 line item or identified individually in the statewide transportation improvement program.

"(5) PUBLICATION.—

"(A) IN GENERAL.—A statewide transportation improvement program shall be published or otherwise made readily available by the State for public review in electronically accessible formats and means, such as the Internet.

"(B) ANNUAL LIST OF PROJECTS.—An annual list of projects, including investments in pedestrian walkways, bicycle transportation facilities, and intermodal facilities that support intercity transportation, for which Federal funds have been obligated during the preceding fiscal year shall be published or otherwise made available by the cooperative effort of the State, public transportation operator, and relevant metropolitan planning organizations in elec-

tronically accessible formats and means, such as the Internet, in a manner that is consistent with the categories identified in the relevant statewide transportation improvement program.

"(6) PROJECT SELECTION FOR URBANIZED AREAS WITH POPULATIONS OF FEWER THAN 200,000 NOT REPRESENTED BY DESIGNATED MPOS.—Projects carried out in urbanized areas with populations of fewer than 200,000 individuals, as calculated according to the most recent decennial census, and that are not represented by designated metropolitan planning organizations, shall be selected, from the approved statewide transportation improvement program (including projects carried out on the National Highway System and other projects carried out under this title or under sections 5310 and 5311 of title 49) by the State, in cooperation with the affected nonmetropolitan planning organization, if any exists, and in consultation with the affected nonmetropolitan area local officials with responsibility for transportation.

"(7) APPROVAL BY SECRETARY.—

"(A) IN GENERAL.—Not less frequently than once every 4 years, a statewide transportation improvement program developed under

this subsection shall be reviewed and approved by the Secretary, based on the current planning finding of the Secretary under subparagraph (B).

"(B) PLANNING FINDING.—The Secretary shall make a planning finding referred to in subparagraph (A) not less frequently than once every 5 years regarding whether the transportation planning process through which statewide transportation plans and statewide transportation improvement programs are developed is consistent with this section and section 134.

"(8) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, approval by the Secretary shall not be required to carry out a project included in an approved statewide transportation improvement program in place of another project in the statewide transportation improvement program.

"(h) CERTIFICATION.—

"(1) IN GENERAL.—The Secretary shall—

"(A) ensure that the statewide transportation planning process of a State is being carried out in accordance with this section and ap-

plicable Federal law (including rules and regulations); and

"(B) subject to paragraph (2), certify, not later than 180 days after the date of enactment of the MAP–21 and not less frequently than once every 5 years thereafter, that the requirements of subparagraph (A) are met with respect to the statewide transportation planning process.

"(2) REQUIREMENTS FOR CERTIFICATION.—The Secretary may make a certification under paragraph (1)(B) if—

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

"(B) a statewide transportation improvement program for the State has been approved by the Governor of the State.

"(3) EFFECT OF FAILURE TO CERTIFY.—

"(A) WITHHOLDING OF PROJECT FUNDS.—If a statewide transportation planning process of a State is not certified under paragraph (1), the Secretary may withhold up to 20 percent of the funds attributable to the State

for projects funded under this title and chapter 53 of title 49.

"(B) RESTORATION OF WITHHELD FUNDS.—Any funds withheld under subparagraph (A) shall be restored to the State on the date of certification of the statewide transportation planning process by the Secretary.

"(4) PUBLIC INVOLVEMENT.—In making a determination regarding certification under this subsection, the Secretary shall provide for public involvement appropriate to the State under review.

"(i) PERFORMANCE-BASED PLANNING PROCESSES EVALUATION.—

"(1) IN GENERAL.—The Secretary shall establish criteria to evaluate the effectiveness of the performance-based planning processes of States, taking into consideration the following:

"(A) The extent to which the State has achieved, or is currently making substantial progress toward achieving, the performance targets described in subsection (d)(2), taking into account whether the State developed meaningful performance targets.

"(B) The extent to which the State has used proven best practices that help ensure

transportation investment that is efficient and cost-effective.

"(C) The extent to which the State—

"(i) has developed an investment process that relies on public input and awareness to ensure that investments are transparent and accountable; and

"(ii) provides regular reports allowing the public to access the information being collected in a format that allows the public to meaningfully assess the performance of the State.

"(2) REPORT.—

"(A) IN GENERAL.—Not later than 5 years after the date of enactment of the MAP–21, the Secretary shall submit to Congress a report evaluating—

"(i) the overall effectiveness of performance-based planning as a tool for guiding transportation investments; and

"(ii) the effectiveness of the performance-based planning process of each State.

"(B) PUBLICATION.—The report under subparagraph (A) shall be published or other-

wise made available in electronically accessible formats and means, including on the Internet.

"(j) FUNDING.—Funds apportioned under section 104(b)(6) of this title and set aside under section 5305(g) of title 49 shall be available to carry out this section.

"(k) CONTINUATION OF CURRENT REVIEW PRACTICE.—

"(1) IN GENERAL.—In consideration of the factors described in paragraph (2), any decision by the Secretary concerning a statewide transportation plan or statewide transportation improvement program shall not be considered to be a Federal action subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

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

"(A) statewide transportation plans and statewide transportation improvement programs are subject to a reasonable opportunity for public comment;

"(B) the projects included in statewide transportation plans and statewide transportation improvement programs are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

"(C) decisions by the Secretary concerning statewide transportation plans and statewide transportation improvement programs have not been reviewed under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) as of January 1, 1997.

"(l) SCHEDULE FOR IMPLEMENTATION.—The Secretary shall issue guidance on a schedule for implementation of the changes made by this section, taking into consideration the established planning update cycle for States. The Secretary shall not require a State to deviate from its established planning update cycle to implement changes made by this section. States shall reflect changes made to their transportation plan or transportation improvement program updates not later than 2 years after the date of issuance of guidance by the Secretary under this subsection.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 135 and inserting the following:

"135. Statewide and nonmetropolitan transportation planning.".

**SEC. 1203. NATIONAL GOALS.**

(a) IN GENERAL.—Section 150 of title 23, United States Code, is amended to read as follows:

**"§ 150. National goals**

"(a) DECLARATION OF POLICY.—Performance management will transform the Federal-aid highway program and provide a means to the most efficient investment of Federal transportation funds by refocusing on national transportation goals, increasing the accountability and transparency of the Federal-aid highway program, and improving project decisionmaking through performance-based planning and programming.

"(b) NATIONAL GOALS.—It is in the interest of the United States to focus the Federal-aid highway program on the following national goals:

"(1) SAFETY.—To achieve a significant reduction in traffic fatalities and serious injuries on all public roads.

"(2) INFRASTRUCTURE CONDITION.—To maintain the highway infrastructure asset system in a state of good repair.

"(3) SYSTEM RELIABILITY.—To improve the efficiency of the surface transportation system.

"(4) FREIGHT MOVEMENT AND ECONOMIC VITALITY.—To improve the national freight network, strengthen the ability of rural communities to access national and international trade markets, and support regional economic development.

"(5) ENVIRONMENTAL SUSTAINABILITY.—To enhance the performance of the transportation system while protecting and enhancing the natural environment.

"(6) REDUCED PROJECT DELIVERY DELAYS.—To reduce project costs, promote jobs and the economy, and expedite the movement of people and goods by accelerating project completion through eliminating delays in the project development and delivery process, including reducing regulatory burdens and improving agencies' work practices.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 150 and inserting the following:

"150. National goals.".

# Subtitle C—Acceleration of Project Delivery

**SEC. 1301. PROJECT DELIVERY INITIATIVE.**

(a) DECLARATION OF POLICY.—It is the policy of the United States that—

(1) it is in the national interest for the Department, State departments of transportation, transit agencies, and all other recipients of Federal transportation funds—

(A) to accelerate project delivery and reduce costs; and

(B) to ensure that the planning, design, engineering, construction, and financing of transportation projects is done in an efficient and effective manner, promoting accountability for public investments and encouraging greater private sector involvement in project financing and delivery while enhancing safety and protecting the environment;

(2) delay in the delivery of transportation projects increases project costs, harms the economy of the United States, and impedes the travel of the people of the United States and the shipment of goods for the conduct of commerce; and

(3) the Secretary shall identify and promote the deployment of innovation aimed at reducing the time and money required to deliver transportation projects while enhancing safety and protecting the environment.

(b) ESTABLISHMENT OF INITIATIVE.—

(1) IN GENERAL.—To advance the policy described in subsection (a), the Secretary shall carry out a project delivery initiative under this section.

(2) PURPOSES.—The purposes of the project delivery initiative shall be—

(A) to develop and advance the use of best practices to accelerate project delivery and reduce costs across all modes of transportation and expedite the deployment of technology and innovation;

(B) to implement provisions of law designed to accelerate project delivery; and

(C) to select eligible projects for applying experimental features to test innovative project delivery techniques.

(3) ADVANCING THE USE OF BEST PRACTICES.—

(A) IN GENERAL.—In carrying out the initiative under this section, the Secretary shall identify and advance best practices to reduce delivery time and project costs, from planning through construction, for transportation projects and programs of projects regardless of mode and project size.

(B) ADMINISTRATION.—To advance the use of best practices, the Secretary shall—

(i) engage interested parties, affected communities, resource agencies, and other

stakeholders to gather information regarding opportunities for accelerating project delivery and reducing costs;

(ii) establish a clearinghouse for the collection, documentation, and advancement of existing and new innovative approaches and best practices;

(iii) disseminate information through a variety of means to transportation stakeholders on new innovative approaches and best practices; and

(iv) provide technical assistance to assist transportation stakeholders in the use of flexibility authority to resolve project delays and accelerate project delivery if feasible.

(4) IMPLEMENTATION OF ACCELERATED PROJECT DELIVERY.—The Secretary shall ensure that the provisions of this subtitle designed to accelerate project delivery are fully implemented, including—

(A) expanding eligibility of early acquisition of property prior to completion of environmental review under the National Environ-

mental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(B) allowing the use of the construction manager or general contractor method of contracting in the Federal-aid highway system; and

(C) establishing a demonstration program to streamline the relocation process by permitting a lump-sum payment for acquisition and relocation if elected by the displaced occupant.

**SEC. 1302. CLARIFIED ELIGIBILITY FOR EARLY ACQUISITION ACTIVITIES PRIOR TO COMPLETION OF NEPA REVIEW.**

(a) IN GENERAL.—The acquisition of real property in anticipation of a federally assisted or approved surface transportation project that may use the property shall not be prohibited prior to the completion of reviews of the surface transportation project under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) if the acquisition does not—

(1) have an adverse environmental effect; or

(2)(A) limit the choice of reasonable alternatives for the proposed project; or

(B) prevent the lead agency from making an impartial decision as to whether to select an alter-

native that is being considered during the environmental review process.

(b) EARLY ACQUISITION OF REAL PROPERTY INTERESTS FOR HIGHWAYS.—Section 108 of title 23, United States Code, is amended—

(1) in the section heading by inserting "**interests**" after "**real property**";

(2) in subsection (a) by inserting "interests" after "real property" each place it appears; and

(3) in subsection (c)—

(A) in the subsection heading by striking "RIGHTS-OF-WAY" and inserting "REAL PROPERTY INTERESTS";

(B) in paragraph (1)—

(i) in the matter preceding subparagraph (A) by inserting "at any time" after "may be used"; and

(ii) in subparagraph (A)—

(I) by striking "rights-of-way" the first place it appears and inserting "real property interests"; and

(II) by striking ", if the rights-of-way are subsequently incorporated into a project eligible for surface transportation program funds"; and

(C) by striking paragraph (2) and inserting the following:

"(2) TERMS AND CONDITIONS.—

"(A) ACQUISITION OF REAL PROPERTY INTERESTS.—

"(i) IN GENERAL.—Subject to the other provisions of this section, prior to completion of the review process for the project required by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), a public authority may carry out acquisition of real property interests that may be used for a project.

"(ii) REQUIREMENTS.—An acquisition under clause (i) may be authorized by project agreement and is eligible for Federal-aid reimbursement as a project expense if the Secretary finds that the acquisition—

"(I) will not cause any significant adverse environmental impact;

"(II) will not limit the choice of reasonable alternatives for the project or otherwise influence the decision of

the Secretary on any approval required for the project;

"(III) does not prevent the lead agency from making an impartial decision as to whether to accept an alternative that is being considered in the environmental review process;

"(IV) is consistent with the State transportation planning process under section 135;

"(V) complies with other applicable Federal laws (including regulations);

"(VI) will be acquired through negotiation, without the threat of condemnation; and

"(VII) will not result in a reduction or elimination of benefits or assistance to a displaced person required by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.) and title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).

"(B) DEVELOPMENT.—Real property interests acquired under this subsection may not be developed in anticipation of a project until all required environmental reviews for the project have been completed.

"(C) REIMBURSEMENT.—If Federal-aid reimbursement is made for real property interests acquired early under this section and the real property interests are not subsequently incorporated into a project eligible for surface transportation funds within the time allowed by subsection (a)(2), the Secretary shall offset the amount reimbursed against funds apportioned to the State.

"(D) OTHER CONDITIONS.—The Secretary may establish such other conditions or restrictions on acquisitions as the Secretary determines to be appropriate.".

**SEC. 1303. EFFICIENCIES IN CONTRACTING.**

(a) AUTHORITY.—Section 112(b) of title 23, United States Code, is amended by adding at the end the following:

"(4) CONSTRUCTION MANAGER; GENERAL CONTRACTOR.—

"(A) PROCEDURE.—

"(i) IN GENERAL.—A contracting agency may award a 2-phase contract to a construction manager or general contractor for preconstruction and construction services.

"(ii) PRECONSTRUCTION PHASE.—In the preconstruction phase of a contract under this subparagraph, the construction manager shall provide the contracting agency with advice relating to scheduling, work sequencing, cost engineering, constructability, cost estimating, and risk identification.

"(iii) AGREEMENT TO PRICE.—

"(I) IN GENERAL.—Prior to the start of the second phase of a contract under this subparagraph, the owner and the construction manager may agree to a price for the construction of the project or a portion of the project.

"(II) RESULT.—If an agreement is reached, the construction manager shall become the general contractor

for the construction of the project at the negotiated schedule and price.

"(B) SELECTION.—A contract shall be awarded to a construction manager or general contractor under this paragraph using a competitive selection process under which the contract is awarded on the basis of—

"(i) qualifications;

"(ii) experience;

"(iii) best value; or

"(iv) any other combination of factors considered appropriate by the contracting agency.

"(C) TIMING.—

"(i) IN GENERAL.—Prior to the completion of the environmental review process required under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332), a contracting agency may issue requests for proposals, proceed with the award of the first phase of construction manager or general contractor contract, and issue notices to proceed with preliminary design, to the extent that those

actions do not limit any reasonable range of alternatives.

"(ii) NEPA PROCESS.—

"(I) IN GENERAL.—A contracting agency shall not proceed with the award of the second phase, and shall not proceed, or permit any consultant or contractor to proceed, with final design or construction until completion of the environmental review process required under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

"(II) REQUIREMENT.—The Secretary shall require that a contract include appropriate provisions to ensure achievement of the objectives of section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) and compliance with other applicable Federal laws and regulations occurs.

"(iii) SECRETARIAL APPROVAL.—Prior to authorizing construction activities, the Secretary shall approve—

"(I) the estimate of the contracting agency for the entire project; and

"(II) any price agreement with the general contractor for the project or a portion of the project.

"(iv) TERMINATION PROVISION.—The Secretary shall require a contract to include an appropriate termination provision in the event that a no-build alternative is selected.".

(b) REGULATIONS.—The Secretary shall promulgate such regulations as are necessary to carry out the amendment made by subsection (a).

(c) EFFECT ON EXPERIMENTAL PROGRAM.—Nothing in this section or the amendment made by this section affects the authority to carry out, or any project carried out under, any experimental program concerning construction manager risk that is being carried out by the Secretary as of the date of enactment of this Act.

**SEC. 1304. INNOVATIVE PROJECT DELIVERY METHODS.**

(a) DECLARATION OF POLICY.—

(1) IN GENERAL.—Congress declares that it is in the national interest to promote the use of innovative technologies and practices that increase the

efficiency of construction of, improve the safety of, and extend the service life of highways and bridges.

(2) INCLUSIONS.—The innovative technologies and practices described in paragraph (1) include state-of-the-art intelligent transportation system technologies, elevated performance standards, and new highway construction business practices that improve highway safety and quality, accelerate project delivery, and reduce congestion related to highway construction.

(b) FEDERAL SHARE.—Section 120(c) of title 23, United States Code, is amended by adding at the end the following:

"(3) INNOVATIVE PROJECT DELIVERY.—

"(A) IN GENERAL.—Except as provided in subparagraph (C), the Federal share payable on account of a project or activity carried out with funds apportioned under paragraph (1), (2), or (5) of section 104(b) may, at the discretion of the State, be up to 100 percent for any such project, program, or activity that the Secretary determines—

"(i) contains innovative project delivery methods that improve work zone safety

for motorists or workers and the quality of the facility;

"(ii) contains innovative technologies, manufacturing processes, financing, or contracting methods that improve the quality, extend the service life, or decrease the long-term costs of maintaining highways and bridges;

"(iii) accelerates project delivery while complying with other applicable Federal laws (including regulations) and not causing any significant adverse environmental impact; or

"(iv) reduces congestion related to highway construction.

"(B) EXAMPLES.—Projects, programs, and activities described in subparagraph (A) may include the use of—

"(i) prefabricated bridge elements and systems and other technologies to reduce bridge construction time;

"(ii) innovative construction equipment, materials, or techniques, including the use of in-place recycling technology

and digital 3-dimensional modeling technologies;

"(iii) innovative contracting methods, including the design-build and the construction manager-general contractor contracting methods;

"(iv) intelligent compaction equipment; or

"(v) contractual provisions that offer a contractor an incentive payment for early completion of the project, program, or activity, subject to the condition that the incentives are accounted for in the financial plan of the project, when applicable.

"(C) LIMITATIONS.—

"(i) IN GENERAL.—In each fiscal year, a State may use the authority under subparagraph (A) for up to 10 percent of the combined apportionments of the State under paragraphs (1), (2), and (5) of section 104(b).

"(ii) FEDERAL SHARE INCREASE.—The Federal share payable on account of a project or activity described in subpara-

graph (A) may be increased by up to 5 percent of the total project cost.''.

**SEC. 1305. ASSISTANCE TO AFFECTED STATE AND FEDERAL AGENCIES.**

Section 139(j) of title 23, United States Code, is amended by adding at the end the following:

''(6) MEMORANDUM OF UNDERSTANDING.—Prior to providing funds approved by the Secretary for dedicated staffing at an affected Federal agency under paragraphs (1) and (2), the affected Federal agency and the State agency shall enter into a memorandum of understanding that establishes the projects and priorities to be addressed by the use of the funds.''.

**SEC. 1306. APPLICATION OF CATEGORICAL EXCLUSIONS FOR MULTIMODAL PROJECTS.**

(a) IN GENERAL.—Section 304 of title 49, United States Code, is amended to read as follows:

**''§ 304. Application of categorical exclusions for multimodal projects**

''(a) DEFINITIONS.—In this section:

''(1) COOPERATING AUTHORITY.—The term 'cooperating authority' means a Department of Transportation operating authority that is not the lead authority.

"(2) LEAD AUTHORITY.—The term 'lead authority' means a Department of Transportation operating administration or secretarial office that—

"(A) is the lead authority over a proposed multimodal project; and

"(B) has determined that the components of the project that fall under the modal expertise of the lead authority—

"(i) satisfy the conditions for a categorical exclusion under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) implementing regulations or procedures of the lead authority; and

"(ii) do not require the preparation of an environmental assessment or an environmental impact statement under that Act.

"(3) MULTIMODAL PROJECT.—The term 'multimodal project' has the meaning given the term in section 139(a) of title 23.

"(b) EXERCISE OF AUTHORITIES.—The authorities granted in this section may be exercised for a multimodal project, class of projects, or program of projects that are carried out under this title.

"(c) APPLICATION OF CATEGORICAL EXCLUSIONS FOR MULTIMODAL PROJECTS.—When considering the environmental impacts of a proposed multimodal project, a lead authority may apply a categorical exclusion designated under the implementing regulations or procedures of a cooperating authority for other components of the project, on the conditions that—

"(1) the multimodal project is funded under 1 grant agreement administered by the lead authority;

"(2) the multimodal project has components that require the expertise of a cooperating authority to assess the environmental impacts of the components;

"(3) the component of the project to be covered by the categorical exclusion of the cooperating authority has independent utility;

"(4) the cooperating authority, in consultation with the lead authority, follows National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) implementing regulations or procedures and determines that a categorical exclusion under that Act applies to the components; and

"(5) the lead authority has determined that—

"(A) the project, using the categorical exclusions of the lead and cooperating authorities,

1 does not individually or cumulatively have a sig-
2 nificant impact on the environment; and
3 ''(B) extraordinary circumstances do not
4 exist that merit further analysis and docu-
5 mentation in an environmental impact state-
6 ment or environmental assessment required
7 under the National Environmental Policy Act of
8 1969 (42 U.S.C. 4321 et seq.).
9 ''(d) MODAL COOPERATION.—
10 ''(1) IN GENERAL.—A cooperating authority
11 shall provide modal expertise to a lead authority
12 with administrative authority over a multimodal
13 project on such aspects of the project in which the
14 cooperating authority has expertise.
15 ''(2) USE OF CATEGORICAL EXCLUSION.—In a
16 case described in paragraph (1), the 1 or more cat-
17 egorical exclusions of a cooperating authority may be
18 applied by the lead authority once the cooperating
19 authority reviews the project on behalf of the lead
20 authority and determines the project satisfies the
21 conditions for a categorical exclusion under the Na-
22 tional Environmental Policy Act of 1969 (42 U.S.C.
23 4321 et seq.) implementing regulations or proce-
24 dures of the cooperating authority and this sec-
25 tion.''.

(b) CONFORMING AMENDMENT.—The item relating to section 304 in the analysis for title 49, United States Code, is amended to read as follows:

"304. Application of categorical exclusions for multimodal projects.".

**SEC. 1307. STATE ASSUMPTION OF RESPONSIBILITIES FOR CATEGORICAL EXCLUSIONS.**

Section 326 of title 23, United States Code, is amended—

(1) by striking subsection (d) and inserting the following:

"(d) TERMINATION.—

"(1) TERMINATION BY THE SECRETARY.—The Secretary may terminate any assumption of responsibility under a memorandum of understanding on a determination that the State is not adequately carrying out the responsibilities assigned to the State.

"(2) TERMINATION BY THE STATE.—The State may terminate the participation of the State in the program at any time by providing to the Secretary a notice by not later than the date that is 90 days before the date of termination, and subject to such terms and conditions as the Secretary may provide."; and

(2) by adding at the end the following:

"(f) LEGAL FEES.—A State assuming the responsibilities of the Secretary under this section for a specific

project may use funds apportioned to the State under section 104(b)(2) for attorneys fees directly attributable to eligible activities associated with the project.''.

**SEC. 1308. SURFACE TRANSPORTATION PROJECT DELIVERY PROGRAM.**

(a) IN GENERAL.—Section 327 of title 23, United States Code, is amended—

(1) in the section heading by striking ''**PILOT**'';

(2) in subsection (a)—

(A) in paragraph (1) by striking ''pilot''; and

(B) in paragraph (2)—

''(i) in subparagraph (B)—

''(I) in clause (i), by striking 'but'; and

''(II) by striking clause (ii) and inserting the following:

''(ii) at the request of the State, the Secretary may also assign to the State, and the State may assume, the responsibilities of the Secretary with respect to 1 or more railroad, public transportation, or multimodal projects within the State under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

"(iii) in a State that has assumed the responsibilities of the Secretary under clause (ii), a recipient of assistance under chapter 53 of title 49 may request that the Secretary maintain the responsibilities of the Secretary with respect to 1 or more public transportation projects within the State under the National Environmental Policy Act of 1969 (42 U.S.C. 13 4321 et seq.); but

"(iv) the Secretary may not assign—

"(I) any responsibility imposed on the Secretary by section 134 or 135; or

"(II) responsibility for any conformity determination required under section 176 of the Clean Air Act (42 U.S.C. 7506)."; and

(i) by adding at the end the following:

"(F) LEGAL FEES.—A State assuming the responsibilities of the Secretary under this section for a specific project may use funds apportioned to the State under section 104(b)(2) for attorneys fees directly attributable to eligible activities associated with the project.";

(3) in subsection (b)—

(A) by striking paragraph (1);

(B) by redesignating paragraphs (2) through (5) as paragraphs (1) through (4), respectively; and

(C) in subparagraph (A) of paragraph (3) (as so redesignated) by striking ''(2)'' and inserting ''(1)'';

(4) in subsection (c)—

(A) in paragraph (3)(D) by striking the period at the end and inserting a semicolon; and

(B) by adding at the end the following:

''(4) require the State to provide to the Secretary any information the Secretary considers necessary to ensure that the State is adequately carrying out the responsibilities assigned to the State;

''(5) require the Secretary—

''(A) after a period of 5 years, to evaluate the ability of the State to carry out the responsibility assumed under this section;

''(B) if the Secretary determines that the State is not ready to effectively carry out the responsibilities the State has assumed, to re-evaluate the readiness of the State every 3

years, or at such other frequency as the Secretary considers appropriate, after the initial 5-year evaluation, until the State is ready to assume the responsibilities on a permanent basis; and

"(C) once the Secretary determines that the State is ready to permanently assume the responsibilities of the Secretary, not to require any further evaluations; and

"(6) require the State to provide the Secretary with any information, including regular written reports, as the Secretary may require in conducting evaluations under paragraph (5).";

(5) by striking subsection (g);

(6) by redesignating subsections (h) and (i) as subsections (g) and (h), respectively; and

(7) in subsection (h) (as so redesignated)—

(A) by striking paragraph (1);

(B) by redesignating paragraph (2) as paragraph (1); and

(C) by inserting after paragraph (1) (as so redesignated) the following:

"(2) TERMINATION BY THE STATE.—The State may terminate the participation of the State in the program at any time by providing to the Secretary

a notice by not later than the date that is 90 days before the date of termination, and subject to such terms and conditions as the Secretary may provide.''.

(b) CONFORMING AMENDMENT.—The item relating to section 327 in the analysis of title 23, United States Code, is amended to read as follows:

''327. Surface transportation project delivery program.''.

**SEC. 1309. CATEGORICAL EXCLUSION FOR PROJECTS WITHIN THE RIGHT-OF-WAY.**

(a) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Secretary shall publish a notice of proposed rulemaking for a categorical exclusion that meets the definitions (as in effect on that date) of section 1508.4 of title 40, Code of Federal Regulations, and section 771.117 of title 23, Code of Federal Regulations, for a project (as defined in section 101(a) of title 23, United States Code)—

(1) that is located solely within the right-of-way of an existing highway, such as new turn lanes and bus pull-offs;

(2) that does not include the addition of a through lane or new interchange; and

(3) for which the project sponsor demonstrates that the project—

(A) is intended to improve safety, alleviate congestion, or improve air quality; or

(B) would improve or maintain pavement or structural conditions or achieve a state of good repair.

(b) NOTICE.—Not later than 60 days after the date of enactment of this Act, the Secretary shall publish a notice of proposed rulemaking to further define and implement subsection (a) within subsection (c) or (d) of section 771.117 of title 23, Code of Federal Regulations (as in effect on the date of enactment of the MAP–21).

**SEC. 1310. PROGRAMMATIC AGREEMENTS AND ADDITIONAL CATEGORICAL EXCLUSIONS.**

(a) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Secretary shall—

(1) survey the use by the Department of Transportation of categorical exclusions in transportation projects since 2005;

(2) publish a review of the survey that includes a description of—

(A) the types of actions categorically excluded; and

(B) any requests previously received by the Secretary for new categorical exclusions; and

(3) solicit requests from State departments of transportation, transit authorities, metropolitan planning organizations, or other government agencies for new categorical exclusions.

(b) NEW CATEGORICAL EXCLUSIONS.—Not later than 120 days after the date of enactment of this Act, the Secretary shall publish a notice of proposed rulemaking to propose new categorical exclusions received by the Secretary under subsection (a), to the extent that the categorical exclusions meet the criteria for a categorical exclusion under section 1508.4 of title 40, Code of Federal Regulations and section 771.117(a) of title 23, Code of Federal Regulations (as those regulations are in effect on the date of the notice).

(c) ADDITIONAL ACTIONS.—The Secretary shall issue a proposed rulemaking to move the following types of actions from subsection (d) of section 771.117 of title 23, Code of Federal Regulations (as in effect on the date of enactment of this Act), to subsection (c) of that section, to the extent that such movement complies with the criteria for a categorical exclusion under section 1508.4 of title 40, Code of Federal Regulations (as in effect on the date of enactment of this Act):

(1) Modernization of a highway by resurfacing, restoration, rehabilitation, reconstruction, adding

shoulders, or adding auxiliary lanes (including parking, weaving, turning, and climbing).

(2) Highway safety or traffic operations improvement projects, including the installation of ramp metering control devices and lighting.

(3) Bridge rehabilitation, reconstruction, or replacement or the construction of grade separation to replace existing at-grade railroad crossings.

(d) PROGRAMMATIC AGREEMENTS.—

(1) IN GENERAL.—The Secretary shall seek opportunities to enter into programmatic agreements with the States that establish efficient administrative procedures for carrying out environmental and other required project reviews.

(2) INCLUSIONS.—Programmatic agreements authorized under paragraph (1) may include agreements that allow a State to determine on behalf of the Federal Highway Administration whether a project is categorically excluded from the preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(3) DETERMINATIONS.—An agreement described in paragraph (2) may include determinations

by the Secretary of the types of projects categorically excluded (consistent with section 1508.4 of title 40, Code of Federal Regulations) in the State in addition to the types listed in subsections (c) and (d) of section 771.117 of title 23, Code of Federal Regulations (as in effect on the date of enactment of this Act).

**SEC. 1311. ACCELERATED DECISIONMAKING IN ENVIRONMENTAL REVIEWS.**

(a) IN GENERAL.—When preparing a final environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), if the lead agency makes changes in response to comments that are minor and are confined to factual corrections or explanations of why the comments do not warrant further agency response, the lead agency may write on errata sheets attached to the statement instead of rewriting the draft statement, on the condition that the errata sheets—

(1) cite the sources, authorities, or reasons that support the position of the agency; and

(2) if appropriate, indicate the circumstances that would trigger agency reappraisal or further response.

(b) INCORPORATION.—To the maximum extent practicable, the lead agency shall expeditiously develop a single

document that consists of a final environmental impact statement and a record of decision unless—

(1) the final environmental impact statement makes substantial changes to the proposed action that are relevant to environmental or safety concerns; or

(2) there are significant new circumstances or information relevant to environmental concerns and that bear on the proposed action or the impacts of the proposed action.

**SEC. 1312. MEMORANDA OF AGENCY AGREEMENTS FOR EARLY COORDINATION.**

(a) IN GENERAL.—It is the sense of Congress that—

(1) the Secretary and other Federal agencies with relevant jurisdiction in the environmental review process should cooperate with each other and other agencies on environmental review and project delivery activities at the earliest practicable time to avoid delays and duplication of effort later in the process, head off potential conflicts, and ensure that planning and project development decisions reflect environmental values; and

(2) such cooperation should include the development of policies and the designation of staff that advise planning agencies or project sponsors of studies

or other information foreseeably required for later Federal action and early consultation with appropriate State and local agencies and Indian tribes.

(b) TECHNICAL ASSISTANCE.—If requested at any time by a State or local planning agency, the Secretary and other Federal agencies with relevant jurisdiction in the environmental review process, shall, to the extent practicable and appropriate, as determined by the agencies, provide technical assistance to the State or local planning agency on accomplishing the early coordination activities described in subsection (d).

(c) MEMORANDUM OF AGENCY AGREEMENT.—If requested at any time by a State or local planning agency, the lead agency, in consultation with other Federal agencies with relevant jurisdiction in the environmental review process, may establish memoranda of agreement with the project sponsor, State, and local governments and other appropriate entities to accomplish the early coordination activities described in subsection (d).

(d) EARLY COORDINATION ACTIVITIES.—Early coordination activities shall include, to the maximum extent practicable, the following:

(1) Technical assistance on identifying potential impacts and mitigation issues in an integrated fashion.

(2) The potential appropriateness of using planning products and decisions in later environmental reviews.

(3) The identification and elimination from detailed study in the environmental review process of the issues that are not significant or that have been covered by prior environmental reviews.

(4) The identification of other environmental review and consultation requirements so that the lead and cooperating agencies may prepare, as appropriate, other required analyses and studies concurrently with planning activities.

(5) The identification by agencies with jurisdiction over any permits related to the project of any and all relevant information that will reasonably be required for the project.

(6) The reduction of duplication between requirements under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and State and local planning and environmental review requirements, unless the agencies are specifically barred from doing so by applicable law.

(7) Timelines for the completion of agency actions during the planning and environmental review processes.

(8) Other appropriate factors.

**SEC. 1313. ACCELERATED DECISIONMAKING.**

Section 139(h) of title 23, United States Code, is amended by striking paragraph (4) and inserting the following:

"(4) INTERIM DECISION ON ACHIEVING ACCELERATED DECISIONMAKING.—

"(A) IN GENERAL.—Not later than 30 days after the close of the public comment period on a draft environmental impact statement, the Secretary may convene a meeting with the project sponsor, lead agency, resource agencies, and any relevant State agencies to ensure that all parties are on schedule to meet deadlines for decisions to be made regarding the project.

"(B) DEADLINES.—The deadlines referred to in subparagraph (A) shall be those established under subsection (g), or any other deadlines established by the lead agency, in consultation with the project sponsor and other relevant agencies.

"(C) FAILURE TO ASSURE.—If the relevant agencies cannot provide reasonable assurances that the deadlines described in subparagraph (B) will be met, the Secretary may ini-

tiate the issue resolution and referral process described under paragraph (5) and before the completion of the record of decision.

"(5) ACCELERATED ISSUE RESOLUTION AND REFERRAL.—

"(A) AGENCY ISSUE RESOLUTION MEETING.—

"(i) IN GENERAL.—A Federal agency of jurisdiction, project sponsor, or the Governor of a State in which a project is located may request an issue resolution meeting to be conducted by the lead agency.

"(ii) ACTION BY LEAD AGENCY.—The lead agency shall convene an issue resolution meeting under clause (i) with the relevant participating agencies and the project sponsor, including the Governor only if the meeting was requested by the Governor, to resolve issues that could—

"(I) delay completion of the environmental review process; or

"(II) result in denial of any approvals required for the project under applicable laws.

"(iii) DATE.—A meeting requested under this subparagraph shall be held by not later than 21 days after the date of receipt of the request for the meeting, unless the lead agency determines that there is good cause to extend the time for the meeting.

"(iv) NOTIFICATION.—On receipt of a request for a meeting under this subparagraph, the lead agency shall notify all relevant participating agencies of the request, including the issue to be resolved, and the date for the meeting.

"(v) DISPUTES.—If a relevant participating agency with jurisdiction over an approval required for a project under applicable law determines that the relevant information necessary to resolve the issue has not been obtained and could not have been obtained within a reasonable time, but the lead agency disagrees, the resolution of the dispute shall be forwarded to the heads of the relevant agencies for resolution.

"(vi) CONVENTION BY LEAD AGENCY.—A lead agency may convene an issue

resolution meeting under this subsection at any time without the request of the Federal agency of jurisdiction, project sponsor, or the Governor of a State.

"(B) ELEVATION OF ISSUE RESOLUTION.—

"(i) IN GENERAL.—If issue resolution is not achieved by not later than 30 days after the date of a relevant meeting under subparagraph (A), the Secretary shall notify the lead agency, the heads of the relevant participating agencies, and the project sponsor (including the Governor only if the initial issue resolution meeting request came from the Governor) that an issue resolution meeting will be convened.

"(ii) REQUIREMENTS.—The Secretary shall identify the issues to be addressed at the meeting and convene the meeting not later than 30 days after the date of issuance of the notice.

"(C) REFERRAL OF ISSUE RESOLUTION.—

"(i) REFERRAL TO COUNCIL ON ENVIRONMENTAL QUALITY.—

"(I) IN GENERAL.—If resolution is not achieved by not later than 30 days after the date of an issue resolution meeting under subparagraph (B), the Secretary shall refer the matter to the Council on Environmental Quality.

"(II) MEETING.—Not later than 30 days after the date of receipt of a referral from the Secretary under subclause (I), the Council on Environmental Quality shall hold an issue resolution meeting with the lead agency, the heads of relevant participating agencies, and the project sponsor (including the Governor only if an initial request for an issue resolution meeting came from the Governor).

"(ii) REFERRAL TO THE PRESIDENT.—If a resolution is not achieved by not later than 30 days after the date of the meeting convened by the Council on Environmental Quality under clause (i)(II), the Secretary shall refer the matter directly to the President.

"(6) FINANCIAL TRANSFER PROVISIONS.—

"(A) IN GENERAL.—A Federal agency of jurisdiction over an approval required for a project under applicable laws shall complete any required approval on an expeditious basis using the shortest existing applicable process.

"(B) FAILURE TO DECIDE.—

"(i) IN GENERAL.—If an agency described in subparagraph (A) fails to render a decision under any Federal law relating to a project that requires the preparation of an environmental impact statement or environmental assessment, including the issuance or denial of a permit, license, or other approval by the date described in clause (ii), the agency shall transfer from the applicable office of the head of the agency, or equivalent office to which the authority for rendering the decision has been delegated by law, to the agency or division charged with rendering a decision regarding the application, by not later than 1 day after the applicable date under clause (ii), and once each week thereafter

until a final decision is rendered, subject to subparagraph (C)—

"(I) $20,000 for any project for which an annual financial plan under section 106(i) is required; or

"(II) $10,000 for any other project requiring preparation of an environmental assessment or environmental impact statement.

"(ii) DESCRIPTION OF DATE.—The date referred to in clause (i) is the later of—

"(I) the date that is 180 days after the date on which an application for the permit, license, or approval is complete; and

"(II) the date that is 180 days after the date on which the Federal lead agency issues a decision on the project under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(C) LIMITATIONS.—

"(i) IN GENERAL.—No transfer of funds under subparagraph (B) relating to

an individual project shall exceed, in any fiscal year, an amount equal to 1 percent of the funds made available for the applicable agency office.

"(ii) FAILURE TO DECIDE.—The total amount transferred in a fiscal year as a result of a failure by an agency to make a decision by an applicable deadline shall not exceed an amount equal to 5 percent of the funds made available for the applicable agency office for that fiscal year.

"(D) TREATMENT.—The transferred funds shall only be available to the agency or division charged with rendering the decision as additional resources, pursuant to subparagraph (F).

"(E) NO FAULT OF AGENCY.—A transfer of funds under this paragraph shall not be made if the agency responsible for rendering the decision certifies that—

"(i) the agency has not received necessary information or approvals from another entity, such as the project sponsor, in a manner that affects the ability of the agency to meet any requirements under State, local, or Federal law; or

"(ii) significant new information or circumstances, including a major modification to an aspect of the project, requires additional analysis for the agency to make a decision on the project application.

"(F) TREATMENT OF FUNDS.—

"(i) IN GENERAL.—Funds transferred under this paragraph shall supplement resources available to the agency or division charged with making a decision for the purpose of expediting permit reviews.

"(ii) AVAILABILITY.—Funds transferred under this paragraph shall be available for use or obligation for the same period that the funds were originally authorized or appropriated, plus 1 additional fiscal year.

"(iii) LIMITATION.—The Federal agency with jurisdiction for the decision that has transferred the funds pursuant to this paragraph shall not reprogram funds to the office of the head of the agency, or equivalent office, to reimburse that office for the loss of the funds.

"(G) AUDITS.—In any fiscal year in which any Federal agency transfers funds pursuant to this paragraph, the Inspector General of that agency shall—

"(i) conduct an audit to assess compliance with the requirements of this paragraph; and

"(ii) not later than 120 days after the end of the fiscal year during which the transfer occurred, submit to the Committee on Environment and Public Works of the Senate and any other appropriate congressional committees a report describing the reasons why the transfers were levied, including allocations of resources.

"(H) EFFECT OF PARAGRAPH.—Nothing in this paragraph affects or limits the application of, or obligation to comply with, any Federal, State, local, or tribal law.

"(I) AUTHORITY FOR INTRA-AGENCY TRANSFER OF FUNDS.—The requirement provided under this paragraph for a Federal agency to transfer or reallocate funds of the Federal agency in accordance with subparagraph (B)(i)—

"(i) shall be treated by the Federal agency as a requirement and authority consistent with any applicable original law establishing and authorizing the agency; but

"(ii) does not provide to the Federal agency the authority to require or determine the intra-agency transfer or reallocation of funds that are provided to or are within any other Federal agency.

"(7) EXPEDIENT DECISIONS AND REVIEWS.—To ensure that Federal environmental decisions and reviews are expeditiously made—

"(A) adequate resources made available under this title shall be devoted to ensuring that applicable environmental reviews under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) are completed on an expeditious basis and that the shortest existing applicable process under that Act is implemented; and

"(B) the President shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works

of the Senate, not less frequently than once every 120 days after the date of enactment of the MAP–21, a report on the status and progress of the following projects and activities funded under this title with respect to compliance with applicable requirements under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.):

"(i) Projects and activities required to prepare an annual financial plan under section 106(i).

"(ii) A sample of not less than 5 percent of the projects requiring preparation of an environmental impact statement or environmental assessment in each State.".

**SEC. 1314. ENVIRONMENTAL PROCEDURES INITIATIVE.**

(a) ESTABLISHMENT.—For grant programs under which funds are distributed by formula by the Department of Transportation, the Secretary shall establish an initiative to review and develop consistent procedures for environmental permitting and procurement requirements.

(b) REPORT.—The Secretary shall publish the results of the initiative described in subsection (a) in an electronically accessible format.

**SEC. 1315. ALTERNATIVE RELOCATION PAYMENT DEMONSTRATION PROGRAM.**

(a) PAYMENT DEMONSTRATION PROGRAM.—

(1) IN GENERAL.—Except as otherwise provided in this section, for the purpose of identifying improvements in the timeliness of providing relocation assistance to persons displaced by Federal or federally assisted programs and projects, the Secretary may allow not more than 5 States to participate in an alternative relocation payment demonstration program under which payments to displaced persons eligible for relocation assistance pursuant to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.) (including implementing regulations), are calculated based on reasonable estimates and paid in advance of the physical displacement of the displaced person.

(2) TIMING OF PAYMENTS.—Relocation assistance payments for projects carried out under an approved State demonstration program may be provided to the displaced person at the same time as payments of just compensation for real property acquired for the program or project of the State.

(3) COMBINING OF PAYMENTS.—Payments for relocation and just compensation may be combined into a single unallocated amount.

(b) CRITERIA.—

(1) IN GENERAL.—After public notice and an opportunity to comment, the Secretary shall adopt criteria for carrying out the alternative relocation payment demonstration program.

(2) CONDITIONS.—

(A) IN GENERAL.—Conditions for State participation in the demonstration program shall include the conditions described in subparagraphs (B) through (E).

(B) MEMORANDUM OF AGREEMENT.—A State wishing to participate in the demonstration program shall be required to enter into a memorandum of agreement with the Secretary that includes provisions relating to—

(i) the selection of projects or programs within the State to which the alternative relocation payment process will be applied;

(ii) program and project-level monitoring;

(iii) performance measurement;

(iv) reporting; and

(v) the circumstances under which the Secretary may terminate the demonstration program of the State before the end of the program term.

(C) TERM OF DEMONSTRATION PROGRAM.—Except as provided in subparagraph (B)(v), the demonstration program of the State may continue for up to 3 years after the date on which the Secretary executes the memorandum of agreement.

(D) DISPLACED PERSONS.—

(i) IN GENERAL.—Displaced persons affected by a project included in the demonstration program of the State shall be informed in writing in a format that is clear and easily understandable that the relocation payments that the displaced persons receive under the demonstration program may be higher or lower than the amount that the displaced persons would receive under the standard relocation assistance process.

(ii) ALTERNATIVE PROCESS.—Displaced persons shall be informed—

(I) of the right of the displaced persons not to participate in the demonstration program; and

(II) that the alternative relocation payment process can be used only if the displaced person agrees in writing.

(iii) ASSISTANCE.—The displacing agency shall provide any displaced person who elects not to participate in the demonstration program with relocation assistance in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.) (including implementing regulations).

(E) OTHER DISPLACEMENTS.—

(i) IN GENERAL.—If other Federal agencies plan displacements in or adjacent to a demonstration program project area within the same time period as the project acquisition and relocation actions of the demonstration program, the Secretary shall adopt measures to protect against inconsistent treatment of displaced persons.

(ii) INCLUSION.—Measures described in clause (i) may include a determination that the demonstration program authority may not be used on a particular project.

(c) REPORT.—

(1) IN GENERAL.—The Secretary shall submit to Congress—

(A) at least every 18 months after the date of enactment of this Act, a report on the progress and results of the demonstration program; and

(B) not later than 1 year after all State demonstration programs have ended, a final report.

(2) REQUIREMENTS.—The final report shall include an evaluation by the Secretary of the merits of the alternative relocation payment demonstration program, including the effects of the demonstration program on—

(A) displaced persons and the protections afforded to displaced persons by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.);

(B) the efficiency of the delivery of Federal-aid highway projects and overall effects on the Federal-aid highway program; and

(C) the achievement of the purposes of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

(d) LIMITATION.—The authority of this section may be used only on projects funded under title 23, United States Code, in cases in which the funds are administered by the Federal Highway Administration.

(e) AUTHORITY.—The authority of the Secretary to approve an alternate relocation payment demonstration program for a State terminates on the date that is 3 years after the date of enactment of this Act

**SEC. 1316. REVIEW OF FEDERAL PROJECT AND PROGRAM DELIVERY.**

(a) COMPLETION TIME ASSESSMENTS AND REPORTS.—

(1) IN GENERAL.—For projects funded under title 23, United States Code, the Secretary shall compare—

(A)(i) the completion times of categorical exclusions, environmental assessments, and en-

vironmental impact statements initiated after calendar year 2005; to

(ii) the completion times of categorical exclusions, environmental assessments, and environmental impact statements initiated during a period prior to calendar year 2005; and

(B)(i) the completion times of categorical exclusions, environmental assessments, and environmental impact statements initiated during the period beginning on January 1, 2005, and ending on the date of enactment of this Act; to

(ii) the completion times of categorical exclusions, environmental assessments, and environmental impact statements initiated after the date of enactment of this Act.

(2) REPORT.—The Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report—

(A) not later than 1 year after the date of enactment of this Act that—

(i) describes the results of the review conducted under paragraph (1)(A); and

(ii) identifies any change in the timing for completions, including the reasons for any such change and the reasons for delays in excess of 5 years; and

(B) not later than 5 years after the date of enactment of this Act that—

(i) describes the results of the review conducted under paragraph (1)(B); and

(ii) identifies any change in the timing for completions, including the reasons for any such change and the reasons for delays in excess of 5 years.

(b) ADDITIONAL REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the types and justification for the additional categorical exclusions granted under the authority provided under sections 1309 and 1310.

(c) GAO REPORT.—The Comptroller General of the United States shall—

(1) assess the reforms carried out under sections 1301 through 1315 (including the amendments made by those sections); and

(2) not later than 5 years after the date of enactment of this Act, submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report that describes the results of the assessment.

(d) INSPECTOR GENERAL REPORT.—The Inspector General of the Department of Transportation shall—

(1) assess the reforms carried out under sections 1301 through 1315 (including the amendments made by those sections); and

(2) submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate—

(A) not later than 2 years after the date of enactment of this Act, an initial report of the findings of the Inspector General; and

(B) not later than 4 years after the date of enactment of this Act, a final report of the findings.

# Subtitle D—Highway Safety

**SEC. 1401. JASON'S LAW.**

(a) IN GENERAL.—It is the sense of Congress that it is a national priority to address projects under this sec-

tion for the shortage of long-term parking for commercial motor vehicles on the National Highway System to improve the safety of motorized and nonmotorized users and for commercial motor vehicle operators.

(b) ELIGIBLE PROJECTS.—Eligible projects under this section are those that—

(1) serve the National Highway System; and

(2) may include the following:

(A) Constructing safety rest areas (as defined in section 120(c) of title 23, United States Code) that include parking for commercial motor vehicles.

(B) Constructing commercial motor vehicle parking facilities adjacent to commercial truck stops and travel plazas.

(C) Opening existing facilities to commercial motor vehicle parking, including inspection and weigh stations and park-and-ride facilities.

(D) Promoting the availability of publicly or privately provided commercial motor vehicle parking on the National Highway System using intelligent transportation systems and other means.

(E) Constructing turnouts along the National Highway System for commercial motor vehicles.

(F) Making capital improvements to public commercial motor vehicle parking facilities currently closed on a seasonal basis to allow the facilities to remain open year-round.

(G) Improving the geometric design of interchanges on the National Highway System to improve access to commercial motor vehicle parking facilities.

(c) SURVEY AND COMPARATIVE ASSESSMENT.—

(1) IN GENERAL.—The Secretary, in consultation with relevant State motor carrier safety personnel, shall conduct a survey regarding the availability of parking facilities within each State—

(A) to evaluate the capability of the State to provide adequate parking and rest facilities for motor carriers engaged in interstate motor carrier service;

(B) to assess the volume of motor carrier traffic through the State; and

(C) to develop a system of metrics to measure the adequacy of parking facilities in the State.

(2) RESULTS.—The results of the survey under paragraph (1) shall be made available to the public on the website of the Department of Transportation.

(3) PERIODIC UPDATES.—The Secretary shall periodically update the survey under this subsection.

(d) TREATMENT OF PROJECTS.—Notwithstanding any other provision of law, projects funded through the authority provided under this section shall be treated as projects on a Federal-aid highway under chapter 1 of title 23, United States Code.

**SEC. 1402. OPEN CONTAINER REQUIREMENTS.**

Section 154(c) of title 23, United States Code, is amended—

(1) by striking paragraph (2) and inserting the following:

"(2) FISCAL YEAR 2012 AND THEREAFTER.—

"(A) RESERVATION OF FUNDS.—On October 1, 2011, and each October 1 thereafter, if a State has not enacted or is not enforcing an open container law described in subsection (b), the Secretary shall reserve an amount equal to 2.5 percent of the funds to be apportioned to the State on that date under each of paragraphs (1) and (2) of section 104(b) until the State certifies to the Secretary the means by

which the State will use those reserved funds in accordance with subparagraphs (A) and (B) of paragraph (1) and paragraph (3).

"(B) TRANSFER OF FUNDS.—As soon as practicable after the date of receipt of a certification from a State under subparagraph (A), the Secretary shall—

"(i) transfer the reserved funds identified by the State for use as described in subparagraphs (A) and (B) of paragraph (1) to the apportionment of the State under section 402; and

"(ii) release the reserved funds identified by the State as described in paragraph (3).";

(2) by striking paragraph (3) and inserting the following:

"(3) USE FOR HIGHWAY SAFETY IMPROVEMENT PROGRAM.—

"(A) IN GENERAL.—A State may elect to use all or a portion of the funds transferred under paragraph (2) for activities eligible under section 148.

"(B) STATE DEPARTMENTS OF TRANSPORTATION.—If the State makes an election under

subparagraph (A), the funds shall be transferred to the department of transportation of the State, which shall be responsible for the administration of the funds.''; and

(3) by striking paragraph (5) and inserting the following:

''(5) DERIVATION OF AMOUNT TO BE TRANSFERRED.—The amount to be transferred under paragraph (2) may be derived from the following:

''(A) The apportionment of the State under section 104(b)(l).

''(B) The apportionment of the State under section 104(b)(2).''.

**SEC. 1403. MINIMUM PENALTIES FOR REPEAT OFFENDERS FOR DRIVING WHILE INTOXICATED OR DRIVING UNDER THE INFLUENCE.**

(a) DEFINITIONS.—Section 164(a) of title 23, United States Code, is amended—

(1) by striking paragraph (3);

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

(3) in paragraph (4) (as so redesignated) by striking subparagraph (A) and inserting the following:

''(A) receive—

"(i) a suspension of all driving privileges for not less than 1 year; or

"(ii) a suspension of unlimited driving privileges for 1 year, allowing for the reinstatement of limited driving privileges subject to restrictions and limited exemptions as established by State law, if an ignition interlock device is installed for not less than 1 year on each of the motor vehicles owned or operated, or both, by the individual;".

(b) TRANSFER OF FUNDS.—Section 164(b) of title 23, United States Code, is amended—

(1) by striking paragraph (2) and inserting the following:

"(2) FISCAL YEAR 2012 AND THEREAFTER.—

"(A) RESERVATION OF FUNDS.—On October 1, 2011, and each October 1 thereafter, if a State has not enacted or is not enforcing a repeat intoxicated driver law, the Secretary shall reserve an amount equal to 2.5 percent of the funds to be apportioned to the State on that date under each of paragraphs (1) and (2) of section 104(b) until the State certifies to the Secretary the means by which the States will

use those reserved funds among the uses authorized under subparagraphs (A) and (B) of paragraph (1), and paragraph (3).

"(B) TRANSFER OF FUNDS.—As soon as practicable after the date of receipt of a certification from a State under subparagraph (A), the Secretary shall—

"(i) transfer the reserved funds identified by the State for use as described in subparagraphs (A) and (B) of paragraph (1) to the apportionment of the State under section 402; and

"(ii) release the reserved funds identified by the State as described in paragraph (3).";

(2) by striking paragraph (3) and inserting the following:

"(3) USE FOR HIGHWAY SAFETY IMPROVEMENT PROGRAM.—

"(A) IN GENERAL.—A State may elect to use all or a portion of the funds transferred under paragraph (2) for activities eligible under section 148.

"(B) STATE DEPARTMENTS OF TRANSPORTATION.—If the State makes an election under

subparagraph (A), the funds shall be transferred to the department of transportation of the State, which shall be responsible for the administration of the funds.''; and

(3) by striking paragraph (5) and inserting the following:

''(5) DERIVATION OF AMOUNT TO BE TRANSFERRED.—The amount to be transferred under paragraph (2) may be derived from the following:

''(A) The apportionment of the State under section 104(b)(1).

''(B) The apportionment of the State under section 104(b)(2).''.

**SEC. 1404. ADJUSTMENTS TO PENALTY PROVISIONS.**

(a) VEHICLE WEIGHT LIMITATIONS.—Section 127(a)(1) of title 23, United States Code, is amended by striking ''No funds shall be apportioned in any fiscal year under section 104(b)(1) of this title to any State which'' and inserting ''The Secretary shall withhold 50 percent of the apportionment of a State under section 104(b)(1) in any fiscal year in which the State''.

(b) CONTROL OF JUNKYARDS.—Section 136 of title 23, United States Code, is amended—

(1) in subsection (b), in the first sentence—

(A) by striking ''10 per centum'' and inserting ''7 percent''; and

(B) by striking ''section 104 of this title'' and inserting ''paragraphs (1) through (5) of section 104(b)''; and

(2) by adding at the end the following:

''(n) For purposes of this section, the terms 'primary system' and 'Federal-aid primary system' mean any highway that is on the National Highway System, which includes the Interstate Highway System.''.

(c) ENFORCEMENT OF VEHICLE SIZE AND WEIGHT LAWS.—Section 141(b)(2) of title 23, United States Code, is amended—

(1) by striking ''10 per centum'' and inserting ''7 percent''; and

(2) by striking ''section 104 of this title'' and inserting ''paragraphs (1) through (5) of section 104(b)''.

(d) PROOF OF PAYMENT OF THE HEAVY VEHICLE USE TAX.—Section 141(c) of title 23, United States Code, is amended—

(1) by striking ''section 104(b)(4)'' each place it appears and inserting ''section 104(b)(1)''; and

(2) in the first sentence by striking ''25 per centum'' and inserting '' 8 percent''.

(e) USE OF SAFETY BELTS.—Section 153(h) of title 23, United States Code, is amended—

(1) by striking paragraph (1);

(2) by redesignating paragraph (2) as paragraph (1);

(3) in paragraph (1) (as so redesignated)—

(A) by striking the paragraph heading and inserting ''PRIOR TO FISCAL YEAR 2012''; and

(B) by inserting ''and before October 1, 2011,'' after ''September 30, 1994,''; and

(4) by inserting after paragraph (1) (as so redesignated) the following:

''(2) FISCAL YEAR 2012 AND THEREAFTER.—If, at any time in a fiscal year beginning after September 30, 2011, a State does not have in effect a law described in subsection (a)(2), the Secretary shall transfer an amount equal to 2 percent of the funds apportioned to the State for the succeeding fiscal year under each of paragraphs (1) through (3) of section 104(b) to the apportionment of the State under section 402.''.

(f) NATIONAL MINIMUM DRINKING AGE.—Section 158(a)(1) of title 23, United States Code, is amended—

(1) by striking ''The Secretary'' and inserting the following:

"(A) FISCAL YEARS BEFORE 2012.—The Secretary"; and

(2) by adding at the end the following:

"(B) FISCAL YEAR 2012 AND THEREAFTER.—For fiscal year 2012 and each fiscal year thereafter, the amount to be withheld under this section shall be an amount equal to 8 percent of the amount apportioned to the noncompliant State, as described in subparagraph (A), under paragraphs (1) and (2) of section 104(b).".

(g) DRUG OFFENDERS.—Section 159 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) by striking paragraph (1);

(B) by redesignating paragraph (2) as paragraph (1);

(C) in paragraph (1) (as so redesignated) by striking "(including any amounts withheld under paragraph (1))"; and

(D) by inserting after paragraph (1) (as so redesignated) the following:

"(2) FISCAL YEAR 2012 AND THEREAFTER.—The Secretary shall withhold an amount equal to 8 percent of the amount required to be apportioned to

any State under each of paragraphs (1) and (2) of section 104(b) on the first day of each fiscal year beginning after September 30, 2011, if the State fails to meet the requirements of paragraph (3) on the first day of the fiscal year.''; and

(2) by striking subsection (b) and inserting the following:

''(b) EFFECT OF NONCOMPLIANCE.—No funds withheld under this section from apportionments to any State shall be available for apportionment to that State.''.

(h) ZERO TOLERANCE BLOOD ALCOHOL CONCENTRATION FOR MINORS.—Section 161(a) of title 23, United States Code, is amended—

(1) by striking paragraph (1);

(2) by redesignating paragraph (2) as paragraph (1);

(3) in paragraph (1) (as so redesignated)—

(A) by striking the paragraph heading and inserting ''PRIOR TO FISCAL YEAR 2012''; and

(B) by inserting ''through fiscal year 2011'' after ''each fiscal year thereafter''; and

(4) by inserting after paragraph (1) (as so redesignated) the following:

''(2) FISCAL YEAR 2012 AND THEREAFTER.—The Secretary shall withhold an amount equal to 8

percent of the amount required to be apportioned to any State under each of paragraphs (1) and (2) of section 104(b) on October 1, 2011, and on October 1 of each fiscal year thereafter, if the State does not meet the requirement of paragraph (3) on that date.''.

(i) OPERATION OF MOTOR VEHICLES BY INTOXICATED PERSONS.—Section 163(e) of title 23, United States Code, is amended by striking paragraphs (1) and (2) and inserting the following:

''(1) FISCAL YEARS 2007 THROUGH 2011.—On October 1, 2006, and October 1 of each fiscal year thereafter through fiscal year 2011, if a State has not enacted or is not enforcing a law described in subsection (a), the Secretary shall withhold an amount equal to 8 percent of the amounts to be apportioned to the State on that date under each of paragraphs (1), (3), and (4) of section 104(b).

''(2) FISCAL YEAR 2012 AND THEREAFTER.—On October 1, 2011, and October 1 of each fiscal year thereafter, if a State has not enacted or is not enforcing a law described in subsection (a), the Secretary shall withhold an amount equal to 6 percent of the amounts to be apportioned to the State on

that date under each of paragraphs (1) and (2) of section 104(b).''.

(j) COMMERCIAL DRIVER'S LICENSE.—Section 31314 of title 49, United States Code, is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following:

''(c) PENALTIES IMPOSED IN FISCAL YEAR 2012 AND THEREAFTER.—Effective beginning on October 1, 2011—

''(1) the penalty for the first instance of noncompliance by a State under this section shall be not more than an amount equal to 4 percent of funds required to be apportioned to the noncompliant State under paragraphs (1) and (2) of section 104(b) of title 23; and

''(2) the penalty for subsequent instances of noncompliance shall be not more than an amount equal to 8 percent of funds required to be apportioned to the noncompliant State under paragraphs (1) and (2) of section 104(b) of title 23.''.

**SEC. 1405. HIGHWAY WORKER SAFETY.**

Not later than 60 days after the date of enactment of this Act, the Secretary shall modify section 630.1108(a)

of title 23, Code of Federal Regulations (as in effect on the date of enactment of this Act), to ensure that—

(1) at a minimum, positive protective measures are used to separate workers on highway construction projects from motorized traffic in all work zones conducted under traffic in areas that offer workers no means of escape (such as tunnels and bridges), unless an engineering study determines otherwise;

(2) temporary longitudinal traffic barriers are used to protect workers on highway construction projects in long-duration stationary work zones when the project design speed is anticipated to be high and the nature of the work requires workers to be within 1 lane-width from the edge of a live travel lane, unless—

(A) an analysis by the project sponsor determines otherwise; or

(B) the project is outside of an urbanized area and the annual average daily traffic load of the applicable road is less than 100 vehicles per hour; and

(3) when positive protective devices are necessary for highway construction projects, those devices are paid for on a unit-pay basis, unless doing so would create a conflict with innovative con-

tracting approaches, such as design-build or some performance-based contracts under which the contractor is paid to assume a certain risk allocation and payment is generally made on a lump-sum basis.

# Subtitle E—Miscellaneous

**SEC. 1501. PROGRAM EFFICIENCIES.**

The first sentence of section 102(b) of title 23, United States Code, is amended by striking ''made available for such engineering'' and inserting ''reimbursed for the preliminary engineering''.

**SEC. 1502. PROJECT APPROVAL AND OVERSIGHT.**

Section 106 of title 23, United States Code, is amended—

(1) in subsection (a)(2) by inserting ''recipient'' before ''formalizing'';

(2) in subsection (c)—

(A) in paragraph (1)—

(i) in the heading, by striking ''NON-INTERSTATE''; and

(ii) by striking ''but not on the Interstate System''; and

(B) by striking paragraph (4) and inserting the following:

''(4) LIMITATION ON INTERSTATE PROJECTS.—

"(A) IN GENERAL.—The Secretary shall not assign any responsibilities to a State for projects the Secretary determines to be in a high risk category, as defined under subparagraph (B).

"(B) HIGH RISK CATEGORIES.—The Secretary may define the high risk categories under this subparagraph on a national basis, a State-by-State basis, or a national and State-by-State basis, as determined to be appropriate by the Secretary.";

(3) in subsection (e)—

(A) in paragraph (1)—

(i) in subparagraph (A)—

(I) in the matter preceding clause (i)—

(aa) by striking "concept" and inserting "planning"; and

(bb) by striking "multidisciplined" and inserting "multidisciplinary"; and

(II) by striking clause (i) and inserting the following:

"(i) providing the needed functions and achieving the established commitments

(including environmental, community, and agency commitments) safely, reliably, and at the lowest overall lifecycle cost;''; and

(ii) in subparagraph (B) by striking clause (ii) and inserting the following:

''(ii) refining or redesigning, as appropriate, the project using different technologies, materials, or methods so as to accomplish the purpose, functions, and established commitments (including environmental, community, and agency commitments) of the project.'';

(B) in paragraph (2)—

(i) in the matter preceding subparagraph (A) by striking ''or other cost-reduction analysis'';

(ii) in subparagraph (A) by striking ''Federal-aid system'' and inserting ''National Highway System receiving Federal assistance''; and

(iii) in subparagraph (B) by inserting ''on the National Highway System receiving Federal assistance'' after ''a bridge project''; and

(C) by striking paragraph (4) and inserting the following:

"(4) REQUIREMENTS.—

"(A) VALUE ENGINEERING PROGRAM.—The State shall develop and carry out a value engineering program that—

"(i) establishes and documents value engineering program policies and procedures;

"(ii) ensures that the required value engineering analysis is conducted before completing the final design of a project;

"(iii) ensures that the value engineering analysis that is conducted, and the recommendations developed and implemented for each project, are documented in a final value engineering report; and

"(iv) monitors, evaluates, and annually submits to the Secretary a report that describes the results of the value analyses that are conducted and the recommendations implemented for each of the projects described in paragraph (2) that are completed in the State.

"(B) BRIDGE PROJECTS.—The value engineering analysis for a bridge project under paragraph (2) shall—

"(i) include bridge superstructure and substructure requirements based on construction material; and

"(ii) be evaluated by the State—

"(I) on engineering and economic bases, taking into consideration acceptable designs for bridges; and

"(II) using an analysis of lifecycle costs and duration of project construction.";

(4) in subsection (g)(4) by adding at the end the following:

"(C) FUNDING.—

"(i) IN GENERAL.—Subject to project approval by the Secretary, a State may obligate funds apportioned to the State under section 104(b)(2) for carrying out the responsibilities of the State under subparagraph (A).

"(ii) ELIGIBLE ACTIVITIES.—Activities eligible for assistance under this subparagraph include—

"(I) State administration of subgrants; and

"(II) State oversight of subrecipients.

"(iii) ANNUAL WORK PLAN.—To receive the funding flexibility made available under this subparagraph, the State shall submit to the Secretary an annual work plan identifying activities to be carried out under this subparagraph during the applicable year.

"(iv) FEDERAL SHARE.—The Federal share of the cost of activities carried out under this subparagraph shall be 100 percent."; and

(5) in subsection (h)—

(A) in paragraph (1)(B) by inserting ", including a phasing plan when applicable" after "financial plan"; and

(B) by striking paragraph (3) and inserting the following:

"(3) FINANCIAL PLAN.—A financial plan—

"(A) shall be based on detailed estimates of the cost to complete the project;

"(B) shall provide for the annual submission of updates to the Secretary that are based on reasonable assumptions, as determined by the Secretary, of future increases in the cost to complete the project; and

"(C) may include a phasing plan that identifies fundable incremental improvements or phases that will address the purpose and the need of the project in the short term in the event there are insufficient financial resources to complete the entire project. If a phasing plan is adopted for a project pursuant to this section, the project shall be deemed to satisfy the fiscal constraint requirements in the statewide and metropolitan planning requirements in sections 134 and 135.".

**SEC. 1503. STANDARDS.**

(a) PRACTICAL DESIGN.—Section 109 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1) by striking "and" at the end;

(B) in paragraph (2) by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(3) utilize, when appropriate, practical design solutions, as defined in this section, to ensure that transportation needs are met and that funds available for transportation projects are used efficiently.";

(2) in subsection (c)—

(A) in paragraph (1), in the matter preceding subparagraph (A)—

(i) by striking ", reconstruction, resurfacing (except for maintenance resurfacing), restoration, or rehabilitation" and inserting "or reconstruction"; and

(ii) by striking "may take into account" and inserting "shall consider";

(B) in paragraph (2)—

(i) in the first sentence of the matter preceding subparagraph (A) by striking "may" and inserting "shall";

(ii) in subparagraph (C) by striking "and" at the end;

(iii) by redesignating subparagraph (D) as subparagraph (F); and

(iv) by inserting after subparagraph (C) the following:

"(D) the publication entitled 'Highway Safety Manual' of the American Association of State Highway and Transportation Officials;

"(E) the publication entitled 'A Guide for Achieving Flexibility in Highway Design, 1st Edition', published by the American Association of State Highway and Transportation Officials; and";

(3) in subsection (f) by inserting "pedestrian walkways," after "bikeways,";

(4) in subsection (m) by inserting ", safe, and continuous" after "for a reasonable";

(5) in subsection (q) by striking "consistent with the operative safety management system established in accordance with section 303 or in accordance with" inserting "that is in accordance with a State's strategic highway safety plan and included on"; and

(6) by adding at the end the following:

"(r) DEFINITION.—In this section, the term 'practical design solution' means a collaborative interdisciplinary approach that results in a transportation project that fits its physical setting, preserves safety, and balances costs with the necessary scope and project delivery needs

of the project, as well as with scenic, aesthetic, historic, and environmental resources.''.

(b) ADDITIONAL STANDARDS.—Section 109 of title 23, United States Code (as amended by subsection (a)(6)), is amended by adding at the end the following:

''(s) PAVEMENT MARKINGS.—The Secretary shall not approve any pavement markings project that includes the use of glass beads containing more than 200 parts per million of arsenic or lead, as determined in accordance with Environmental Protection Agency testing methods 3052, 6010B, or 6010C.''.

**SEC. 1504. CONSTRUCTION.**

Section 114 of title 23, United States Code, is amended—

(1) in subsection (b)—

(A) by striking paragraph (1) and inserting the following:

''(1) LIMITATION ON CONVICT LABOR.—Convict labor shall not be used in construction of Federal-aid highways or portions of Federal-aid highways unless the labor is performed by convicts who are on parole, supervised release, or probation.''; and

(B) in paragraph (3) by inserting ''in existence during that period'' after ''located on a Federal-aid system''; and

(2) in subsection (c)—

(A) by striking paragraph (1) and inserting the following:

''(1) IN GENERAL.—The Secretary shall ensure that a worker who is employed on a remote project for the construction of a Federal-aid highway or portion of a Federal-aid highway in the State of Alaska and who is not a domiciled resident of the locality shall receive meals and lodging.''; and

(B) in paragraph (3)(C) by striking ''highway or portion of a highway located on a Federal-aid system'' and inserting ''Federal-aid highway or portion of a Federal-aid highway''.

**SEC. 1505. MAINTENANCE.**

Section 116 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) in the first sentence, by inserting ''or other direct recipient'' before ''to maintain''; and

(B) by striking the second sentence;

(2) by striking subsection (b) and inserting the following:

''(b) AGREEMENT.—In any State in which the State transportation department or other direct recipient is

without legal authority to maintain a project described in subsection (a), the transportation department or direct recipient shall enter into a formal agreement with the appropriate officials of the county or municipality in which the project is located providing for the maintenance of the project.''; and

(3) in the first sentence of subsection (c) by inserting ''or other direct recipient'' after ''State transportation department''.

**SEC. 1506. FEDERAL SHARE PAYABLE.**

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

(1) in the first sentence of subsection (c)(1)—

(A) by inserting ''maintaining minimum levels of retroreflectivity of highway signs or pavement markings,'' after ''traffic control signalization,'';

(B) by inserting ''shoulder and centerline rumble strips and stripes,'' after ''pavement marking,''; and

(C) by striking ''Federal-aid systems'' and inserting ''Federal-aid programs'';

(2) by striking subsection (e) and inserting the following:

"(e) EMERGENCY RELIEF.—The Federal share payable for any repair or reconstruction provided for by funds made available under section 125 for any project on a Federal-aid highway, including the Interstate System, shall not exceed the Federal share payable on a project on the system as provided in subsections (a) and (b), except that—

"(1) the Federal share payable for eligible emergency repairs to minimize damage, protect facilities, or restore essential traffic accomplished within 180 days after the actual occurrence of the natural disaster or catastrophic failure may amount to 100 percent of the cost of the repairs;

"(2) the Federal share payable for any repair or reconstruction of Federal land transportation facilities, Federal land access transportation facilities, and tribal transportation facilities may amount to 100 percent of the cost of the repair or reconstruction;

"(3) the Secretary shall extend the time period in paragraph (1) taking into consideration any delay in the ability of the State to access damaged facilities to evaluate damage and the cost of repair; and

"(4) the Federal share payable for eligible permanent repairs to restore damaged facilities to

predisaster condition may amount to 100 percent of the cost of the repairs if the eligible expenses incurred by the State due to natural disasters or catastrophic failures in a Federal fiscal year exceeds the annual apportionment of the State under section 104 for the fiscal year in which the disasters or failures occurred.'';

(3) by striking subsection (g) and redesignating subsections (h) through (l) as subsections (g) through (k), respectively;

(4) in subsection (i)(1)(A) (as redesignated by paragraph (3)) by striking ''and the Appalachian development highway system program under section 14501 of title 40''; and

(5) by striking subsections (j) and (k) (as redesignated by paragraph (3)) and inserting the following:

''(j) USE OF FEDERAL AGENCY FUNDS.—Notwithstanding any other provision of law, any Federal funds other than those made available under this title and title 49, United States Code, may be used to pay the non-Federal share of the cost of any transportation project that is within, adjacent to, or provides access to Federal land, the Federal share of which is funded under this title or chapter 53 of title 49.

"(k) USE OF FEDERAL LAND AND TRIBAL TRANSPORTATION FUNDS.—Notwithstanding any other provision of law, the funds authorized to be appropriated to carry out the tribal transportation program under section 202 and the Federal lands transportation program under section 203 may be used to pay the non-Federal share of the cost of any project that is funded under this title or chapter 53 of title 49 and that provides access to or within Federal or tribal land.".

**SEC. 1507. TRANSFERABILITY OF FEDERAL-AID HIGHWAY FUNDS.**

(a) IN GENERAL.—Section 126 of title 23, United States Code, is amended to read as follows:

**"§ 126. Transferability of Federal-aid highway funds**

"(a) IN GENERAL.—Notwithstanding any other provision of law, subject to subsection (b), a State may transfer from an apportionment under section 104(b) not to exceed 20 percent of the amount apportioned for the fiscal year to any other apportionment of the State under that section.

"(b) APPLICATION TO CERTAIN SET-ASIDES.—Funds that are subject to sections 104(d) and 133(d) shall not be transferred under this section. The maximum amount that a State may transfer under this section of the State's set-aside under section 149(l) for a fiscal year may not

exceed 25 percent of (1) the amount of such set-aside, less (2) the amount of the State's set-aside under section 133(d)(2), as in effect on the day before the date of enactment of the MAP–21, for fiscal year 1997.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 126 and inserting the following:

''126. Transferability of Federal-aid highway funds.''.

**SEC. 1508. SPECIAL PERMITS DURING PERIODS OF NATIONAL EMERGENCY.**

Section 127 of title 23, United States Code, is amended by inserting at the end the following:

''(i) SPECIAL PERMITS DURING PERIODS OF NATIONAL EMERGENCY.—

''(1) IN GENERAL.—Notwithstanding any other provision of this section, a State may issue special permits during an emergency to overweight vehicles and loads that can easily be dismantled or divided if—

''(A) the President has declared the emergency to be a major disaster under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.);

''(B) the permits are issued in accordance with State law; and

"(C) the permits are issued exclusively to vehicles and loads that are delivering relief supplies.

"(2) EXPIRATION.—A permit issued under paragraph (1) shall expire not later than 120 days after the date of the declaration of emergency under subparagraph (A) of that paragraph.".

**SEC. 1509. ELECTRIC VEHICLE CHARGING STATIONS.**

(a) FRINGE AND CORRIDOR PARKING FACILITIES.—Section 137 of title 23, United States Code, is amended—

(1) in subsection (a) by inserting after the second sentence the following: "The addition of electric vehicle charging stations to new or previously funded parking facilities shall be eligible for funding under this section."; and

(2) in subsection (f)(1)—

(A) by striking "104(b)(4)" and inserting "104(b)(1)"; and

(B) by inserting "including the addition of electric vehicle charging stations," after "new facilities,".

(b) PUBLIC TRANSPORTATION.—Section 142(a)(1) of title 23, United States Code, is amended by inserting "(which may include electric vehicle charging stations)" after "corridor parking facilities".

**SEC. 1510. HOV FACILITIES.**

Section 166 of title 23, United States Code, is amended—

(1) in subsection (b)(5)—

(A) in subparagraph (A) by striking ''Before September 30, 2009, the'' and inserting ''The''; and

(B) in subparagraph (B) by striking ''Before September 30, 2009, the'' and inserting ''The''; and

(2) in subsection (d)(1)—

(A) in the matter preceding subparagraph (A)—

(i) by striking ''in a fiscal year shall certify'' and inserting ''shall submit to the Secretary a report demonstrating that the facility is not already degraded, and that the presence of the vehicles will not cause the facility to become degraded, and certify''; and

(ii) by striking ''in the fiscal year'';

(B) in subparagraph (A) by inserting ''and submitting to the Secretary annual reports of those impacts'' after ''adjacent highways'';

(C) in subparagraph (C) by striking ''if the presence of the vehicles has degraded the oper-

ation of the facility'' and inserting ''whenever the operation of the facility is degraded''; and

(D) by adding at the end the following:

''(D) MAINTENANCE OF OPERATING PERFORMANCE.—A facility that has become degraded shall be brought back into compliance with the minimum average operating speed performance standard by not later than 180 days after the date on which the degradation is identified through changes to operation, including the following:

''(i) Increase the occupancy requirement for HOVs.

''(ii) Increase the toll charged for vehicles allowed under subsection (b) to reduce demand.

''(iii) Charge tolls to any class of vehicle allowed under subsection (b) that is not already subject to a toll.

''(iv) Limit or discontinue allowing vehicles under subsection (b).

''(v) Increase the available capacity of the HOV facility.

''(E) COMPLIANCE.—If the State fails to bring a facility into compliance under subpara-

graph (D), the Secretary shall subject the State to appropriate program sanctions under section 1.36 of title 23, Code of Federal Regulations (or successor regulations), until the performance is no longer degraded.''.

**SEC. 1511. CONSTRUCTION EQUIPMENT AND VEHICLES.**

(a) IN GENERAL.—Chapter 3 of title 23, United States Code, is amended by adding at the end the following:

**''SEC. 330. CONSTRUCTION EQUIPMENT AND VEHICLES.**

''(a) IN GENERAL.—In accordance with the obligation process established pursuant to section 149(j)(4), a State shall expend amounts required to be obligated for this section to install diesel emission control technology on covered equipment, with an engine that does not meet current model year new engine standards for particulate matter for the applicable engine power group issued by the Environmental Protection Agency, on a covered highway construction project within a $PM_{2.5}$ nonattainment or maintenance area. Covered equipment repowered or retrofit with diesel exhaust control technology installed during the 6-year period ending on the date on which the prime contract was awarded for the covered highway construction project and equipment that meets the Environ-

mental Protection Agency Tier 4 emission standards may be exempt from the requirements of this section.

"(b) DEFINITIONS.—In this section, the following definitions apply:

"(1) COVERED EQUIPMENT.—The term 'covered equipment' means any nonroad diesel equipment or on-road diesel equipment that is operated on a covered highway construction project for not less than 80 hours over the life of the project.

"(2) COVERED HIGHWAY CONSTRUCTION PROJECT.—

"(A) IN GENERAL.—The term 'covered highway construction project' means a highway construction project carried out under this title or any other Federal law which is funded in whole or in part with Federal funds.

"(B) EXCLUSIONS.—Any project with a total budgeted cost not to exceed $5,000,000 may be excluded from the requirements of this section by an applicable State or metropolitan planning organization.

"(3) DIESEL EMISSION CONTROL TECHNOLOGY.—The term 'diesel emission control technology' means a technology that—

"(A) is—

"(i) a diesel exhaust control technology;

"(ii) a diesel engine upgrade;

"(iii) a diesel engine repower;

"(iv) an idle reduction control technology; or

"(v) any combination of the technologies listed in clauses (i) through (iv);

"(B) reduces particulate matter emission from covered equipment by—

"(i) not less than 85 percent control of any emission of particulate matter; or

"(ii) the maximum achievable reduction of any emission of particulate matter, taking cost and safety into account; and

"(C) is installed on and operated with the covered equipment while the equipment is operated on a covered highway construction project and that remains operational on the covered equipment for the useful life of the control technology or equipment.

"(4) ELIGIBLE ENTITY.—The term 'eligible entity' means an entity (including a subcontractor of the entity) that has entered into a prime contract or

agreement with a State to carry out a covered highway construction project.

"(5) NONROAD DIESEL EQUIPMENT.—

"(A) IN GENERAL.—The term 'nonroad diesel equipment' means a vehicle, including covered equipment, that is—

"(i) powered by a nonroad diesel engine of not less than 50 horsepower; and

"(ii) not intended for highway use.

"(B) INCLUSIONS.—The term 'nonroad diesel equipment' includes a backhoe, bulldozer, compressor, crane, excavator, generator, and similar equipment.

"(C) EXCLUSIONS.—The term 'nonroad diesel equipment' does not include a locomotive or marine vessel.

"(6) ON-ROAD DIESEL EQUIPMENT.—The term 'on-road diesel equipment' means any self-propelled vehicle that—

"(A) operates on diesel fuel;

"(B) is designed to transport persons or property on a street or highway; and

"(C) has a gross vehicle weight rating of at least 14,000 pounds.

"(7) $PM_{2.5}$ NONATTAINMENT OR MAINTENANCE AREA.—The term '$PM_{2.5}$ nonattainment or maintenance area' means a nonattainment or maintenance area designated under section 107(d)(6) of the Clean Air Act (42 U.S.C. 7407(d)(6)).

"(c) CRITERIA ELIGIBLE ACTIVITIES.—For purposes of subsection (b)(3)(A):

"(1) DIESEL EXHAUST CONTROL TECHNOLOGY.—For a diesel exhaust control technology, the technology shall be—

"(A) installed on a diesel engine or vehicle;

"(B) a verified technology (as defined in section 791 of the Energy Policy Act of 2005 (42 U.S.C. 16131)), for nonroad vehicles and nonroad engines (as defined in section 216 of the Clean Air Act (42 U.S.C. 7550)); and

"(C) certified by the installer as having been installed in accordance with the specifications included on the list published pursuant to section 149(f)(2), as in effect on the day before the date of enactment of the MAP–21, for achieving a reduction in particulate matter.

"(2) DIESEL ENGINE UPGRADE.—For a diesel engine upgrade, the upgrade shall be performed on an engine that is—

"(A) rebuilt using new or manufactured components that collectively qualify as verified technologies (as defined in section 791 of the Energy Policy Act of 2005 (42 U.S.C. 16131)), for nonroad vehicles and nonroad engines (as defined in section 216 of the Clean Air Act (42 U.S.C. 7550)); and

"(B) certified by the installer to have been installed in accordance with the specifications included on the list published pursuant to section 149(f)(2), as in effect on the day before the date of enactment of the MAP–21, for achieving a reduction in particulate matter.

"(3) DIESEL ENGINE REPOWER.—For a diesel engine repower, the repower shall be conducted using a new or remanufactured diesel engine that is—

"(A) installed as a replacement for an engine used in the existing equipment, subject to the condition that the replaced engine is returned to the supplier for remanufacturing to a more stringent set of engine emissions standards or for use as scrap; and

"(B) meeting a more stringent engine particulate matter emission standard for the appli-

cable engine power group established by the Environmental Protection Agency than the engine particulate matter emission standard applicable to the replaced engine.

"(4) IDLE REDUCTION CONTROL TECHNOLOGY.—For an idle reduction control technology, the technology shall be—

"(A) installed on a diesel engine or vehicle;

"(B) a verified technology (as defined in section 791 of the Energy Policy Act of 2005 (42 U.S.C. 16131)), for nonroad vehicles and nonroad engines (as defined in section 216 of the Clean Air Act (42 U.S.C. 7550)); and

"(C) certified by the installer as having been installed in accordance with the specifications included on the list published pursuant to section 149(f)(2), as in effect on the day before the date of enactment of the MAP–21, for achieving a reduction in particulate matter.

"(d) ELIGIBILITY FOR CREDITS.—

"(1) IN GENERAL.—A State may take credit in a State implementation plan for national ambient air quality standards for any emission reductions that result from the implementation of this section.

"(2) CREDITING.—An emission reduction described in paragraph (1) may be credited toward demonstrating conformity of State implementation plans and transportation plans.".

(b) SAVINGS CLAUSE.—Nothing in this section modifies or otherwise affects any authority or restrictions established under the Clean Air Act (42 U.S.C. 7401 et seq.).

(c) REPORT TO CONGRESS.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary of Transportation shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report that describes the manners in which section 330 of title 23, United States Code (as added by subsection (a)) has been implemented, including the quantity of covered equipment serviced under those sections and the costs associated with servicing the covered equipment.

(2) INFORMATION FROM STATES.—The Secretary shall require States and recipients, as a condition of receiving amounts under this Act or under the provisions of any amendments made by this Act,

to submit to the Secretary any information that the Secretary determines necessary to complete the report under paragraph (1).

(d) TECHNICAL AMENDMENT.—The analysis for chapter 3 of title 23, United States Code, is amended by adding at the end the following:

"330. Construction equipment and vehicles.".

**SEC. 1512. USE OF DEBRIS FROM DEMOLISHED BRIDGES AND OVERPASSES.**

Section 1805(a) of the SAFETEA–LU (23 U.S.C. 144 note; 119 Stat. 1459) is amended by striking "highway bridge replacement and rehabilitation program under section 144" and inserting "national highway performance program under section 119".

**SEC. 1513. EXTENSION OF PUBLIC TRANSIT VEHICLE EXEMPTION FROM AXLE WEIGHT RESTRICTIONS.**

Section 1023(h) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 127 note; Public Law 102–388) is amended—

(1) in the heading of paragraph (1) by striking "TEMPORARY EXEMPTION" and inserting "EXEMPTION";

(2) in paragraph (1) by striking ", for the period beginning on October 6, 1992, and ending on October 1, 2009,"; and

(3) in paragraph (2)(A) by striking "For the period beginning on the date of enactment of this subparagraph and ending on September 30, 2009, a" and inserting "A".

**SEC. 1514. UNIFORM RELOCATION ASSISTANCE ACT AMENDMENTS.**

(a) MOVING AND RELATED EXPENSES.—Section 202 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4622) is amended—

(1) in subsection (a)(4) by striking "$10,000" and inserting "$25,000, as adjusted by regulation, in accordance with section 213(d)"; and

(2) in the second sentence of subsection (c) by striking "$20,000" and inserting "$40,000, as adjusted by regulation, in accordance with section 213(d)".

(b) REPLACEMENT HOUSING FOR HOMEOWNERS.—The first sentence of section 203(a)(1) of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4623(a)(1)) is amended—

(1) by striking "$22,500" and inserting "$31,000, as adjusted by regulation, in accordance with 213(d),"; and

(2) by striking ''one hundred and eighty days prior to'' and inserting ''90 days before''.

(c) REPLACEMENT HOUSING FOR TENANTS AND CERTAIN OTHERS.—Section 204 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4624) is amended—

(1) in the second sentence of subsection (a) by striking ''$5,250'' and inserting ''$7,200, as adjusted by regulation, in accordance with section 213(d)''; and

(2) in the second sentence of subsection (b) by striking '', except'' and all that follows through the end of the subsection and inserting a period.

(d) DUTIES OF LEAD AGENCY.—Section 213 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4633) is amended—

(1) in subsection (b)—

(A) in paragraph (2) by striking ''and'' at the end;

(B) in paragraph (3) by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(4) that each Federal agency that has programs or projects requiring the acquisition of real property or causing a displacement from real prop-

erty subject to the provisions of this Act shall provide to the lead agency an annual summary report the describes the activities conducted by the Federal agency.''; and

(2) by adding at the end the following:

''(d) ADJUSTMENT OF PAYMENTS.—The head of the lead agency may adjust, by regulation, the amounts of relocation payments provided under sections 202(a)(4), 202(c), 203(a), and 204(a) if the head of the lead agency determines that cost of living, inflation, or other factors indicate that the payments should be adjusted to meet the policy objectives of this Act.''.

(e) AGENCY COORDINATION.—Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 is amended by inserting after section 213 (42 U.S.C. 4633) the following:

**''SEC. 214. AGENCY COORDINATION.**

''(a) AGENCY CAPACITY.—Each Federal agency responsible for funding or carrying out relocation and acquisition activities shall have adequately trained personnel and such other resources as are necessary to manage and oversee the relocation and acquisition program of the Federal agency in accordance with this Act.

''(b) INTERAGENCY AGREEMENTS.—Not later than 1 year after the date of enactment of this section, each Fed-

eral agency responsible for funding relocation and acquisition activities (other than the agency serving as the lead agency) shall enter into a memorandum of understanding with the lead agency that—

"(1) provides for periodic training of the personnel of the Federal agency, which in the case of a Federal agency that provides Federal financial assistance, may include personnel of any displacing agency that receives Federal financial assistance;

"(2) addresses ways in which the lead agency may provide assistance and coordination to the Federal agency relating to compliance with the Act on a program or project basis; and

"(3) addresses the funding of the training, assistance, and coordination activities provided by the lead agency, in accordance with subsection (c).

"(c) INTERAGENCY PAYMENTS.—

"(1) IN GENERAL.—For the fiscal year that begins 1 year after the date of enactment of this section, and each fiscal year thereafter, each Federal agency responsible for funding relocation and acquisition activities (other than the agency serving as the lead agency) shall transfer to the lead agency for the fiscal year, such funds as are necessary, but not less than $35,000, to support the training, assistance,

and coordination activities of the lead agency described in subsection (b).

"(2) INCLUDED COSTS.—The cost to a Federal agency of providing the funds described in paragraph (1) shall be included as part of the cost of 1 or more programs or projects undertaken by the Federal agency or with Federal financial assistance that result in the displacement of persons or the acquisition of real property.".

(f) COOPERATION WITH FEDERAL AGENCIES.—Section 308 of title 23, United States Code, is amended by striking subsection (a) and inserting the following:

"(a) AUTHORIZED ACTIVITIES.—

"(1) IN GENERAL.—The Secretary may perform, by contract or otherwise, authorized engineering or other services in connection with the survey, construction, maintenance, or improvement of highways for other Federal agencies, cooperating foreign countries, and State cooperating agencies.

"(2) INCLUSIONS.—Services authorized under paragraph (1) may include activities authorized under section 214 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

"(3) REIMBURSEMENT.—Reimbursement for services carried out under this subsection (including depreciation on engineering and road-building equipment) shall be credited to the applicable appropriation.".

(g) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of enactment of this Act.

(2) EXCEPTION.—The amendments made by subsections (a) through (c) shall take effect 2 years after the date of enactment of this Act.

**SEC. 1515. USE OF YOUTH SERVICE AND CONSERVATION CORPS.**

(a) IN GENERAL.—The Secretary shall encourage the States and regional transportation planning agencies to enter into contracts and cooperative agreements with qualified youth service or conservation corps, as defined in sections 122(a)(2) of Public Law 101–610 (42 U.S.C. 12572(a)(2)) and 106(c)(3) of Public Law 103–82 (42 U.S.C. 12656(c)(3)) to perform—

(1) appropriate projects eligible under sections 162, 206, and 217 of title 23, United States Code;

(2) appropriate transportation enhancement activities, as defined under section 101(a) of such title;

(3) appropriate byway, trail, or bicycle and pedestrian projects under sections 202, 203, and 204 of such title; and

(4) appropriate safe routes to school projects under section 1404 of the SAFETEA–LU (119 Stat. 1228).

(b) REQUIREMENTS.—Under any contract or cooperative agreement entered into with a qualified youth service or conservation corps under this section, the Secretary shall—

(1) set the amount of a living allowance or rate of pay for each participant in such corps at—

(A) such amount or rate as required under State law in a State with such requirements; or

(B) for corps in States not described in subparagraph (A), at such amount or rate as determined by the Secretary, not to exceed the maximum living allowance authorized by section 140 of Public Law 101–610 (42 U.S.C. 12594); and

(2) not subject such corps to the requirements of section 112 of title 23, United States Code.

**SEC. 1516. CONSOLIDATION OF PROGRAMS; REPEAL OF OBSOLETE PROVISIONS.**

(a) CONSOLIDATION OF PROGRAMS.—From administrative funds made available under section 104(a) of title 23, United States Code, not less than $15,000,000 for each of fiscal years 2012 and 2013 shall be made available for the following activities:

(1) To carry out the operation lifesaver program—

(A) to provide public information and education programs to help prevent and reduce motor vehicle accidents, injuries, and fatalities; and

(B) to improve driver performance at railway-highway crossings.

(2) To operate the national work zone safety information clearinghouse authorized by section 358(b)(2) of the National Highway System Designation Act of 1995 (23 U.S.C. 401 note; 109 Stat. 625)

(3) To operate a public road safety clearinghouse in accordance with section 1411(a) of the SAFETEA–LU (23 U.S.C. 402 note; 119 Stat. 1234).

(4) To operate a bicycle and pedestrian safety clearinghouse in accordance with section 1411(b) of

the SAFETEA–LU (23 U.S.C. 402 note; 119 Stat. 1234).

(5) To operate a national safe routes to school clearinghouse in accordance with section 1404(g) of the SAFETEA–LU (23 U.S.C. 402 note; 119 Stat. 1229).

(6) To provide work zone safety grants in accordance with subsections (a) and (b) of section 1409 of the SAFETEA–LU (23 U.S.C. 401 note; 119 Stat. 1232).

(7) To provide grants to prohibit racial profiling in accordance with section 1906 of the SAFETEA–LU (23 U.S.C. 402 note; 119 Stat. 1468).

(b) REPEALS.—Sections 105, 110, 117, 124, 151, 155, 160, and 303 of title 23, United States Code, are repealed.

(c) CONFORMING AMENDMENTS.—

(1) TITLE ANALYSIS.—The analysis for title 23, United States Code, is amended by striking the items relating to sections 105, 110, 117, 124, 151, 155, 160, and 303 of that title.

(2) SECTION 118.—Section 118 of such title is amended—

(A) in subsection (b)—

(i) by striking paragraph (1) and all that follows through the heading of paragraph (2); and

(ii) by striking ''(other than for Interstate construction)'';

(B) by striking subsection (c); and

(C) by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

(3) SECTION 130.—Section 130 of such title is amended—

(A) by striking subsections (e) through (h);

(B) by redesignating subsection (i) as subsection (e);

(C) by striking subsections (j) and (k);

(D) by redesignating subsection (l) as subsection (f);

(E) in subsection (e) (as so redesignated) by striking ''this section''the second place it appears and inserting ''section 104(b)(3)''; and

(F) in subsection (f) (as so redesignated) by striking paragraphs (3) and (4).

(4) SECTION 142.—Section 142 of title 23, United States Code, is amended—

(A) in subsection (a)—

(i) in paragraph (1)—

(I) by striking ''motor vehicles (other than rail)'' and inserting ''buses'';

(II) by striking ''(hereafter in this section referred to as 'buses')'';

(III) by striking ''Federal-aid systems'' and inserting ''Federal-aid highways''; and

(IV) by striking ''Federal-aid system'' and inserting ''Federal-aid highway''; and

(ii) in paragraph (2)—

(I) by striking ''as a project on the the surface transportation program for''; and

(II) by striking ''section 104(b)(3)'' and inserting ''section 104(b)(2);

(B) in subsection (b) by striking ''104(b)(4)'' and inserting ''104(b)(1)'';

(C) in subsection (c)—

(i) by striking ''system'' in each place it appears and inserting ''highway''; and

(ii) by striking ''highway facilities'' and inserting ''highways eligible under the program that is the source of the funds''; (D) in subsection (e)(2)—

(i) by striking ''Notwithstanding section 209(f)(1) of the Highway Revenue Act of 1956, the Highway Trust Fund shall be available for making expenditures to meet obligations resulting from projects authorized by subsection (a)(2) of this section and such projects'' and inserting ''Projects authorized by subsection (a)(2)''; and

(ii) striking ''on the surface transportation program'' and inserting ''under the transportation mobility program''; and

(E) in subsection (f) by striking ''exits'' and inserting ''exists''.

(5) SECTION 145.—Section 145(b) of title 23, United States Code, is amended by striking ''section 117 of this title,''.

(6) SECTION 322.—Section 322(h)(3) of title 23, United States Code, is amended by striking ''surface transportation program'' and inserting ''the transportation mobility program''.

(d) CERTAIN ALLOCATIONS.—Notwithstanding any other provision of law, any unobligated balances of amounts required to be allocated to a State by section 1307(d)(1) of the SAFETEA–LU (23 U.S.C. 322 note; 119 Stat. 1217; 122 Stat. 1577) shall instead be made available to such State for any purpose eligible under section 133(c) of title 23, United States Code.

**SEC. 1517. RESCISSIONS.**

(a) FISCAL YEAR 2012.—

(1) Not later than 30 days after the date of enactment of this Act, of the unobligated balances available under sections 144(f) and 320 of title 23, United States Code, section 147 of Public Law 95–599 (23 U.S.C. 144 note; 92 Stat. 2714), section 9(c) of Public Law 97–134 (95 Stat. 1702), section 149 of Public Law 100–17 (101 Stat. 181), sections 1006, 1069, 1103, 1104, 1105, 1106, 1107, 1108, 6005, 6015, and 6023 of Public Law 102–240 (105 Stat. 1914), section 1602 of Public Law 105–178 (112 Stat. 256), sections 1301, 1302, 1702, and 1934 of Public Law 109–59 (119 Stat. 1144), and of other funds apportioned to each State under chapter 1 of title 23, United States Code, prior to the date of enactment of this Act, $2,391,000,000 are permanently rescinded.

(2) In administering the rescission required under this subsection, the Secretary shall allow each State to determine the amount of the required rescission to be drawn from the programs to which the rescission applies.

(b) FISCAL YEAR 2013.—

(1) On October 1, 2012, of the unobligated balances of funds apportioned or allocated on or before that date to each State under chapter 1 of title 23, United States Code, $3,054,000,000 are permanently rescinded.

(2) Notwithstanding section 1132 of the Energy Independence and Security Act of 2007 (Public Law 110–140; 121 Stat. 1763), in administering the rescission required under this subsection, the Secretary shall allow each State to determine the amount of the required rescission to be drawn from the programs to which the rescission applies.

**SEC. 1518. STATE AUTONOMY FOR CULVERT PIPE SELECTION.**

Not later than 180 days after the date of enactment of this Act, the Secretary shall modify section 635.411 of title 23, Code of Federal Regulations (as in effect on the date of enactment of this Act), to ensure that States shall have the autonomy to determine culvert and storm sewer

material types to be included in the construction of a project on a Federal-aid highway.

**SEC. 1519. EFFECTIVE AND SIGNIFICANT PERFORMANCE MEASURES.**

(a) LIMITED NUMBER OF PERFORMANCE MEASURES.—In implementing provisions of this Act (including the amendments made by this Act) and title 23, United States Code (other than chapter 4 of that title), that authorize the Secretary to develop performance measures, the Secretary shall limit the number of performance measures established to the most significant and effective measures.

(b) DIFFERENT APPROACHES FOR URBAN AND RURAL AREAS.—In the development and implementation of any performance target, a State may, as appropriate, provide for different performance targets for urbanized and rural areas.

**SEC. 1520. REQUIREMENTS FOR ELIGIBLE BRIDGE PROJECTS.**

(a) DEFINITIONS.—In this section:

(1) ELIGIBLE BRIDGE PROJECT.—The term ''eligible bridge project'' means a project for construction, alteration, or repair work on a bridge or overpass funded directly by, or provided other assistance through, the Federal Government.

(2) QUALIFIED TRAINING PROGRAM.—The term ''qualified training program'' means a training program that—

(A)(i) is certified by the Secretary of Labor; and

(ii) with respect to an eligible bridge project located in an area in which the Secretary of Labor determines that a training program does not exist, is registered with—

(I) the Department of Labor; or

(II) a State agency recognized by the Department of Labor for purposes of a Federal training program; or

(B) is a corrosion control, mitigation and prevention personnel training program that is offered by an organization whose standards are recognized and adopted in other Federal or State Departments of Transportation.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Transportation.

(b) ELIGIBILITY REQUIREMENTS.—

(1) IN GENERAL.—Each contractor and subcontractor that carries out any aspect of an eligible bridge project described in paragraph (2) shall—

(A) before entering into the applicable contract, be certified by the Secretary or a State, in accordance with paragraph (4), as meeting the eligibility requirements described in paragraph (3); and

(B) remain certified as described in subparagraph (A) while carrying out the applicable aspect of the eligible bridge project.

(2) DESCRIPTION OF ASPECTS OF ELIGIBLE BRIDGE PROJECTS.—An aspect of an eligible bridge project referred to in paragraph (1) is—

(A) surface preparation or coating application on bridge steel of an eligible bridge project;

(B) removal of a lead-based or other hazardous coating from bridge steel of an existing eligible bridge project;

(C) shop painting of structural steel fabricated for installation on bridge steel of an eligible bridge project; and

(D) the design, application, installation, and maintenance of a cathodic protection system.

(3) REQUIREMENTS.—The eligibility requirements referred to in paragraph (1) are that a contractor or subcontractor shall—

(A) as determined by the Secretary—

(i) use corrosion mitigation and prevention methods to preserve relevant bridges and overpasses, taking into account—

(I) material selection;

(II) coating considerations;

(III) cathodic protection considerations;

(IV) design considerations for corrosion; and

(V) trained applicators;

(ii) use best practices—

(I) to prevent environmental degradation; and

(II) to ensure careful handling of all hazardous materials; and

(iii) demonstrate a history of employing industry-respected inspectors to ensure funds are used in the interest of affected taxpayers; and

(B) demonstrate a history of compliance with applicable requirements of the Occupational Safety and Health Administration, as determined by the Secretary of Labor.

(4) STATE CONSULTATION.—In determining whether to certify a contractor or subcontractor under paragraph (1)(A), a State shall consult with engineers and other experts trained in accordance with subsection (a)(2) specializing in corrosion control, mitigation, and prevention methods.

(c) OPTIONAL TRAINING PROGRAM.—As a condition of entering into a contract for an eligible bridge project, each contractor and subcontractor that performs construction, alteration, or repair work on a bridge or overpass for the eligible bridge project may provide, or make available, training, through a qualified training program, for each applicable craft or trade classification of employees that the contractor or subcontractor intends to employ to carry out aspects of eligible bridge projects as described in subsection (b)(2).

**SEC. 1521. IDLE REDUCTION TECHNOLOGY.**

Section 127(a)(12) of title 23, United States Code, is amended—

(1) in subparagraph (B), by striking ''400'' and inserting ''550''; and

(2) in subparagraph (C)(ii), by striking ''400-pound'' and inserting ''550-pound''.

**SEC. 1522. REPORT ON HIGHWAY TRUST FUND EXPENDITURES.**

(a) INITIAL REPORT.—Not later than 150 days after the date of enactment of this Act, the Comptroller General of the United States shall submit to Congress a report describing the activities funded from the Highway Trust Fund during each of fiscal years 2009 through 2011, including for purposes other than construction and maintenance of highways and bridges.

(b) UPDATES.—Not later than 5 years after the date on which the report is submitted under subsection (a) and every 5 years thereafter, the Comptroller General of the United States shall submit to Congress a report that updates the information provided in the report under that subsection for the applicable 5-year period.

(c) INCLUSIONS.—A report submitted under subsection (a) or (b) shall include information similar to the information included in the report of the Government Accountability Office numbered ''GAO–09–729R'' and entitled ''Highway Trust Fund Expenditures on Purposes Other Than Construction and Maintenance of Highways and Bridges During Fiscal Years 2004–2008''.

**SEC. 1523. EVACUATION ROUTES.**

Each State shall give adequate consideration to the needs of evacuation routes in the State, including such routes serving or adjacent to facilities operated by the

Armed Forces, when allocating funds apportioned to the State under title 23, United States Code, for the construction of Federal-aid highways.

**SEC. 1524. DEFENSE ACCESS ROAD PROGRAM ENHANCEMENTS TO ADDRESS TRANSPORTATION INFRASTRUCTURE IN THE VICINITY OF MILITARY INSTALLATIONS.**

The second sentence of section 210(a)(2) of title 23, United States Code, is amended by inserting ", in consultation with the Secretary of Transportation," before "shall determine".

**SEC. 1525. EXPRESS LANES DEMONSTRATION PROGRAM.**

Section 1604(b) of the SAFETEA–LU (23 U.S.C. 129 note; Public Law 109–59) is amended—

(1) in paragraph (1)(A)—

(A) in clause (ii), by inserting "and" after the semicolon;

(B) by striking clause (iii); and

(C) by redesignating clause (iv) as clause (iii); and

(2) in paragraph (2), by striking "2009" and inserting "2013".

**SEC. 1526. TREATMENT OF HISTORIC SIGNS.**

The Secretary shall, not later than 180 days after the date of enactment of this Act, initiate a rulemaking

to exempt locally identified historic street name signs or replicas of historic signs from complying with all or part of section 2D.43 of the Manual on Uniform Traffic Control Devices.

**SEC. 1527. CONSOLIDATION OF GRANTS.**

(a) DEFINITIONS.—In this section, the term ''recipient'' means—

(1) a State, local, or tribal government, including—

(A) a territory of the United States;

(B) a transit agency;

(C) a port authority;

(D) a metropolitan planning organization; or

(E) any other political subdivision of a State or local government;

(2) a multistate or multijurisdictional group, if each member of the group is an entity described in paragraph (1); and

(3) a public-private partnership, if both parties are engaged in building the project.

(b) CONSOLIDATION.—

(1) IN GENERAL.—A recipient that receives multiple grant awards from the Department to support 1 multimodal project may request that the Sec-

retary designate 1 modal administration in the Department to be the lead administering authority for the overall project.

(2) NEW STARTS.—Any project that includes funds awarded under section 5309 of title 49, United States Code, shall be exempt from consolidation under this section unless the grant recipient requests the Federal Transit Administration to be the lead administering authority.

(3) REVIEW.—

(A) IN GENERAL.—Not later than 30 days after the date on which a request under paragraph (1) is made, the Secretary shall review the request and approve or deny the designation of a single modal administration as the lead administering authority and point of contact for the Department.

(B) NOTIFICATION.—

(i) IN GENERAL.—The Secretary shall notify the requestor of the decision of the Secretary under subparagraph (A) in such form and at such time as the Secretary and the requestor agree.

(ii) DENIAL.—If a request is denied, the Secretary shall provide the requestor

with a detailed explanation of the reasoning of the Secretary with the notification under clause (i).

(c) DUTIES.—

(1) IN GENERAL.—A modal administration designated as a lead administering authority under this section shall—

(A) be responsible for leading and coordinating the integrated project management team, which shall consist of all of the other modal administrations in the Department relating to the multimodal project; and

(B) to the extent feasible during the first 30 days of carrying out the multimodal project, identify overlapping or duplicative regulatory requirements that exist for the project and propose a single, streamlined approach to meeting all of the applicable regulatory requirements through the activities described in subsection (d).

(2) ADMINISTRATION.—

(A) IN GENERAL.—The Secretary shall transfer all amounts that have been awarded for the multimodal project to the modal admin-

istration designated as the lead administering authority.

(B) OPTION.—

(i) IN GENERAL.—Participation under this section shall be optional for recipients, and no recipient shall be required to participate.

(ii) SECRETARIAL DUTIES.—The Secretary is not required to identify every recipient that may be eligible to participate under this section.

(d) COOPERATION.—

(1) IN GENERAL.—The Secretary and modal administrations with relevant jurisdiction over a multimodal project should cooperate on project review and delivery activities at the earliest practicable time.

(2) PURPOSES.—The purposes of the cooperation under paragraph (1) are—

(A) to avoid delays and duplication of effort later in the process;

(B) to prevent potential conflicts; and

(C) to ensure that planning and project development decisions are made in a streamlined manner and consistent with applicable law.

(e) APPLICABILITY.—Nothing in this section shall—

(1) supersede, amend, or modify the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) or any other Federal environmental law; or

(2) affect the responsibility of any Federal officer to comply with or enforce any law described in paragraph (1).

**SEC. 1528. BUY AMERICA PROVISIONS.**

Section 313 of title 23, United States Code, is amended by adding at the end the following:

''(g) APPLICATION TO HIGHWAY PROGRAMS.—The requirements under this section shall apply to all contracts eligible for assistance under this chapter for a project carried out within the scope of the applicable finding, determination, or decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), regardless of the funding source of such contracts, if at least 1 contract for the project is funded with amounts made available to carry out this title.''.

**SEC. 1529. EXEMPTIONS FROM REQUIREMENTS FOR CERTAIN FARM VEHICLES.**

(a) FEDERAL REQUIREMENTS.—A covered farm vehicle, including the individual operating that vehicle, shall be exempt from the following:

(1) Any requirement relating to commercial driver's licenses established under chapter 313 of title 49, United States Code.

(2) Any requirement relating to medical certificates established under—

(A) subchapter III of chapter 311 of title 49, United States Code; or

(B) chapter 313 of title 49, United States Code.

(3) Any requirement relating to hours of service established under—

(A) subchapter III of chapter 311 of title 49, United States Code; or

(B) chapter 315 of title 49, United States Code.

(4) Any requirement relating to vehicle inspection, repair, and maintenance established under—

(A) subchapter III of chapter 311 of title 49, United States Code; or

(B) chapter 315 of title 49, United States Code.

(b) STATE REQUIREMENTS.—

(1) IN GENERAL.—Federal transportation funding to a State may not be terminated, limited, or otherwise interfered with as a result of the State ex-

empting a covered farm vehicle, including the individual operating that vehicle, from any State requirement relating to the operation of that vehicle.

(2) EXCEPTION.—Paragraph (1) does not apply with respect to a covered farm vehicle transporting hazardous materials that require a placard.

(3) STATE REQUIREMENTS.—Notwithstanding section (a) or any other provision of law, a State may enact and enforce safety requirements related to covered farm vehicles.

(c) COVERED FARM VEHICLE DEFINED.—

(1) IN GENERAL.—In this section, the term ''covered farm vehicle'' means a motor vehicle (including an articulated motor vehicle)—

(A) that—

(i) is traveling in the State in which the vehicle is registered or another State;

(ii) is operated by—

(I) a farm owner or operator;

(II) a ranch owner or operator; or

(III) an employee or family member of an individual specified in subclause (I) or (II);

(iii) is transporting to or from a farm or ranch—

(I) agricultural commodities;

(II) livestock; or

(III) machinery or supplies;

(iv) except as provided in paragraph (2), is not used in the operations of a for-hire motor carrier; and

(v) is equipped with a special license plate or other designation by the State in which the vehicle is registered to allow for identification of the vehicle as a farm vehicle by law enforcement personnel; and

(B) that has a gross vehicle weight rating or gross vehicle weight, whichever is greater, that is—

(i) 26,001 pounds or less; or

(ii) greater than 26,001 pounds and traveling within the State or within 150 air miles of the farm or ranch with respect to which the vehicle is being operated.

(2) INCLUSION.—In this section, the term ''covered farm vehicle'' includes a motor vehicle that meets the requirements of paragraph (1) (other than paragraph (1)(A)(iv)) and is—

(A) operated pursuant to a crop share farm lease agreement;

(B) owned by a tenant with respect to that agreement; and

(C) transporting the landlord's portion of the crops under that agreement.

(d) SAFETY STUDY.—The Secretary shall conduct a study of the exemption required by section (a) as follows—

(1) Data and analysis of covered farm vehicles shall include:

(A) the number of vehicles that are operated subject to each of the regulatory exemptions permitted under section (a);

(B) the number of drivers that operate covered farm vehicles subject to each of the regulatory exemptions permitted under section (a);

(C) the number of crashes involving covered farm vehicles;

(D) the number of occupants and non-occupants injured in crashes involving covered farm vehicles;

(E) the number of fatalities of occupants and non-occupants killed in crashes involving farm vehicles;

(F) crash investigations and accident reconstruction investigations of all fatalities in crashes involving covered farm vehicles;

(G) overall operating mileage of covered farm vehicles;

(H) numbers of covered farm vehicles that operate in neighboring states; and

(I) any other data the Secretary deems necessary to analyze and include.

(2) A listing of state regulations issued and maintained in each state that are identical to the federal regulations that are subject to exemption in section (a).

(3) The Secretary shall report the findings of the study to the appropriate committees of the Congress not later than 18 months after enactment of MAP–21.

**SEC. 1530. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM.**

(a) SENSE OF THE SENATE.—It is the Sense of the Senate that the timely completion of the Appalachian development highway system is a transportation priority in the national interest.

(b) MODIFIED FEDERAL SHARE FOR PROJECTS ON ADHS.—For fiscal years 2012 through 2021, the Federal

share payable for the cost of constructing highways and access roads on the Appalachian development highway system under section 14501 of title 40, United States Code, with funds made available to a State for fiscal year 2012 or a previous fiscal year for the Appalachian development highway system program, or with funds made available for fiscal year 2012 or a previous fiscal year for a specific project, route, or corridor on that system, shall be 95 percent.

(c) FEDERAL SHARE FOR OTHER FUNDS USED ON ADHS.—For fiscal years 2012 through 2021, the Federal share payable for the cost of constructing highways and access roads on the Appalachian development highway system under section 14501 of title 40, United States Code, with Federal funds apportioned to a State for a program other than the Appalachian development highway system program shall be 95 percent.

(d) COMPLETION PLAN.—Not later than 1 year after the date of enactment of the MAP–21, each State represented on the Appalachian Regional Commission shall establish a plan for the completion of the designated corridors of the Appalachian development highway system within the State, including annual performance targets, with a target completion date.

**SEC. 1531. DENALI COMMISSION.**

The Denali Commission Act of 1998 (42 U.S.C. 3121 note) is amended—

(1) in section 305, by striking subsection (c) and inserting the following:

''(c) GIFTS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the Commission, on behalf of the United States, may accept use, and dispose of gifts or donations of services, property, or money for purposes of carrying out this Act.

''(2) CONDITIONAL.—With respect to conditional gifts—

''(A)(i) the Commission, on behalf of the United States, may accept conditional gifts for purposes of carrying out this Act, if approved by the Federal Cochairperson; and

''(ii) the principal of and income from any such conditional gift shall be held, invested, reinvested, and used in accordance with the condition applicable to the gift; but

''(B) no gift shall be accepted that is conditioned on any expenditure not to be funded from the gift or from the income generated by the gift unless the expenditure has been approved by Act of Congress.''; and

(2) by adding at the end the following:

**"SEC. 311. TRANSFER OF FUNDS FROM OTHER FEDERAL AGENCIES.**

"(a) IN GENERAL.—Subject to subsection (c), for purposes of this Act, the Commission may accept transfers of funds from other Federal agencies.

"(b) TRANSFERS.—Any Federal agency authorized to carry out an activity that is within the authority of the Commission may transfer to the Commission any appropriated funds for the activity.

"(c) TREATMENT.—Any funds transferred to the Commission under this subsection—

"(1) shall remain available until expended; and

"(2) may, to the extent necessary to carry out this Act, be transferred to, and merged with, the amounts made available by appropriations Acts for the Commission by the Federal Cochairperson.".

**SEC. 1532. UPDATED CORROSION CONTROL AND PREVENTION REPORT.**

Not later than 30 months after the date of enactment of this Act, the Secretary shall submit to Congress an updated report on the costs and benefits of the prevention and control of corrosion on the surface transportation infrastructure of the United States.

**SEC. 1533. HARBOR MAINTENANCE TRUST FUND.**

(a) FINDINGS.—Congress finds that—

(1) there are 926 coastal, Great Lakes, and inland harbors maintained by the Corps of Engineers;

(2) according to the Bureau of Transportation Statistics—

(A) in 2009, the ports and waterways of the United States handled more than 2,200,000,000 short tons of imports, exports, and domestic shipments; and

(B) in 2010, United States ports were responsible for more than $1,400,000,000,000 in waterborne imports and exports;

(3) according to the Congressional Research Service, full channel dimensions are, on average, available approximately ⅓ of the time at the 59 harbors of the United States with the highest use rates;

(4) insufficient maintenance dredging of the navigation channels of the United States results in inefficient water transportation and causes harmful economic consequences;

(5) in 1986, Congress created the Harbor Maintenance Trust Fund to provide funds for the operation and maintenance of the navigation channels of the United States;

(6) in fiscal year 2012, the Harbor Maintenance Trust Fund is expected to grow from $6,280,000,000 to $7,011,000,000, an increase of approximately 13 percent;

(7) despite the growth of the Harbor Maintenance Trust Fund, expenditures from the Fund have not equaled revenues, and the Fund is not being fully used for the intended purpose of the Fund; and

(8) inadequate investment in dredging needs is restricting access to the ports of the United States for domestic shipping, imports, and exports and therefore threatening the economic competitiveness of the United States.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the Administration should request full use of the Harbor Maintenance Trust Fund for operating and maintaining the navigation channels of the United States;

(2) the amounts in the Harbor Maintenance Trust Fund should be fully expended to operate and maintain the navigation channels of the United States; and

(3) Congress should ensure that other programs, projects, and activities of the Civil Works

Program of the Corps of Engineers, especially those programs, projects, and activities relating to inland navigation and flood control, are not adversely impacted.

**SEC. 1534. ENRICHMENT TECHNOLOGY AND INTELLECTUAL PROPERTY.**

(a) In addition to any other transfer authority, the Secretary may transfer, not earlier than thirty days after certification to the Committees on Appropriations of the House of Representatives and the Senate that such transfer is needed for national security reasons, and after Congressional notification and approval of the Committees on Appropriations of the House of Representatives and the Senate, up to $150,000,000 made available in prior Appropriations Acts to further the development and demonstration of national security-related enrichment technologies. No amounts may be transferred under this section from amounts that were designated by the Congress as an emergency requirement pursuant to the Concurrent Resolution on the Budget or the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

(b) The Secretary shall provide, directly or indirectly, Federal funds, resources, or other benefit for the research, development, or deployment of domestic enrichment technology under this section—

(1) using merit selection procedures; and

(2) only if the Secretary shall execute an agreement with the recipient (or any affiliate, successor, or assignee) of such funds, resources, or other benefit (hereinafter referred to as the ''recipient''), which shall require, at a minimum—

(A) the achievement of specific technical criteria by the recipient by specific dates no later than June 30, 2014;

(B) that the recipient shall—

(i) immediately upon execution of the agreement, grant to the United States for use by or on behalf of the United States, through the Secretary, a royalty-free, non-exclusive license in all enrichment-related intellectual property and associated technical data owned, licensed or otherwise controlled by the recipient as of the date of enactment of this Act, or thereafter developed or acquired to meet the requirements of the agreement;

(ii) amend any existing agreement between the Secretary and the recipient to permit the Secretary to practice or permit third parties on behalf of the Secretary to

practice intellectual property and associated technical data related to the award of funds, resources, or other benefit royalty-free for government purposes, including completing or operating enrichment technologies and using them for national defense purposes, such as providing nuclear material to operate commercial nuclear power reactors for tritium production; and

(iii) as soon as practicable, deliver to the Secretary all technical information and other documentation in its possession or control necessary to permit the Secretary to use and practice all intellectual property related to domestic enrichment technologies; and

(C) any other condition or restriction the Secretary determines is necessary to protect the interests of the United States.

(c) If the Secretary determines that a recipient has not achieved the technical criteria under the agreement pursuant to subsection (b), either by the dates specified in the original agreement or by June 30, 2014, whichever is earlier, the recipient shall, as soon as practicable, surrender custody, possession and control, or return, as ap-

propriate, any real or personal property owned or leased by the recipient, to the Secretary in connection with the deployment of enrichment technology, along with all capital improvements, equipment, fixtures, appurtenances, and other improvements thereto, and any further obligation by the Secretary under any such lease shall terminate.

(d)(1) The limitations in this section shall apply to funds made available in this Act, prior Appropriations Acts, and any future Appropriations Acts.

(2) This section shall not apply with regard to the issuance of any loan guarantee pursuant to section 1703 of the Energy Policy Act of 2005 (42 U.S.C. 16513).

(e) For purpose of this section, the term ''Secretary'' shall mean the Secretary of the Department of Energy.

**SEC. 1535. SENSE OF SENATE CONCERNING EXPEDITIOUS COMPLETION OF ENVIRONMENTAL REVIEWS, APPROVALS, LICENSING, AND PERMIT REQUIREMENTS.**

It is the sense of the Senate that Federal agencies should—

(1) ensure that all applicable environmental reviews, approvals, licensing, and permit requirements under Federal law are completed on an expeditious

basis following any disaster or emergency declared under Federal law, including—

(A) a major disaster declared by the President under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170); and

(B) an emergency declared by the President under section 501 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5191); and

(2) use the shortest existing applicable process under Federal law to complete each review, approval, licensing, and permit requirement described in paragraph (1) following a disaster or emergency described in that paragraph.

# Subtitle F—Gulf Coast Restoration

**SEC. 1601. SHORT TITLE.**

This subtitle may be cited as the ''Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012''.

**SEC. 1602. GULF COAST RESTORATION TRUST FUND.**

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a trust fund to be known as the ''Gulf Coast Restoration Trust Fund'' (referred to in this section as the ''Trust Fund''), consisting of such

amounts as are deposited in the Trust Fund under this subtitle or any other provision of law.

(b) TRANSFERS.—The Secretary of the Treasury shall deposit in the Trust Fund an amount equal to 80 percent of all administrative and civil penalties paid by responsible parties after the date of enactment of this Act in connection with the explosion on, and sinking of, the mobile offshore drilling unit Deepwater Horizon pursuant to a court order, negotiated settlement, or other instrument in accordance with section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321).

(c) EXPENDITURES.—Amounts in the Trust Fund, including interest earned on advances to the Trust Fund and proceeds from investment under subsection (d), shall—

(1) be available for expenditure, without further appropriation, solely for the purpose and eligible activities of this subtitle; and

(2) remain available until expended, without fiscal year limitation.

(d) INVESTMENT.—Amounts in the Trust Fund shall be invested in accordance with section 9702 of title 31, United States Code, and any interest on, and proceeds from, any such investment shall be available for expendi-

ture in accordance with this subtitle and the amendments made by this subtitle.

(e) ADMINISTRATION.—Not later than 180 days after the date of enactment of this Act, after providing notice and an opportunity for public comment, the Secretary of the Treasury, in consultation with the Secretary of the Interior and the Secretary of Commerce, shall establish such procedures as the Secretary determines to be necessary to deposit amounts in, and expend amounts from, the Trust Fund pursuant to this subtitle, including—

(1) procedures to assess whether the programs and activities carried out under this subtitle and the amendments made by this subtitle achieve compliance with applicable requirements, including procedures by which the Secretary of the Treasury may determine whether an expenditure by a Gulf Coast State or coastal political subdivision (as those terms are defined in section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321)) pursuant to such a program or activity achieves compliance;

(2) auditing requirements to ensure that amounts in the Trust Fund are expended as intended; and

(3) procedures for identification and allocation of funds available to the Secretary under other pro-

visions of law that may be necessary to pay the administrative expenses directly attributable to the management of the Trust Fund.

**SEC. 1603. GULF COAST NATURAL RESOURCES RESTORATION AND ECONOMIC RECOVERY.**

Section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321) is amended—

(1) in subsection (a)—

(A) in paragraph (25)(B), by striking ''and'' at the end;

(B) in paragraph (26)(D), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

''(27) the term 'Chairperson' means the Chairperson of the Council;

''(28) the term 'coastal political subdivision' means any local political jurisdiction that is immediately below the State level of government, including a county, parish, or borough, with a coastline that is contiguous with any portion of the United States Gulf of Mexico;

''(29) the term 'Comprehensive Plan' means the comprehensive plan developed by the Council pursuant to subsection (t);

"(30) the term 'Council' means the Gulf Coast Ecosystem Restoration Council established pursuant to subsection (t);

"(31) the term 'Deepwater Horizon oil spill' means the blowout and explosion of the mobile offshore drilling unit Deepwater Horizon that occurred on April 20, 2010, and resulting hydrocarbon releases into the environment;

"(32) the term 'Gulf Coast ecosystem' means—

"(A) in the Gulf Coast States, the coastal zones (as that term is defined in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453), except that, in this section, the term 'coastal zones' includes land within the coastal zones that is held in trust by, or the use of which is by law subject solely to the discretion of, the Federal Government or officers or agents of the Federal Government) that border the Gulf of Mexico;

"(B) any adjacent land, water, and watersheds, that are within 25 miles of the coastal zones described in subparagraph (A) of the Gulf Coast States; and

"(C) all Federal waters in the Gulf of Mexico;

"(33) the term 'Gulf Coast State' means any of the States of Alabama, Florida, Louisiana, Mississippi, and Texas; and

"(34) the term 'Trust Fund' means the Gulf Coast Restoration Trust Fund established pursuant to section 1602 of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012.";

(2) in subsection (s), by inserting "except as provided in subsection (t)" before the period at the end; and

(3) by adding at the end the following:

"(t) GULF COAST RESTORATION AND RECOVERY.—

"(1) STATE ALLOCATION AND EXPENDITURES.—

"(A) IN GENERAL.—Of the total amounts made available in any fiscal year from the Trust Fund, 35 percent shall be available, in accordance with the requirements of this section, to the Gulf Coast States in equal shares for expenditure for ecological and economic restoration of the Gulf Coast ecosystem in accordance with this subsection.

"(B) USE OF FUNDS.—

"(i) ELIGIBLE ACTIVITIES.—Amounts provided to the Gulf States under this subsection may only be used to carry out 1 or more of the following activities:

"(I) Coastal restoration projects and activities, including conservation and coastal land acquisition.

"(II) Mitigation of damage to, and restoration of, fish, wildlife, or natural resources.

"(III) Implementation of a federally approved marine, coastal, or comprehensive conservation management plan, including fisheries monitoring.

"(IV) Programs to promote tourism in a Gulf Coast State, including recreational fishing.

"(V) Programs to promote the consumption of seafood produced from the Gulf Coast ecosystem.

"(VI) Programs to promote education regarding the natural resources of the Gulf Coast ecosystem.

"(VII) Planning assistance.

"(VIII) Workforce development and job creation.

"(IX) Improvements to or upon State parks located in coastal areas affected by the Deepwater Horizon oil spill.

"(X) Mitigation of the ecological and economic impact of outer Continental Shelf activities and the impacts of the Deepwater Horizon oil spill or promotion of the long-term ecological or economic recovery of the Gulf Coast ecosystem through the funding of infrastructure projects.

"(XI) Coastal flood protection and infrastructure directly affected by coastal wetland losses, beach erosion, or the impacts of the Deepwater Horizon oil spill.

"(XII) Administrative costs of complying with this subsection.

"(ii) LIMITATION.—

"(I) IN GENERAL.—Of the amounts received by a Gulf State under this subsection not more than 3

percent may be used for administrative costs eligible under clause (i)(XII).

"(II) PROHIBITION ON USE FOR IMPORTED SEAFOOD.—None of the funds made available under this subsection shall be used for any program to support or promote imported seafood or any seafood product that is not harvested from the Gulf Coast ecosystem.

"(C) COASTAL POLITICAL SUBDIVISIONS.—

"(i) IN GENERAL.—In the case of a State where the coastal zone includes the entire State—

"(I) 75 percent of funding shall be provided to the 8 disproportionally affected counties impacted by the Deepwater Horizon Oil Spill; and

"(II) 25 percent shall be provided to nondisproportionately impacted counties within the State.

"(ii) FLORIDA.—

"(I) DISPROPORTIONALLY AFFECTED COUNTIES.—Of the total

amounts made available to counties in the State of Florida under clause (i)(I)—

"(aa) 10 percent shall be distributed equally among the 8 disproportionately affected counties; and

"(bb) 90 percent shall be distributed to the 8 disproportionately affected counties in accordance with the following weighted formula:

"(AA) 30 percent based on the weighted average of the county shoreline oiled.

"(BB) 30 percent based on the weighted average of the county per capita sales tax collections estimated for the fiscal year ending September 30, 2012.

"(CC) 20 percent based on the weighted average of the population of the county.

"(DD) 20 percent based on the inverse proportion of the weighted average distance from the Deepwater Horizon oil rig to each of the nearest and farthest points of the shoreline.

"(II) NONDISPROPORTIONATELY IMPACTED COUNTIES.—The total amounts made available to coastal political subdivisions in the State of Florida under clause (i)(II) shall be distributed according to the following weighted formula:

"(aa) 34 percent based on the weighted average of the population of the county.

"(bb) 33 percent based on the weighted average of the county per capita sales tax collections estimated for the fiscal year ending September 30, 2012.

"(cc) 33 percent based on the inverse proportion of the weighted average distance from

the Deepwater Horizon oil rig to each of the nearest and farthest points of the shoreline.

"(iii) LOUISIANA.—Of the total amounts made available to the State of Louisiana under this paragraph:

"(I) 70 percent shall be provided directly to the State in accordance with this subsection.

"(II) 30 percent shall be provided directly to parishes in the coastal zone (as defined in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453)) of the State of Louisiana according to the following weighted formula:

"(aa) 40 percent based on the weighted average of miles of the parish shoreline oiled.

"(bb) 40 percent based on the weighted average of the population of the parish.

"(cc) 20 percent based on the weighted average of the land mass of the parish.

"(iv) CONDITIONS.—

"(I) LAND USE PLAN.—As a condition of receiving amounts allocated under clause (iii), the chief executive of the eligible parish shall certify to the Governor of the State that the parish has completed a comprehensive land use plan.

"(II) OTHER CONDITIONS.—A coastal political subdivision receiving funding under this subsection shall meet all of the conditions in subparagraph (D).

"(D) CONDITIONS.—As a condition of receiving amounts from the Trust Fund, a Gulf Coast State, including the entities described in subparagraph (E), or a coastal political subdivision shall—

"(i) agree to meet such conditions, including audit requirements, as the Secretary of the Treasury determines necessary to ensure that amounts disbursed from the Trust Fund will be used in accordance with this subsection;

"(ii) certify in such form and in such manner as the Secretary of the Treasury determines necessary that the project or program for which the Gulf Coast State or coastal political subdivision is requesting amounts—

"(I) is designed to restore and protect the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, coastal wetlands, or economy of the Gulf Coast;

"(II) carries out 1 or more of the activities described in subparagraph (B)(i);

"(III) was selected based on meaningful input from the public, including broad-based participation from individuals, businesses, and nonprofit organizations; and

"(IV) in the case of a natural resource protection or restoration project, is based on the best available science;

"(iii) certify that the project or program and the awarding of a contract for

the expenditure of amounts received under this subsection are consistent with the standard procurement rules and regulations governing a comparable project or program in that State, including all applicable competitive bidding and audit requirements; and

"(iv) develop and submit a multiyear implementation plan for use of those funds.

"(E) APPROVAL BY STATE ENTITY, TASK FORCE, OR AGENCY.—The following Gulf Coast State entities, task forces, or agencies shall carry out the duties of a Gulf Coast State pursuant to this paragraph:

"(i) ALABAMA.—

"(I) IN GENERAL.—In the State of Alabama, the Alabama Gulf Coast Recovery Council, which shall be comprised of only the following:

"(aa) The Governor of Alabama, who shall also serve as Chairperson and preside over the meetings of the Alabama Gulf Coast Recovery Council.

"(bb) The Director of the Alabama State Port Authority, who shall also serve as Vice Chairperson and preside over the meetings of the Alabama Gulf Coast Recovery Council in the absence of the Chairperson.

"(cc) The Chairman of the Baldwin County Commission.

"(dd) The President of the Mobile County Commission.

"(ee) The Mayor of the city of Bayou La Batre.

"(ff) The Mayor of the town of Dauphin Island.

"(gg) The Mayor of the city of Fairhope.

"(hh) The Mayor of the city of Gulf Shores.

"(ii) The Mayor of the city of Mobile.

"(jj) The Mayor of the city of Orange Beach.

"(II) VOTE.—Each member of the Alabama Gulf Coast Recovery Council shall be entitled to 1 vote.

"(III) MAJORITY VOTE.—All decisions of the Alabama Gulf Coast Recovery Council shall be made by majority vote.

"(ii) LOUISIANA.—In the State of Louisiana, the Coastal Protection and Restoration Authority of Louisiana.

"(iii) MISSISSIPPI.—In the State of Mississippi, the Mississippi Department of Environmental Quality.

"(F) COMPLIANCE WITH ELIGIBLE ACTIVITIES.—If the Secretary of the Treasury determines that an expenditure by a Gulf Coast State or coastal political subdivision of amounts made available under this subsection does not meet 1 of the activities described in subparagraph (B)(i), the Secretary shall make no additional amounts from the Trust Fund available to that Gulf Coast State or coastal political subdivision until such time as an amount equal to the amount expended for the unauthorized use—

"(i) has been deposited by the Gulf Coast State or coastal political subdivision in the Trust Fund; or

"(ii) has been authorized by the Secretary of the Treasury for expenditure by the Gulf Coast State or coastal political subdivision for a project or program that meets the requirements of this subsection.

"(G) COMPLIANCE WITH CONDITIONS.—If the Secretary of the Treasury determines that a Gulf Coast State or coastal political subdivision does not meet the requirements of this subsection, including the conditions of subparagraph (D), where applicable, the Secretary of the Treasury shall make no amounts from the Trust Fund available to that Gulf Coast State or coastal political subdivision until all conditions of this subsection are met.

"(H) PUBLIC INPUT.—In meeting any condition of this subsection, a Gulf Coast State may use an appropriate procedure for public consultation in that Gulf Coast State, including consulting with 1 or more established task forces or other entities, to develop recommendations for proposed projects and programs that

would restore and protect the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, coastal wetlands, and economy of the Gulf Coast.

"(I) PREVIOUSLY APPROVED PROJECTS AND PROGRAMS.—A Gulf Coast State or coastal political subdivision shall be considered to have met the conditions of subparagraph (D) for a specific project or program if, before the date of enactment of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012—

"(i) the Gulf Coast State or coastal political subdivision has established conditions for carrying out projects and programs that are substantively the same as the conditions described in subparagraph (D); and

"(ii) the applicable project or program carries out 1 or more of the activities described in subparagraph (B)(ii).

"(J) CONSULTATION WITH COUNCIL.—In carrying out this subsection, each Gulf Coast State shall seek the input of the Chairperson of

the Council to identify large-scale projects that may be jointly supported by that Gulf Coast State and by the Council pursuant to the Comprehensive Plan with amounts provided under this subsection.

"(K) NON-FEDERAL MATCHING FUNDS.—

"(i) IN GENERAL.—A Gulf Coast State or coastal political subdivision may use, in whole or in part, amounts made available to that Gulf Coast State from the Trust Fund to satisfy the non-Federal share of the cost of any project or program authorized by Federal law that meets the eligible use requirements under subparagraph (B)(i).

"(ii) EFFECT ON OTHER FUNDS.—The use of funds made available from the Trust Fund to satisfy the non-Federal share of the cost of a project or program that meets the requirements of clause (i) shall not affect the priority in which other Federal funds are allocated or awarded.

"(L) LOCAL PREFERENCE.—In awarding contracts to carry out a project or program under this subsection, a Gulf Coast State or

coastal political subdivision may give a preference to individuals and companies that reside in, are headquartered in, or are principally engaged in business in, a Gulf Coast State.

"(M) UNUSED FUNDS.—Any Funds not identified in an implementation plan by a State or coastal political subdivision in accordance with subparagraph (D)(iv) shall remain in the Trust Fund until such time as the State or coastal political subdivision to which the funds have been allocated develops and submits a plan identifying uses for those funds in accordance with subparagraph (D)(iv).

"(N) JUDICIAL REVIEW.—If the Secretary of the Treasury determines that a Gulf Coast State or coastal political subdivision does not meet the requirements of this subsection, including the conditions of subparagraph (D), the Gulf Coast State or coastal political subdivision may obtain expedited judicial review within 90 days of that decision in a district court of the United States, of appropriate jurisdiction and venue, that is located within the State seeking such review.

"(2) COUNCIL ESTABLISHMENT AND ALLOCATION.—

"(A) IN GENERAL.—Of the total amount made available in any fiscal year from the Trust Fund, 60 percent shall be disbursed to the Council to carry out the Comprehensive Plan.

"(B) COUNCIL EXPENDITURES.—

"(i) IN GENERAL.—In accordance with this paragraph, the Council shall expend funds made available from the Trust Fund to undertake projects and programs that would restore and protect the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, coastal wetlands, and economy of the Gulf Coast.

"(ii) ALLOCATION AND EXPENDITURE PROCEDURES.—The Secretary of the Treasury shall develop such conditions, including audit requirements, as the Secretary of the Treasury determines necessary to ensure that amounts disbursed from the Trust Fund to the Council to implement the Comprehensive Plan will be used in accordance with this paragraph.

"(iii) ADMINISTRATIVE EXPENSES.—Of the amounts received by the Council under this subsection, not more than 3 percent may be used for administrative expenses, including staff.

"(C) GULF COAST ECOSYSTEM RESTORATION COUNCIL.—

"(i) ESTABLISHMENT.—There is established as an independent entity in the Federal Government a council to be known as the 'Gulf Coast Ecosystem Restoration Council'.

"(ii) MEMBERSHIP.—The Council shall consist of the following members, or in the case of a Federal agency, a designee at the level of the Assistant Secretary or the equivalent:

"(I) The Chair of the Council on Environmental Quality.

"(II) The Secretary of the Interior.

"(III) The Secretary of the Army.

"(IV) The Secretary of Commerce.

"(V) The Administrator of the Environmental Protection Agency.

"(VI) The Secretary of Agriculture.

"(VII) The head of the department in which the Coast Guard is operating.

"(VIII) The Governor of the State of Alabama.

"(IX) The Governor of the State of Florida.

"(X) The Governor of the State of Louisiana.

"(XI) The Governor of the State of Mississippi.

"(XII) The Governor of the State of Texas.

"(iii) ALTERNATE.—A Governor appointed to the Council by the President may designate an alternate to represent the Governor on the Council and vote on behalf of the Governor.

"(iv) CHAIRPERSON.—From among the Federal agency members of the Council, the representatives of States on the

Council shall select, and the President shall appoint, 1 Federal member to serve as Chairperson of the Council.

"(v) PRESIDENTIAL APPOINTMENT.—All Council members shall be appointed by the President.

"(vi) COUNCIL ACTIONS.—

"(I) IN GENERAL.—Subject to subclause (IV), significant actions by the Council shall require the affirmative vote of the Federal Chairperson and a majority of the State members to be effective.

"(II) INCLUSIONS.—Significant actions include but are not limited to—

"(aa) approval of a Comprehensive Plan and future revisions to a Comprehensive Plan;

"(bb) approval of State plans pursuant to paragraph (3)(B)(iv); and

"(cc) approval of reports to Congress pursuant to clause (vii)(X).

"(III) QUORUM.—A quorum of State members shall be required to be present for the Council to take any significant action.

"(IV) AFFIRMATIVE VOTE REQUIREMENT DEEMED MET.—For approval of State plans pursuant to paragraph (3)(B)(iv), the certification by a State member of the Council that the plan satisfies all requirements of clauses (i) and (ii) of paragraphs (3)(B), when joined by an affirmative vote of the Federal Chairperson of the Council, is deemed to satisfy the requirements for affirmative votes under subclause (I).

"(V) PUBLIC TRANSPARENCY.—Appropriate actions of the Council, including votes on significant actions and associated deliberations, shall be made available to the public.

"(vii) DUTIES OF COUNCIL.—The Council shall—

"(I) develop the Comprehensive Plan, and future revisions to the Comprehensive Plan;

"(II) identify as soon as practicable the projects that—

"(aa) have been authorized prior to the date of enactment of this subsection but not yet commenced; and

"(bb) if implemented quickly, would restore and protect the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, barrier islands, dunes, and coastal wetlands of the Gulf Coast ecosystem;

"(III) coordinate the development of consistent policies, strategies, plans, and activities by Federal agencies, State and local governments, and private sector entities for addressing the restoration and protection of the Gulf Coast ecosystem;

"(IV) establish such other advisory committee or committees as may

be necessary to assist the Council, including a scientific advisory committee and a committee to advise the Council on public policy issues;

"(V) coordinate scientific and other research associated with restoration of the Gulf Coast ecosystem, including research, observation, and monitoring carried out pursuant to section 1604 of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012;

"(VI) seek to ensure that all policies, strategies, plans, and activities for addressing the restoration of the Gulf Coast ecosystem are based on the best available physical, ecological, and economic data;

"(VII) make recommendations to address the particular needs of especially economically and socially vulnerable populations;

"(VIII) develop standard terms to include in contracts for projects

and programs awarded pursuant to the Comprehensive Plan that provide a preference to individuals and companies that reside in, are headquartered in, or are principally engaged in business in, a Gulf Coast State;

"(IX) prepare an integrated financial plan and recommendations for coordinated budget requests for the amounts proposed to be expended by the Federal agencies represented on the Council for projects and programs in the Gulf Coast States;

"(X) submit to Congress an annual report that—

"(aa) summarizes the policies, strategies, plans, and activities for addressing the restoration and protection of the Gulf Coast ecosystem;

"(bb) describes the projects and programs being implemented to restore and protect the Gulf Coast ecosystem; and

"(cc) makes such recommendations to Congress for modifications of existing laws as the Council determines necessary to implement the Comprehensive Plan; and

"(XI) submit to Congress a final report on the date on which all funds made available to the Council are expended.

"(viii) APPLICATION OF FEDERAL ADVISORY COMMITTEE ACT.—The Council, or any other advisory committee established under this subsection, shall not be considered an advisory committee under the Federal Advisory Committee Act (5 U.S.C. App.).

"(D) COMPREHENSIVE PLAN.—

"(i) PROPOSED PLAN.—

"(I) IN GENERAL.—Not later than 180 days after the date of enactment of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012,

the Chairperson, on behalf of the Council, shall publish a proposed plan to restore and protect the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, and coastal wetlands of the Gulf Coast ecosystem.

"(II) CONTENTS.—The proposed plan described in subclause (I) shall include and incorporate the findings and information prepared by the President's Gulf Coast Restoration Task Force.

"(ii) PUBLICATION.—

"(I) INITIAL PLAN.—Not later than 1 year after date of enactment of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012 and after notice and opportunity for public comment, the Chairperson, on behalf of the Council and after approval by the Council, shall publish in the Federal Register the initial Comprehensive

Plan to restore and protect the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, and coastal wetlands of the Gulf Coast ecosystem.

"(II) COOPERATION WITH GULF COAST RESTORATION TASK FORCE.—The Council shall develop the initial Comprehensive Plan in close coordination with the President's Gulf Coast Restoration Task Force.

"(III) CONSIDERATIONS.—In developing the initial Comprehensive Plan and subsequent updates, the Council shall consider all relevant findings, reports, or research prepared or funded by a center of excellence or the Gulf Fisheries and Ecosystem Endowment established pursuant to the Gulf Coast Ecosystem Restoration Science, Monitoring, and Technology Program under section 1604 of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Re-

vived Economies of the Gulf Coast States Act of 2012.

"(IV) CONTENTS.—The initial Comprehensive Plan shall include—

"(aa) such provisions as are necessary to fully incorporate in the Comprehensive Plan the strategy, projects, and programs recommended by the President's Gulf Coast Restoration Task Force;

"(bb) a list of any project or program authorized prior to the date of enactment of this subsection but not yet commenced, the completion of which would further the purposes and goals of this subsection and of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012;

"(cc) a description of the manner in which amounts from the Trust Fund projected to be

made available to the Council for the succeeding 10 years will be allocated; and

"(dd) subject to available funding in accordance with clause (iii), a prioritized list of specific projects and programs to be funded and carried out during the 3-year period immediately following the date of publication of the initial Comprehensive Plan, including a table that illustrates the distribution of projects and programs by Gulf Coast State.

"(V) PLAN UPDATES.—The Council shall update—

"(aa) the Comprehensive Plan every 5 years in a manner comparable to the manner established in this subsection for each 5-year period for which amounts are expected to be made available to the Gulf Coast States from the Trust Fund; and

"(bb) the 3-year list of projects and programs described in subclause (IV)(dd) annually.

"(iii) RESTORATION PRIORITIES.—Except for projects and programs described in subclause (IV)(bb), in selecting projects and programs to include on the 3-year list described in subclause (IV)(dd), based on the best available science, the Council shall give highest priority to projects that address 1 or more of the following criteria:

"(I) Projects that are projected to make the greatest contribution to restoring and protecting the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, and coastal wetlands of the Gulf Coast ecosystem, without regard to geographic location.

"(II) Large-scale projects and programs that are projected to substantially contribute to restoring and protecting the natural resources, ecosystems, fisheries, marine and wildlife

habitats, beaches, and coastal wetlands of the Gulf Coast ecosystem.

"(III) Projects contained in existing Gulf Coast State comprehensive plans for the restoration and protection of natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, and coastal wetlands of the Gulf Coast ecosystem.

"(IV) Projects that restore long-term resiliency of the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, and coastal wetlands most impacted by the Deepwater Horizon oil spill.

"(E) IMPLEMENTATION.—

"(i) IN GENERAL.—The Council, acting through the member agencies and Gulf Coast States, shall expend funds made available from the Trust Fund to carry out projects and programs adopted in the Comprehensive Plan.

"(ii) ADMINISTRATIVE RESPONSIBILITY.—

"(I) IN GENERAL.—Primary authority and responsibility for each project and program included in the Comprehensive Plan shall be assigned by the Council to a Gulf Coast State represented on the Council or a Federal agency.

"(II) TRANSFER OF AMOUNTS.—Amounts necessary to carry out each project or program included in the Comprehensive Plan shall be transferred by the Secretary of the Treasury from the Trust Fund to that Federal agency or Gulf Coast State as the project or program is implemented, subject to such conditions as the Secretary of the Treasury, in consultation with the Secretary of the Interior and the Secretary of Commerce, established pursuant to section 1602 of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012.

"(iii) COST SHARING.—

"(I) IN GENERAL.—A Gulf Coast State or coastal political subdivision may use, in whole or in part, amounts made available to that Gulf Coast State or coastal political subdivision from the Trust Fund to satisfy the non-Federal share of the cost of carrying a project or program that—

"(aa) is authorized by other Federal law; and

"(bb) meets the criteria of subparagraph (D).

"(II) INCLUSION IN COMPREHENSIVE PLAN.—A project or program described in subclause (I) that meets the criteria for inclusion in the Comprehensive Plan described in subparagraph (D) shall be selected and adopted by the Council as part of the Comprehensive Plan in the manner described in subparagraph (D).

"(F) COORDINATION.—The Council and the Federal members of the Council may develop Memorandums of Understanding establishing integrated funding and implementation

plans among the member agencies and authorities.

"(G) TERMINATION.—The Council shall terminate on the date on which the report described in subparagraph (C)(vii)(XI) is submitted to Congress.

"(3) OIL SPILL RESTORATION IMPACT ALLOCATION.—

"(A) IN GENERAL.—Except as provided in paragraph (4), of the total amount made available to the Council under paragraph (2) in any fiscal year from the Trust Fund, 50 percent shall be disbursed by the Council as follows:

"(i) FORMULA.—Subject to subparagraph (B), for each Gulf Coast State, the amount disbursed under this paragraph shall be based on a formula established by the Council by regulation that is based on a weighted average of the following criteria:

"(I) 40 percent based on the proportionate number of miles of shoreline in each Gulf Coast State that experienced oiling as of April 10, 2011, compared to the total number of miles

of shoreline that experienced oiling as a result of the Deepwater Horizon oil spill.

"(II) 40 percent based on the inverse proportion of the average distance from the Deepwater Horizon oil rig to the nearest and farthest point of the shoreline that experienced oiling of each Gulf Coast State.

"(III) 20 percent based on the average population in the 2010 decennial census of coastal counties bordering the Gulf of Mexico within each Gulf Coast State.

"(ii) MINIMUM ALLOCATION.—The amount disbursed to a Gulf Coast State for each fiscal year under clause (i) shall be at least 5 percent of the total amounts made available under this paragraph.

"(B) APPROVAL OF PROJECTS AND PROGRAMS.—

"(i) IN GENERAL.—The Council shall disburse amounts to the respective Gulf Coast States in accordance with the formula developed under subparagraph (A)

for projects, programs, and activities that will improve the ecosystems or economy of the Gulf Coast, subject to the condition that each Gulf Coast State submits a plan for the expenditure of amounts disbursed under this paragraph which meet the following criteria:

"(I) All projects, programs, and activities included in that plan are eligible activities pursuant to paragraph (1)(B)(i).

"(II) The projects, programs, and activities included in that plan contribute to the overall economic and ecological recovery of the Gulf Coast.

"(III) The plan takes into consideration the Comprehensive Plan and is consistent with its goals and objectives, as described in paragraph (2)(B)(i).

"(ii) FUNDING.—

"(I) IN GENERAL.—Except as provided in subclause (II), the plan described in clause (i) may use not more than 25 percent of the funding

made available for infrastructure projects eligible under subclauses (X) and (XI) of paragraph (1)(B)(i).

"(II) EXCEPTION.—The plan described in clause (i) may propose to use more than 25 percent of the funding made available for infrastructure projects eligible under subclauses (X) and (XI) of paragraph (1)(B)(i) if the plan certifies that—

"(aa) ecosystem restoration needs in the State will be addressed by the projects in the proposed plan; and

"(bb) additional investment in infrastructure is required to mitigate the impacts of the Deepwater Horizon Oil Spill to the ecosystem or economy.

"(iii) DEVELOPMENT.—The plan described in clause (i) shall be developed by—

"(I) in the State of Alabama, the Alabama Gulf Coast Recovery Council established under paragraph (1)(E)(i);

"(II) in the State of Florida, a consortia of local political subdivisions that includes at least 1 representative of each disproportionally affected county;

"(III) in the State of Louisiana, the Coastal Protection and Restoration Authority of Louisiana;

"(IV) in the State of Mississippi, the Office of the Governor or an appointee of the Office of the Governor; and

"(V) in the State of Texas, the Office of the Governor or an appointee of the Office of the Governor.

"(iv) APPROVAL.—Not later than 60 days after the date on which a plan is submitted under clause (i), the Council shall approve or disapprove the plan based on the conditions of clause (i).

"(C) DISAPPROVAL.—If the Council disapproves a plan pursuant to subparagraph (B)(iv), the Council shall—

"(i) provide the reasons for disapproval in writing; and

"(ii) consult with the State to address any identified deficiencies with the State plan.

"(D) FAILURE TO SUBMIT ADEQUATE PLAN.—If a State fails to submit an adequate plan under this subsection, any funds made available under this subsection shall remain in the Trust Fund until such date as a plan is submitted and approved pursuant to this subsection.

"(E) JUDICIAL REVIEW.—If the Council fails to approve or take action within 60 days on a plan described in subparagraph (B)(iv), the State may obtain expedited judicial review within 90 days of that decision in a district court of the United States, of appropriate jurisdiction and venue, that is located within the State seeking such review.

"(4) AUTHORIZATION OF INTEREST TRANSFERS.—

"(A) IN GENERAL.—Of the total amount made available in any fiscal year from the Trust Fund, an amount equal to the interest earned by the Trust Fund and proceeds from

investments made by the Trust Fund in the preceding fiscal year—

"(i) 50 percent shall be transferred to the National Endowment for Oceans in subparagraph (B); and

"(ii) 50 percent shall be transferred to the Gulf of Mexico Research Endowment in subparagraph (C).

"(B) NATIONAL ENDOWMENT FOR THE OCEANS.—

"(i) ESTABLISHMENT.—

"(I) IN GENERAL.—There is established in the Treasury of the United States a trust fund to be known as the 'National Endowment for the Oceans', consisting of such amounts as may be appropriated or credited to the National Endowment for the Oceans.

"(II) INVESTMENT.—Amounts in the National Endowment for the Oceans shall be invested in accordance with section 9602 of the Internal Revenue Code of 1986, and any interest on, and proceeds from, any such in-

vestment shall be available for expenditure in accordance with this subparagraph.

"(ii) TRUSTEE.—The trustee for the National Endowment for the Oceans shall be the Secretary of Commerce.

"(iii) ALLOCATION OF FUNDS.—

"(I) IN GENERAL.—Each fiscal year, the Secretary shall allocate, at a minimum, an amount equal to the interest earned by the National Endowment for the Oceans in the preceding fiscal year, and may distribute an amount equal to up to 10 percent of the total amounts in the National Endowment for the Oceans—

"(aa) to allocate funding to coastal states (as defined in section 304 of the Marine Resources and Engineering Development Act of 1966 (16 U.S.C. 1453)) and affected Indian tribes;

"(bb) to make grants to regional ocean and coastal planning bodies; and

"(cc) to develop and implement a National Grant Program for Oceans and Coastal Waters.

"(II) PROGRAM ADJUSTMENTS.—Each fiscal year where the amount described in subparagraph (A)(i) does not exceed $100,000,000, the Secretary may elect to fund only the grant program established in subclause (I)(cc).

"(iv) ELIGIBLE ACTIVITIES.—Funds deposited in the National Endowment for the Oceans may be allocated by the Secretary only to fund grants for programs and activities intended to restore, protect, maintain, or understand living marine resources and their habitats and resources in ocean and coastal waters (as defined in section 304 of the Marine Resources and Engineering Development Act of 1966 (16 U.S.C. 1453)), including baseline scientific research, ocean observing, and other programs and activities carried out in coordination with Federal and State departments or agencies, that are consistent with Fed-

eral environmental laws and that avoid environmental degradation.

"(v) APPLICATION.—To be eligible to receive a grant under clause (iii)(I), an entity shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary determines to be appropriate.

"(vi) FUNDING FOR COASTAL STATES.—The Secretary shall allocate funding among States as follows:

"(I) 50 percent of the funds shall be allocated equally among coastal States.

"(II) 25 percent of the funds shall be allocated based on tidal shoreline miles.

"(III) 25 percent of the funds shall be allocated based on the coastal population density of a coastal State.

"(IV) No State shall be allocated more than 10 percent of the total amount of funds available for allocation among coastal States for any fiscal year.

"(V) No territory shall be allocated more than 1 percent of the total amount of funds available for allocation among coastal States for any fiscal year.

"(C) GULF OF MEXICO RESEARCH ENDOWMENT.—

"(i) IN GENERAL.—There is established in the Treasury of the United States a trust fund to be known as the 'Gulf of Mexico Research Endowment', to be administered by the Secretary of Commerce, solely for use in providing long-term funding in accordance with section 1604 of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012.

"(ii) INVESTMENT.—Amounts in the Gulf of Mexico Research Endowment shall be invested in accordance with section 9602 of the Internal Revenue Code of 1986, and, after adjustment for inflation so as to maintain the value of the principal, any interest on, and proceeds from, any such investment shall be available for

expenditure and shall be allocated in equal portions to the Gulf Coast Ecosystem Restoration Science, Monitoring, and Technology Program and Fisheries Endowment established in section 1604 of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012.''.

**SEC. 1604. GULF COAST ECOSYSTEM RESTORATION SCIENCE, OBSERVATION, MONITORING, AND TECHNOLOGY PROGRAM.**

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the National Oceanic and Atmospheric Administration.

(2) FISHERIES AND ECOSYSTEM ENDOWMENT.—The term ''Fisheries and Ecosystem Endowment'' means the endowment established by subsection (d).

(3) PROGRAM.—The term ''Program'' means the Gulf Coast Ecosystem Restoration Science, Observation, Monitoring, and Technology Program established by subsection (b).

(b) ESTABLISHMENT OF PROGRAM.—There is established within the National Oceanic and Atmospheric Administration a program to be known as the ''Gulf Coast Ecosystem Restoration Science, Observation, Monitoring, and Technology Program'', to be carried out by the Administrator.

(c) CENTERS OF EXCELLENCE.—

(1) IN GENERAL.—In carrying out the Program, the Administrator, in consultation with other Federal agencies with expertise in the discipline of a center of excellence, shall make grants in accordance with paragraph (2) to establish and operate 5 centers of excellence, 1 of which shall be located in each of the States of Alabama, Florida, Louisiana, Mississippi, and Texas.

(2) GRANTS.—

(A) IN GENERAL.—The Administrator shall use the amounts made available to carry out this section to award competitive grants to nongovernmental entities and consortia in the Gulf Coast region (including public and private institutions of higher education) for the establishment of centers of excellence as described in paragraph (1).

(B) APPLICATION.—To be eligible to receive a grant under this paragraph, an entity or consortium described in subparagraph (A) shall submit to the Administrator an application at such time, in such manner, and containing such information as the Administrator determines to be appropriate.

(C) PRIORITY.—In awarding grants under this paragraph, the Administrator shall give priority to entities and consortia that demonstrate the ability to establish the broadest cross-section of participants with interest and expertise in any discipline described in paragraph (3) on which the proposal of the center of excellence will be focused.

(3) DISCIPLINES.—Each center of excellence shall focus on science, technology, and monitoring in at least 1 of the following disciplines:

(A) Coastal and deltaic sustainability, restoration and protection; including solutions and technology that allow citizens to live safely and sustainably in a coastal delta.

(B) Coastal fisheries and wildlife ecosystem research and monitoring.

(C) Offshore energy development, including research and technology to improve the sustainable and safe development of energy resources.

(D) Sustainable and resilient growth, economic and commercial development in the Gulf Coast.

(E) Comprehensive observation, monitoring, and mapping of the Gulf of Mexico.

(4) COORDINATION WITH OTHER PROGRAMS.—The Administrator shall develop a plan for the coordination of projects and activities between the Program and other existing Federal and State science and technology programs in the States of Alabama, Florida, Louisiana, Mississippi, and Texas, as well as between the centers of excellence.

(d) ESTABLISHMENT OF FISHERIES AND ECOSYSTEM ENDOWMENT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Council shall establish a fishery and ecosystem endowment to ensure, to the maximum extent practicable, the long-term sustainability of the ecosystem, fish stocks, fish habitat and the recreational, commercial, and charter fishing industry in the Gulf of Mexico.

(2) EXPENDITURE OF FUNDS.—For each fiscal year, amounts made available to carry out this subsection may be expended for, with respect to the Gulf of Mexico—

(A) marine and estuarine research;

(B) marine and estuarine ecosystem monitoring and ocean observation;

(C) data collection and stock assessments;

(D) pilot programs for—

(i) fishery independent data; and

(ii) reduction of exploitation of spawning aggregations; and

(E) cooperative research.

(3) ADMINISTRATION AND IMPLEMENTATION.—The Fisheries and Ecosystem Endowment shall be administered by the Administrator of the National Oceanic and Atmospheric Administration, in consultation with the Director of the United States Fish and Wildlife Service, with guidance provided by the Regional Gulf of Mexico Fishery Management Council.

(4) SPECIES INCLUDED.—The Fisheries and Ecosystem Endowment will include all marine, estuarine, aquaculture, and fish and wildlife species in State and Federal waters of the Gulf of Mexico.

(5) RESEARCH PRIORITIES.—In distributing funding under this subsection, priority shall be given to integrated, long-term projects that—

(A) build on, or are coordinated with, related research activities; and

(B) address current or anticipated marine ecosystem, fishery, or wildlife management information needs.

(6) DUPLICATION AND COORDINATION.—In carrying out this subsection, the Administrator shall seek to avoid duplication of other research and monitoring activities and coordinate with existing research and monitoring programs, including the Integrated Coastal and Ocean Observation System Act of 2009 (33 U.S.C. 3601 et seq.).

(e) FUNDING.—

(1) IN GENERAL.—Except as provided in subsection (t)(4) of section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321), of the total amount made available for each fiscal year for the Gulf Coast Restoration Trust Fund established under section 1602, 5 percent shall be allocated in equal portions to the Program and Fisheries and Ecosystem Endowment established by this section.

(2) ADMINISTRATIVE EXPENSES.—Of the amounts received by the National Oceanic and Atmospheric Administration to carry out this section, not more than 3 percent may be used for administrative expenses.

**SEC. 1605. EFFECT.**

(a) IN GENERAL.—Nothing in this subtitle or any amendment made by this subtitle—

(1) supersedes or otherwise affects any provision of Federal law, including, in particular, laws providing recovery for injury to natural resources under the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.) and laws for the protection of public health and the environment; or

(2) applies to any fine collected under section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321) for any incident other than the Deepwater Horizon oil spill.

(b) USE OF FUNDS.—Funds made available under this subtitle may be used only for eligible activities specifically authorized by this subtitle.

# Subtitle G—Land and Water Conservation Fund

**SEC. 1701. LAND AND WATER CONSERVATION FUND.**

(a) AUTHORIZATION.—Section 2 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–5) is amended—

(1) in the matter preceding subsection (a), by striking ''September 30, 2015'' and inserting ''September 30, 2022''; and

(2) in subsection (c)(1), by striking ''through September 30, 2015'' and inserting ''September 30, 2022''.

(b) FUNDING.—Section 3 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-6) is amended to read as follows:

**''SEC. 3. AVAILABILITY OF FUNDS.**

''(a) FUNDING.—

''(1) FISCAL YEARS 2013 AND 2014.—For each of fiscal years 2013 and 2014—

''(A) $700,000,000 of amounts covered into the fund under section 2 shall be available for expenditure, without further appropriation or fiscal year limitation, to carry out the purposes of this Act; and

"(B) the remainder of amounts covered into the fund shall be available subject to appropriations, which may be made without fiscal year limitation.

"(2) FISCAL YEARS 2015 THROUGH 2022.—For each of fiscal years 2015 through 2022, amounts covered into the fund under section 2 shall be available for expenditure to carry out the purposes of this Act subject to appropriations, which may be made without fiscal year limitation.

"(b) USES.—Amounts made available for obligation or expenditure from the fund may be obligated or expended only as provided in this Act.

"(c) WILLING SELLERS.—In using amounts made available under subsection (a)(1)(A), the Secretary shall only acquire land or interests in land by purchase, exchange, or donation from a willing seller.

"(d) ADDITIONAL AMOUNTS.—Amounts made available under subsection (a)(1)(A) shall be in addition to amounts made available to the fund under section 105 of the Gulf of Mexico Energy Security Act of 2006 (43 U.S.C. 1331 note; Public Law 109–432).

"(e) ALLOCATION AUTHORITY.—Appropriation Acts may provide for the allocation of amounts covered into the fund under section 2.".

(c) ALLOCATION OF FUNDS.—Section 5 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–7) is amended—

(1) in the first sentence, by inserting ''or expenditures'' after ''appropriations'';

(2) in the second sentence—

(A) by inserting ''or expenditures'' after ''appropriations''; and

(B) by inserting before the period at the end the following: '', including the amounts to be allocated from the fund for Federal and State purposes''; and

(3) by striking ''Those appropriations from'' and all that follows through the end of the section.

(d) CONFORMING AMENDMENTS.—Section 6(b) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–8(b)) is amended—

(1) in the matter preceding paragraph (1), by inserting ''or expended'' after ''appropriated'';

(2) in paragraph (1)—

(A) by inserting ''or expenditures'' after ''appropriations''; and

(B) by striking ''; and'' and inserting a period; and

(3) in the first sentence of paragraph (2), by inserting ''or expenditure'' after ''appropriation''.

(e) PUBLIC ACCESS.—Section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-9) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by inserting ''or expended'' after ''appropriated''; and

(B) in paragraph (3), by inserting ''or expenditures'' after ''such appropriations'';

(2) in subsection (b)—

(A) in the first sentence, by inserting ''or expenditures'' after ''Appropriations''; and

(B) in the proviso, by inserting ''or expenditures'' after ''appropriations'';

(3) in the first sentence of subsection (c)(1)—

(A) by inserting ''or expended'' after ''appropriated''; and

(B) by inserting ''or expenditures'' after ''appropriations''; and

(4) by adding at the end the following:

''(d) PUBLIC ACCESS.—Not less than 1.5 percent of the annual authorized funding amount shall be made available each year for projects that secure recreational

public access to existing Federal public land for hunting, fishing, and other recreational purposes.''.

## Subtitle H—Offsets

**SEC. 1801. DELAY IN APPLICATION OF WORLDWIDE INTEREST.**

(a) IN GENERAL.—Paragraphs (5)(D) and (6) of section 864(f) of the Internal Revenue Code of 1986 are each amended by striking ''December 31, 2020'' and inserting ''December 31, 2021.''

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

# TITLE II—AMERICA FAST FORWARD FINANCING INNOVATION

**SEC. 2001. SHORT TITLE.**

This title may be cited as the ''America Fast Forward Financing Innovation Act of 2011''.

**SEC. 2002. TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION ACT AMENDMENTS.**

Sections 601 through 609 of title 23, United States Code, are amended to read as follows:

**''§ 601. Generally applicable provisions**

''(a) DEFINITIONS.—In this chapter, the following definitions apply:

"(1) ELIGIBLE PROJECT COSTS.—The term 'eligible project costs' means amounts substantially all of which are paid by, or for the account of, an obligor in connection with a project, including the cost of—

"(A) development phase activities, including planning, feasibility analysis, revenue forecasting, environmental review, permitting, preliminary engineering and design work, and other preconstruction activities;

"(B) construction, reconstruction, rehabilitation, replacement, and acquisition of real property (including land relating to the project and improvements to land), environmental mitigation, construction contingencies, and acquisition of equipment; and

"(C) capitalized interest necessary to meet market requirements, reasonably required reserve funds, capital issuance expenses, and other carrying costs during construction.

"(2) FEDERAL CREDIT INSTRUMENT.—The term 'Federal credit instrument' means a secured loan, loan guarantee, or line of credit authorized to be made available under this chapter with respect to a project.

"(3) INVESTMENT-GRADE RATING.—The term 'investment-grade rating' means a rating of BBB minus, Baa3, bbb minus, BBB (low), or higher assigned by a rating agency to project obligations.

"(4) LENDER.—The term 'lender' means any non-Federal qualified institutional buyer (as defined in section 230.144A(a) of title 17, Code of Federal Regulations (or any successor regulation), known as Rule 144A(a) of the Securities and Exchange Commission and issued under the Securities Act of 1933 (15 U.S.C. 77a et seq.)), including—

"(A) a qualified retirement plan (as defined in section 4974(c) of the Internal Revenue Code of 1986) that is a qualified institutional buyer; and

"(B) a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986) that is a qualified institutional buyer.

"(5) LETTER OF INTEREST.—The term 'letter of interest' means a letter submitted by a potential applicant prior to an application for credit assistance in a format prescribed by the Secretary on the website of the TIFIA program, which—

"(A) describes the project and the location, purpose, and cost of the project;

"(B) outlines the proposed financial plan, including the requested credit assistance and the proposed obligor;

"(C) provides a status of environmental review; and

"(D) provides information regarding satisfaction of other eligibility requirements of the TIFIA program.

"(6) LINE OF CREDIT.—The term "'line of credit'" means an agreement entered into by the Secretary with an obligor under section 604 to provide a direct loan at a future date upon the occurrence of certain events.

"(7) LIMITED BUYDOWN.—The term 'limited buydown' means, subject to the conditions described in section 603(b)(4)(C), a buydown of the interest rate by the Secretary and by the obligor if the interest rate has increased between—

"(A)(i) the date on which a project application acceptable to the Secretary is submitted; or

"(ii) the date on which the Secretary entered into a master credit agreement; and

"(B) the date on which the Secretary executes the Federal credit instrument.

"(8) LOAN GUARANTEE.—The term 'loan guarantee' means any guarantee or other pledge by the Secretary to pay all or part of the principal of and interest on a loan or other debt obligation issued by an obligor and funded by a lender.

"(9) MASTER CREDIT AGREEMENT.—The term 'master credit agreement' means an agreement to extend credit assistance for a program of projects secured by a common security pledge (which shall receive an investment grade rating from a rating agency), or for a single project covered under section 602(b)(2) that would—

"(A) make contingent commitments of 1 or more secured loans or other Federal credit instruments at future dates, subject to the availability of future funds being made available to carry out this chapter;

"(B) establish the maximum amounts and general terms and conditions of the secured loans or other Federal credit instruments;

"(C) identify the 1 or more dedicated non-Federal revenue sources that will secure the repayment of the secured loans or secured Federal credit instruments;

"(D) provide for the obligation of funds for the secured loans or secured Federal credit instruments after all requirements have been met for the projects subject to the master credit agreement, including—

"(i) completion of an environmental impact statement or similar analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

"(ii) compliance with such other requirements as are specified in section 602(c); and

"(iii) the availability of funds to carry out this chapter; and

"(E) require that contingent commitments result in a financial close and obligation of credit assistance not later than 3 years after the date of entry into the master credit agreement, or release of the commitment, unless otherwise extended by the Secretary.

"(10) OBLIGOR.—The term 'obligor' means a party that—

"(A) is primarily liable for payment of the principal of or interest on a Federal credit instrument; and

"(B) may be a corporation, partnership, joint venture, trust, or governmental entity, agency, or instrumentality.

"(11) PROJECT.—The term 'project' means—

"(A) any surface transportation project eligible for Federal assistance under this title or chapter 53 of title 49;

"(B) a project for an international bridge or tunnel for which an international entity authorized under Federal or State law is responsible;

"(C) a project for intercity passenger bus or rail facilities and vehicles, including facilities and vehicles owned by the National Railroad Passenger Corporation and components of magnetic levitation transportation systems; and

"(D) a project that—

"(i) is a project—

"(I) for a public freight rail facility or a private facility providing public benefit for highway users by way of

direct freight interchange between highway and rail carriers;

"(II) for an intermodal freight transfer facility;

"(III) for a means of access to a facility described in subclause (I) or (II);

"(IV) for a service improvement for a facility described in subclause (I) or (II) (including a capital investment for an intelligent transportation system); or

"(V) that comprises a series of projects described in subclauses (I) through (IV) with the common objective of improving the flow of goods;

"(ii) may involve the combining of private and public sector funds, including investment of public funds in private sector facility improvements;

"(iii) if located within the boundaries of a port terminal, includes only such surface transportation infrastructure modifications as are necessary to facilitate di-

rect intermodal interchange, transfer, and access into and out of the port; and

"(iv) is composed of related highway, surface transportation, transit, rail, or intermodal capital improvement projects eligible for assistance under this subsection in order to meet the eligible project cost threshold under section 602, by grouping related projects together for that purpose, on the condition that the credit assistance for the projects is secured by a common pledge.

"(12) PROJECT OBLIGATION.—The term 'project obligation' means any note, bond, debenture, or other debt obligation issued by an obligor in connection with the financing of a project, other than a Federal credit instrument.

"(13) RATING AGENCY.—The term 'rating agency' means a credit rating agency registered with the Securities and Exchange Commission as a nationally recognized statistical rating organization (as that term is defined in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a))).

"(14) RURAL INFRASTRUCTURE PROJECT.—The term 'rural infrastructure project' means a surface transportation infrastructure project either—

"(A) located in any area other than an urbanized area that has a population of greater than 250,000 inhabitants; or

"(B) connects a rural area to a city with a population of less than 250,000 inhabitants within the city limits.

"(15) SECURED LOAN.—The term 'secured loan' means a direct loan or other debt obligation issued by an obligor and funded by the Secretary in connection with the financing of a project under section 603.

"(16) STATE.—The term 'State' has the meaning given the term in section 101.

"(17) SUBSIDY AMOUNT.—The term 'subsidy amount' means the amount of budget authority sufficient to cover the estimated long-term cost to the Federal Government of a Federal credit instrument, calculated on a net present value basis, excluding administrative costs and any incidental effects on governmental receipts or outlays in accordance with the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.).

"(18) SUBSTANTIAL COMPLETION.—The term 'substantial completion' means—

"(A) the opening of a project to vehicular or passenger traffic; or

"(B) a comparable event, as determined by the Secretary and specified in the credit agreement.

"(19) TIFIA PROGRAM.—The term 'TIFIA program' means the transportation infrastructure finance and innovation program of the Department.

"(20) CONTINGENT COMMITMENT.—The term 'contingent commitment' means a commitment to obligate an amount from future available budget authority that is—

"(A) contingent upon those funds being made available in law at a future date; and

"(B) not an obligation of the Federal Government.

"(b) TREATMENT OF CHAPTER.—For purposes of this title, this chapter shall be treated as being part of chapter 1.

**"§ 602. Determination of eligibility and project selection**

"(a) ELIGIBILITY.—A project shall be eligible to receive credit assistance under this chapter if the entity pro-

posing to carry out the project submits a letter of interest prior to submission of a formal application for the project, and the project meets the following criteria:

"(1) CREDITWORTHINESS.—

"(A) IN GENERAL.—The project shall satisfy applicable creditworthiness standards, which, at a minimum, includes—

"(i) a rate covenant, if applicable;

"(ii) adequate coverage requirements to ensure repayment;

"(iii) an investment grade rating from at least 2 rating agencies on debt senior to the Federal credit instrument; and

"(iv) a rating from at least 2 rating agencies on the Federal credit instrument, subject to the condition that, with respect to clause (iii), if the senior debt and Federal credit instrument is for an amount less than $75,000,000 or for a rural infrastructure project or intelligent transportation systems project, 1 rating agency opinion for each of the senior debt and Federal credit instrument shall be sufficient.

"(B) SENIOR DEBT.—Notwithstanding subparagraph (A), in a case in which the Federal credit instrument is the senior debt, the Federal credit instrument shall be required to receive an investment grade rating from at least 2 rating agencies, unless the credit instrument is for a rural infrastructure project or intelligent transportation systems project, in which case 1 rating agency opinion shall be sufficient.

"(2) INCLUSION IN TRANSPORTATION PLANS AND PROGRAMS.—The project shall satisfy the applicable planning and programming requirements of sections 134 and 135 at such time as an agreement to make available a Federal credit instrument is entered into under this chapter.

"(3) APPLICATION.—A State, local government, public authority, public-private partnership, or any other legal entity undertaking the project and authorized by the Secretary, shall submit a project application acceptable to the Secretary.

"(4) ELIGIBLE PROJECT COSTS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), to be eligible for assistance under this chapter, a project shall have eligible

project costs that are reasonably anticipated to equal or exceed the lesser of—

"(i)(I) $50,000,000; or

"(II) in the case of a rural infrastructure project, $25,000,000; or

"(ii) 33⅓ percent of the amount of Federal highway assistance funds apportioned for the most recently completed fiscal year to the State in which the project is located.

"(B) INTELLIGENT TRANSPORTATION SYSTEM PROJECTS.—In the case of a project principally involving the installation of an intelligent transportation system, eligible project costs shall be reasonably anticipated to equal or exceed $15,000,000.

"(5) DEDICATED REVENUE SOURCES.—The Federal credit instrument shall be repayable, in whole or in part, from tolls, user fees, or other dedicated revenue sources that also secure the project obligations.

"(6) PUBLIC SPONSORSHIP OF PRIVATE ENTITIES.—In the case of a project that is undertaken by an entity that is not a State or local government or an agency or instrumentality of a State or local

government, the project that the entity is undertaking shall be publicly sponsored as provided in paragraph (2).

"(b) SELECTION AMONG ELIGIBLE PROJECTS.—

"(1) ESTABLISHMENT.—The Secretary shall establish a rolling application process in which projects that are eligible to receive credit assistance under subsection (a) shall receive credit assistance on terms acceptable to the Secretary, if adequate funds are available to cover the subsidy costs associated with the Federal credit instrument.

"(2) ADEQUATE FUNDING NOT AVAILABLE.—

"If the Secretary fully obligates funding to eligible projects in a given fiscal year, and adequate funding is not available to fund a credit instrument, a project sponsor of an eligible project may elect to enter into a master credit agreement and wait until the following fiscal year or until additional funds are available to receive credit assistance.

"(3) PRELIMINARY RATING OPINION LETTER.—The Secretary shall require each project applicant to provide a preliminary rating opinion letter from at least 1 rating agency—

"(A) indicating that the senior obligations of the project, which may be the Federal credit instrument, have the potential to achieve an investment-grade rating; and

"(B) including a preliminary rating opinion on the Federal credit instrument.

"(c) FEDERAL REQUIREMENTS.—

"(1) IN GENERAL.—In addition to the requirements of this title for highway projects, chapter 53 of title 49 for transit projects, and section 5333(a) of title 49 for rail projects, the following provisions of law shall apply to funds made available under this chapter and projects assisted with the funds:

"(A) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).

"(B) The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(C) The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

"(2) NEPA.—No funding shall be obligated for a project that has not received an environmental Categorical Exclusion, Finding of No Significant Impact, or Record of Decision under the National

Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

**"§ 603. Secured loans**

"(a) IN GENERAL.—

"(1) AGREEMENTS.—Subject to paragraphs (2) through (4), the Secretary may enter into agreements with 1 or more obligors to make secured loans, the proceeds of which shall be used—

"(A) to finance eligible project costs of any project selected under section 602;

"(B) to refinance interim construction financing of eligible project costs of any project selected under section 602;

"(C) to refinance existing loan agreements for rural infrastructure projects; or

"(D) to refinance long-term project obligations or Federal credit instruments if the refinancing provides additional funding capacity for the completion, enhancement, or expansion of any project that—

"(i) is selected under section 602; or

"(ii) otherwise meets the requirements of section 602.

"(2) LIMITATION ON REFINANCING OF INTERIM CONSTRUCTION FINANCING.—A loan under para-

graph (1) shall not refinance interim construction financing under paragraph (1)(B) later than 1 year after the date of substantial completion of the project.

"(3) RISK ASSESSMENT.—Before entering into an agreement under this subsection, the Secretary, in consultation with the Director of the Office of Management and Budget, shall determine an appropriate capital reserve subsidy amount for each secured loan, taking into account each rating letter provided by an agency under section 602(b)(3)(B).

"(b) TERMS AND LIMITATIONS.—

"(1) IN GENERAL.—A secured loan under this section with respect to a project shall be on such terms and conditions and contain such covenants, representations, warranties, and requirements (including requirements for audits) as the Secretary determines appropriate.

"(2) MAXIMUM AMOUNT.—The amount of the secured loan shall not exceed the lesser of 49 percent of the reasonably anticipated eligible project costs or, if the secured loan does not receive an investment grade rating, the amount of the senior project obligations.

"(3) PAYMENT.—The secured loan—

"(A) shall—

"(i) be payable, in whole or in part, from tolls, user fees, or other dedicated revenue sources that also secure the senior project obligations; and

"(ii) include a rate covenant, coverage requirement, or similar security feature supporting the project obligations; and

"(B) may have a lien on revenues described in subparagraph (A) subject to any lien securing project obligations.

"(4) INTEREST RATE.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the interest rate on the secured loan shall be not less than the yield on United States Treasury securities of a similar maturity to the maturity of the secured loan on the date of execution of the loan agreement.

"(B) RURAL INFRASTRUCTURE PROJECTS.—A loan offered to a rural infrastructure project under this chapter shall be at ½ of the Treasury Rate.

"(C) LIMITED BUYDOWNS.—A limited buydown is subject to the following conditions:

"(i) The interest rate under the agreement may not be lowered by more than the lower of—

"(I) 1½ percentage points (150 basis points); or

"(II) the amount of the increase in the interest rate.

"(ii) The Secretary may pay up to 50 percent of the cost of the limited buydown, and the obligor shall pay the balance of the cost of the limited buydown.

"(iii) Not more than 5 percent of the funding made available annually to carry out this chapter may be used to carry out limited buydowns.

"(5) MATURITY DATE.—The final maturity date of the secured loan shall be the lesser of—

"(A) 35 years after the date of substantial completion of the project; or

"(B) if the useful life of the capital asset being financed is of a lesser period, the useful life of the asset.

"(6) NONSUBORDINATION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the secured loan shall not be

subordinated to the claims of any holder of project obligations in the event of bankruptcy, insolvency, or liquidation of the obligor.

"(B) PRE-EXISTING INDENTURE.—

"(i) IN GENERAL.—The Secretary shall waive subparagraph (A) for public agency borrowers that are financing ongoing capital programs and have outstanding senior bonds under a pre-existing indenture, if—

"(I) the secured loan is rated in the A-category or higher;

"(II) the secured loan is secured and payable from pledged revenues not affected by project performance, such as a tax-backed revenue pledge or a system-backed pledge of project revenues; and

"(III) the TIFIA program share of eligible project costs is 33 percent or less.

"(ii) LIMITATION.—If the Secretary waives the nonsubordination requirement under this subparagraph—

"(I) the maximum credit subsidy that will be paid by the Federal Government shall be limited to 10 percent of the principal amount of the secured loan; and

"(II) the obligor shall be responsible for paying the remainder of the subsidy cost.

"(7) FEES.—The Secretary may establish fees at a level sufficient to cover all or a portion of the costs to the Federal Government of making a secured loan under this section.

"(8) NON-FEDERAL SHARE.—The proceeds of a secured loan under this chapter may be used for any non-Federal share of project costs required under this title or chapter 53 of title 49, if the loan is repayable from non-Federal funds.

"(9) MAXIMUM FEDERAL INVOLVEMENT.—The total Federal assistance provided on a project receiving a loan under this chapter shall not exceed 80 percent of the total project cost.

"(c) REPAYMENT.—

"(1) SCHEDULE.—The Secretary shall establish a repayment schedule for each secured loan under this section based on the projected cash flow from

project revenues and other repayment sources, and the useful life of the project.

"(2) COMMENCEMENT.—Scheduled loan repayments of principal or interest on a secured loan under this section shall commence not later than 5 years after the date of substantial completion of the project.

"(3) DEFERRED PAYMENTS.—

"(A) AUTHORIZATION.—If, at any time after the date of substantial completion of the project, the project is unable to generate sufficient revenues to pay the scheduled loan repayments of principal and interest on the secured loan, the Secretary may, subject to subparagraph (C), allow the obligor to add unpaid principal and interest to the outstanding balance of the secured loan.

"(B) INTEREST.—Any payment deferred under subparagraph (A) shall—

"(i) continue to accrue interest in accordance with subsection (b)(4) until fully repaid; and

"(ii) be scheduled to be amortized over the remaining term of the loan.

"(C) CRITERIA.—

"(i) IN GENERAL.—Any payment deferral under subparagraph (A) shall be contingent on the project meeting criteria established by the Secretary.

"(ii) REPAYMENT STANDARDS.—The criteria established under clause (i) shall include standards for reasonable assurance of repayment.

"(4) PREPAYMENT.—

"(A) USE OF EXCESS REVENUES.—Any excess revenues that remain after satisfying scheduled debt service requirements on the project obligations and secured loan and all deposit requirements under the terms of any trust agreement, bond resolution, or similar agreement securing project obligations may be applied annually to prepay the secured loan without penalty.

"(B) USE OF PROCEEDS OF REFINANCING.—The secured loan may be prepaid at any time without penalty from the proceeds of refinancing from non-Federal funding sources.

"(d) SALE OF SECURED LOANS.—

"(1) IN GENERAL.—Subject to paragraph (2), as soon as practicable after substantial completion of

a project and after notifying the obligor, the Secretary may sell to another entity or reoffer into the capital markets a secured loan for the project if the Secretary determines that the sale or reoffering can be made on favorable terms.

"(2) CONSENT OF OBLIGOR.—In making a sale or reoffering under paragraph (1), the Secretary may not change the original terms and conditions of the secured loan without the written consent of the obligor.

"(e) LOAN GUARANTEES.—

"(1) IN GENERAL.—The Secretary may provide a loan guarantee to a lender in lieu of making a secured loan if the Secretary determines that the budgetary cost of the loan guarantee is substantially the same as that of a secured loan.

"(2) TERMS.—The terms of a guaranteed loan shall be consistent with the terms set forth in this section for a secured loan, except that the rate on the guaranteed loan and any prepayment features shall be negotiated between the obligor and the lender, with the consent of the Secretary.

**"§ 604. Lines of credit**

"(a) IN GENERAL.—

"(1) AGREEMENTS.—Subject to paragraphs (2) through (4), the Secretary may enter into agreements to make available lines of credit to 1 or more obligors in the form of direct loans to be made by the Secretary at future dates on the occurrence of certain events for any project selected under section 602.

"(2) USE OF PROCEEDS.—The proceeds of a line of credit made available under this section shall be available to pay debt service on project obligations issued to finance eligible project costs, extraordinary repair and replacement costs, operation and maintenance expenses, and costs associated with unexpected Federal or State environmental restrictions.

"(3) RISK ASSESSMENT.—Before entering into an agreement under this subsection, the Secretary, in consultation with the Director of the Office of Management and Budget and each rating agency providing a preliminary rating opinion letter under section 602(b)(3), shall determine an appropriate capital reserve subsidy amount for each line of credit, taking into account the rating opinion letter.

"(4) INVESTMENT-GRADE RATING REQUIREMENT.—The funding of a line of credit under this section shall be contingent on the senior obligations

of the project receiving an investment-grade rating from 2 rating agencies.

"(b) TERMS AND LIMITATIONS.—

"(1) IN GENERAL.—A line of credit under this section with respect to a project shall be on such terms and conditions and contain such covenants, representations, warranties, and requirements (including requirements for audits) as the Secretary determines appropriate.

"(2) MAXIMUM AMOUNTS.—The total amount of the line of credit shall not exceed 33 percent of the reasonably anticipated eligible project costs.

"(3) DRAWS.—Any draw on the line of credit shall represent a direct loan and shall be made only if net revenues from the project (including capitalized interest but not including reasonably required financing reserves) are insufficient to pay the costs specified in subsection (a)(2).

"(4) INTEREST RATE.—Except as otherwise provided in subparagraphs (B) and (C) of section 603(b)(4), the interest rate on a direct loan resulting from a draw on the line of credit shall be not less than the yield on 30-year United States Treasury securities as of the date of execution of the line of credit agreement.

"(5) SECURITY.—The line of credit—

"(A) shall—

"(i) be payable, in whole or in part, from tolls, user fees, or other dedicated revenue sources that also secure the senior project obligations; and

"(ii) include a rate covenant, coverage requirement, or similar security feature supporting the project obligations; and

"(B) may have a lien on revenues described in subparagraph (A) subject to any lien securing project obligations.

"(6) PERIOD OF AVAILABILITY.—The full amount of the line of credit, to the extent not drawn upon, shall be available during the period beginning on the date of substantial completion of the project and ending not later than 10 years after that date.

"(7) RIGHTS OF THIRD-PARTY CREDITORS.—

"(A) AGAINST FEDERAL GOVERNMENT.—A third-party creditor of the obligor shall not have any right against the Federal Government with respect to any draw on the line of credit.

"(B) ASSIGNMENT.—An obligor may assign the line of credit to 1 or more lenders or to a trustee on the behalf of the lenders.

"(8) NONSUBORDINATION.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), a direct loan under this section shall not be subordinated to the claims of any holder of project obligations in the event of bankruptcy, insolvency, or liquidation of the obligor.

"(B) PRE-EXISTING INDENTURE.—

"(i) IN GENERAL.—The Secretary shall waive subparagraph (A) for public agency borrowers that are financing ongoing capital programs and have outstanding senior bonds under a pre-existing indenture, if—

"(I) the line of credit is rated in the A-category or higher;

"(II) the TIFIA program loan resulting from a draw on the line of credit is payable from pledged revenues not affected by project performance, such as a tax-backed revenue pledge or a system-backed pledge of project revenues; and

"(III) the TIFIA program share of eligible project costs is 33 percent or less.

"(ii) LIMITATION.—If the Secretary waives the nonsubordination requirement under this subparagraph—

"(I) the maximum credit subsidy that will be paid by the Federal Government shall be limited to 10 percent of the principal amount of the secured loan; and

"(II) the obligor shall be responsible for paying the remainder of the subsidy cost.

"(9) FEES.—The Secretary may establish fees at a level sufficient to cover all or a portion of the costs to the Federal Government of providing a line of credit under this section.

"(10) RELATIONSHIP TO OTHER CREDIT INSTRUMENTS.—A project that receives a line of credit under this section shall not also receive a secured loan or loan guarantee under section 603 in an amount that, combined with the amount of the line of credit, exceeds 49 percent of eligible project costs.

"(c) REPAYMENT.—

"(1) TERMS AND CONDITIONS.—The Secretary shall establish repayment terms and conditions for each direct loan under this section based on the projected cash flow from project revenues and other repayment sources, and the useful life of the asset being financed.

"(2) TIMING.—All repayments of principal or interest on a direct loan under this section shall be scheduled to commence not later than 5 years after the end of the period of availability specified in subsection (b)(6) and to conclude, with full repayment of principal and interest, by the date that is 25 years after the end of the period of availability specified in subsection (b)(6).

**"§ 605. Program administration**

"(a) REQUIREMENT.—The Secretary shall establish a uniform system to service the Federal credit instruments made available under this chapter.

"(b) FEES.—The Secretary may collect and spend fees, contingent upon authority being provided in appropriations Acts, at a level that is sufficient to cover—

"(1) the costs of services of expert firms retained pursuant to subsection (d); and

"(2) all or a portion of the costs to the Federal Government of servicing the Federal credit instruments.

"(c) SERVICER.—

"(1) IN GENERAL.—The Secretary may appoint a financial entity to assist the Secretary in servicing the Federal credit instruments.

"(2) DUTIES.—The servicer shall act as the agent for the Secretary.

"(3) FEE.—The servicer shall receive a servicing fee, subject to approval by the Secretary.

"(d) ASSISTANCE FROM EXPERT FIRMS.—The Secretary may retain the services of expert firms, including counsel, in the field of municipal and project finance to assist in the underwriting and servicing of Federal credit instruments.

**"§ 606. State and local permits**

"The provision of credit assistance under this chapter with respect to a project shall not—

"(1) relieve any recipient of the assistance of any obligation to obtain any required State or local permit or approval with respect to the project;

"(2) limit the right of any unit of State or local government to approve or regulate any rate of return on private equity invested in the project; or

"(3) otherwise supersede any State or local law (including any regulation) applicable to the construction or operation of the project.

**"§ 607. Regulations**

"The Secretary may promulgate such regulations as the Secretary determines appropriate to carry out this chapter.

**"§ 608. Funding**

"(a) FUNDING.—

"(1) SPENDING AND BORROWING AUTHORITY.—Spending and borrowing authority for a fiscal year to enter into Federal credit instruments shall be promptly apportioned to the Secretary on a fiscal year basis.

"(2) REESTIMATES.—When the estimated cost of a loan or loans is reestimated, the cost of the reestimate shall be borne by or benefit the general fund of the Treasury, consistent with section 661c(f) of title 2, United States Code.

"(3) RURAL SET-ASIDE.—

"(A) IN GENERAL.—Of the total amount of funds made available to carry out this chapter for each fiscal year, 10 percent shall be set aside for rural infrastructure projects.

"(B) REOBLIGATION.—Any amounts set aside under subparagraph (A) that remain unobligated by June 1 of the fiscal year for which the amounts were set aside shall be available for obligation by the Secretary on projects other than rural infrastructure projects.

"(4) REDISTRIBUTION OF AUTHORIZED FUNDING.—

"(A) IN GENERAL.—Beginning in the second fiscal year after the date of enactment of this paragraph, on August 1 of that fiscal year, and each fiscal year thereafter, if the unobligated and uncommitted balance of funding available exceeds 150 percent of the amount made available to carry out this chapter for that fiscal year, the Secretary shall distribute to the States the amount of funds and associated obligation authority in excess of that amount.

"(B) DISTRIBUTION.—The amounts and obligation authority distributed under this paragraph shall be distributed, in the same manner as obligation authority is distributed to the States for the fiscal year, based on the proportion that—

"(i) the relative share of each State of obligation authority for the fiscal year; bears to

"(ii) the total amount of obligation authority distributed to all States for the fiscal year.

"(C) PURPOSE.—Funds distributed under subparagraph (B) shall be available for any purpose described in section 133(c).

"(5) AVAILABILITY.—Amounts made available to carry out this chapter shall remain available until expended.

"(6) ADMINISTRATIVE COSTS.—Of the amounts made available to carry out this chapter, the Secretary may use not more than 1 percent for each fiscal year for the administration of this chapter.

"(b) CONTRACT AUTHORITY.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, execution of a term sheet by the Secretary of a Federal credit instrument that uses amounts made available under this chapter shall impose on the United States a contractual obligation to fund the Federal credit investment.

"(2) AVAILABILITY.—Amounts made available to carry out this chapter for a fiscal year shall be

available for obligation on October 1 of the fiscal year.

**"§ 609. Reports to Congress**

"On June 1, 2012, and every 2 years thereafter, the Secretary shall submit to Congress a report summarizing the financial performance of the projects that are receiving, or have received, assistance under this chapter (other than section 610), including a recommendation as to whether the objectives of this chapter (other than section 610) are best served—

"(1) by continuing the program under the authority of the Secretary;

"(2) by establishing a Federal corporation or federally sponsored enterprise to administer the program; or

"(3) by phasing out the program and relying on the capital markets to fund the types of infrastructure investments assisted by this chapter (other than section 610) without Federal participation.".

**SEC. 2003. STATE INFRASTRUCTURE BANKS.**

Section 610(d)(1)(A) of title 23, United States Code, is amended by striking "sections 104(b)(1)" and all that follows though the semicolon and inserting "paragraphs (1) and (2) of section 104(b)".

# TITLE III—HIGHWAY SPENDING CONTROLS

**SEC. 3001. HIGHWAY SPENDING CONTROLS.**

(a) IN GENERAL.—Title 23, United States Code, is amended by adding at the end the following:

CHAPTER 7—HIGHWAY SPENDING CONTROLS

Sec.
701. Solvency of Highway Account of the Highway Trust Fund.

**"SEC. 701. SOLVENCY OF HIGHWAY ACCOUNT OF THE HIGHWAY TRUST FUND.**

"(a) SOLVENCY CALCULATION FOR FISCAL YEAR 2012.—

"(1) ADJUSTMENT OF OBLIGATION LIMITATION.—Not later than 60 days after the date of enactment of the MAP–21, the Secretary, in consultation with the Secretary of Treasury, shall:

"(A) Estimate the balance of the Highway Trust Fund (other than the Mass Transit Account) at the end of fiscal years 2012 and 2013. For purposes of which estimation, the Secretary shall assume that the obligation limitation on Federal-aid highways and highway safety construction programs will be equal to the obligation limitations enacted for those fiscal years in the MAP–21.

"(B) Determine if the estimated balance of the Highway Trust Fund (other than the Mass Transit Account) would fall below—

"(i) $2,000,000,000 at the end of fiscal year 2012; or

"(ii) $1,000,000,000 at the end of fiscal year 2013.

"(C) If either of the conditions in subparagraph (B) would occur, calculate the amount by which the fiscal year 2012 obligation limitation must be reduced to prevent such occurrence. For purposes of this calculation, the Secretary shall assume that the obligation limitation on Federal-aid highways and highway safety construction programs for the fiscal year 2013 will be equal to the obligation limitation for fiscal year 2012, as reduced pursuant to this subparagraph.

"(D) Adjust the distribution of the fiscal year 2012 obligation limitation to reflect any reduction determined under subparagraph (C).

"(2) LAPSE AND RESCISSION.—

"(A) LAPSE OF OBLIGATION LIMITATION.—Any obligation limitation that is withdrawn by the Secretary pursuant to paragraph

(1)(D) shall lapse immediately following the adjustment of obligation limitation under such paragraph.

"(B) RESCISSION OF CONTRACT AUTHORITY.—Upon the lapse of any obligation limitation under subparagraph (A), the Secretary shall reduce proportionately the amount authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for fiscal year 2012 to carry out each of the Federal-aid highway and highway safety construction programs (other than emergency relief and funds under the national highway performance program that are exempt from the fiscal year 2012 obligation limitation) by an aggregate amount equal to the amount of adjustment determined pursuant to paragraph (1)(D). The amounts withdrawn pursuant to this subparagraph are permanently rescinded.

"(b) SOLVENCY CALCULATION FOR FISCAL YEAR 2013 AND FISCAL YEARS THEREAFTER.—

"(1) ADJUSTMENT OF OBLIGATION LIMITATION.—Except as provided in paragraph (2), in distributing the obligation limitation on Federal-aid highways and highway safety construction programs

for fiscal year 2013 and each fiscal year thereafter, the Secretary shall—

"(A) estimate the balance of the Highway Trust Fund (other than the Mass Transit Account) at the end of such fiscal year and the end of the next fiscal year, for purposes of which estimation, the Secretary shall assume that the obligation limitation on Federal-aid highways and highway safety construction programs for the next fiscal year will be equal to the obligation limitation enacted for the fiscal year for which the limitation is being distributed;

"(B) determine whether the estimated balance of the Highway Trust Fund (other than the Mass Transit Account) would fall below $2,000,000,000 at the end of the fiscal year for which the obligation limitation is being distributed;

"(C) if the condition in subparagraph (B) would occur, calculate the amount by which the obligation limitation in the fiscal year for which the obligation limitation is being distributed must be reduced to prevent that occurrence; and

"(D) distribute such obligation limitation less any amount determined under subparagraph (C).

"(2) LAPSE AND RESCISSION.—

"(A) OBLIGATION LIMITATION.—

"(i) RECALCULATION.—In a fiscal year in which the Secretary withholds obligation limitation based on the calculation under paragraph (1), the Secretary shall, on March 1 of such fiscal year, repeat the calculations under subparagraphs (A) through (C) of such paragraph. Based on the results of those calculations, the Secretary shall—

"(I) if the Secretary determines that either of the conditions in paragraph (1)(B) would occur, withdraw an additional amount of obligation limitation necessary to prevent such occurrence; or

"(II) distribute as much of the withheld obligation limitation as may be distributed without causing either of the conditions specified in paragraph (1)(B) to occur.

"(ii) LAPSE.—Any obligation limitation that is enacted for a fiscal year, withheld from distribution pursuant to paragraph (1)(D) (or withdrawn under clause (i)(I)), and not subsequently distributed under clause (i)(II) shall lapse immediately following the distribution of obligation limitation under such clause.

"(B) CONTRACT AUTHORITY.—

"(i) IN GENERAL.—Upon the lapse of any obligation limitation under subparagraph (A)(ii), an equal amount of the unobligated balances of funds apportioned among the States under chapter 1 and sections 1116, 1303, and 1404 of the SAFETEA–LU (119 Stat. 1177, 1207, and 1228) are permanently rescinded. In administering the rescission required under this clause, the Secretary shall allow each State to determine the amount of the required rescission to be drawn from the programs to which the rescission applies, except as provided in clause (ii).

"(ii) RESCISSION OF FUNDS APPORTIONED IN FISCAL YEAR 2013 AND FISCAL

YEARS THEREAFTER.—If a State determines that it will meet any of its required rescission amount from funds apportioned to such State on or subsequent to October 1, 2012, the Secretary shall determine the amount to be rescinded from each of the programs subject to the rescission for which the State was apportioned funds on or subsequent to October 1, 2012, in proportion to the cumulative amount of apportionments that the State received for each such program on or subsequent to October 1, 2012.

"(3) OTHER ACTIONS TO PREVENT INSOLVENCY.—The Secretary shall issue a regulation to establish any actions in addition to those described in subsection (a) and paragraph (1) that may be taken by the Secretary if it becomes apparent that the Highway Trust Fund (other than the Mass Transit Account) will become insolvent, including the denial of further obligations.

"(4) APPLICABLE ONLY TO FULL-YEAR LIMITATION.—The requirements of paragraph (1) apply only to the distribution of a full-year obligation limi-

tation and do not apply to partial-year limitations under continuing appropriations Acts.''.

(b) TABLE OF CHAPTERS.—The table of chapters for title 23, United States Code, is amended by inserting after the item relating to chapter 6 the following:

''7. Highway Spending Controls ..... 701''.

# DIVISION B—PUBLIC TRANSPORTATION

**SEC. 20001. SHORT TITLE.**

This division may be cited as the ''Federal Public Transportation Act of 2012''.

**SEC. 20002. REPEALS.**

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

(b) TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY.—Section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note) is repealed.

(c) SAFETEA–LU.—The following provisions are repealed:

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

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

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

(4) Section 3045 of SAFETEA–LU (49 U.S.C. 5308 note).

(5) Section 3046 of SAFETEA–LU (49 U.S.C. 5338 note).

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

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

**"§ 5301. Policies, purposes, and goals**

''(a) DECLARATION OF POLICY.—It is in the interest of the United States, including the economic interest of the United States, to foster the development and revitalization of public transportation systems.

''(b) GENERAL PURPOSES.—The purposes of this chapter are to—

''(1) provide funding to support public transportation;

''(2) improve the development and delivery of capital projects;

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

''(4) establish standards for the state of good repair of public transportation infrastructure and vehicles;

"(5) promote continuing, cooperative, and comprehensive planning that improves the performance of the transportation network;

"(6) establish a technical assistance program to assist recipients under this chapter to more effectively and efficiently provide public transportation service;

"(7) continue Federal support for public transportation providers to deliver high quality service to all users, including individuals with disabilities, seniors, and individuals who depend on public transportation;

"(8) support research, development, demonstration, and deployment projects dedicated to assisting in the delivery of efficient and effective public transportation service; and

"(9) promote the development of the public transportation workforce.

"(c) NATIONAL GOALS.—The goals of this chapter are to—

"(1) increase the availability and accessibility of public transportation across a balanced, multimodal transportation network;

"(2) promote the environmental benefits of public transportation, including reduced reliance on fos-

sil fuels, fewer harmful emissions, and lower public health expenditures;

''(3) improve the safety of public transportation systems;

''(4) achieve and maintain a state of good repair of public transportation infrastructure and vehicles;

''(5) provide an efficient and reliable alternative to congested roadways;

''(6) increase the affordability of transportation for all users; and

''(7) maximize economic development opportunities by—

''(A) connecting workers to jobs;

''(B) encouraging mixed-use, transit-oriented development; and

''(C) leveraging private investment and joint development.''.

**SEC. 20004. DEFINITIONS.**

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

**''§ 5302. Definitions**

''Except as otherwise specifically provided, in this chapter the following definitions apply:

"(1) ASSOCIATED TRANSIT IMPROVEMENT.—The term 'associated transit improvement' means, with respect to any project or an area to be served by a project, projects that are designed to enhance public transportation service or use and that are physically or functionally related to transit facilities. Eligible projects are—

"(A) historic preservation, rehabilitation, and operation of historic public transportation buildings, structures, and facilities (including historic bus and railroad facilities) intended for use in public transportation service;

"(B) bus shelters;

"(C) landscaping and streetscaping, including benches, trash receptacles, and street lights;

"(D) pedestrian access and walkways;

"(E) bicycle access, including bicycle storage facilities and installing equipment for transporting bicycles on public transportation vehicles;

"(F) signage; or

"(G) enhanced access for persons with disabilities to public transportation.

"(2) BUS RAPID TRANSIT SYSTEM.—The term 'bus rapid transit system' means a bus transit system—

"(A) in which the majority of each line operates in a separated right-of-way dedicated for public transportation use during peak periods; and

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

"(i) defined stations;

"(ii) traffic signal priority for public transportation vehicles;

"(iii) short headway bidirectional services for a substantial part of weekdays and weekend days; and

"(iv) any other features the Secretary may determine are necessary to produce high-quality public transportation services that emulate the services provided by rail fixed guideway public transportation systems.

"(3) CAPITAL PROJECT.—The term 'capital project' means a project for—

"(A) acquiring, constructing, supervising, or inspecting equipment or a facility for use in public transportation, expenses incidental to the acquisition or construction (including designing, engineering, location surveying, mapping, and acquiring rights-of-way), payments for the capital portions of rail trackage rights agreements, transit-related intelligent transportation systems, relocation assistance, acquiring replacement housing sites, and acquiring, constructing, relocating, and rehabilitating replacement housing;

"(B) rehabilitating a bus;

"(C) remanufacturing a bus;

"(D) overhauling rail rolling stock;

"(E) preventive maintenance;

"(F) leasing equipment or a facility for use in public transportation, subject to regulations that the Secretary prescribes limiting the leasing arrangements to those that are more cost-effective than purchase or construction;

"(G) a joint development improvement that—

"(i) enhances economic development or incorporates private investment, such as commercial and residential development;

"(ii)(I) enhances the effectiveness of public transportation and is related physically or functionally to public transportation; or

"(II) establishes new or enhanced coordination between public transportation and other transportation;

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

"(iv) provides that a person making an agreement to occupy space in a facility constructed under this paragraph shall pay a fair share of the costs of the facility through rental payments and other means;

"(v) may include—

"(I) property acquisition;

"(II) demolition of existing structures;

"(III) site preparation;

"(IV) utilities;

"(V) building foundations;

"(VI) walkways;

"(VII) pedestrian and bicycle access to a public transportation facility;

"(VIII) construction, renovation, and improvement of intercity bus and intercity rail stations and terminals;

"(IX) renovation and improvement of historic transportation facilities;

"(X) open space;

"(XI) safety and security equipment and facilities (including lighting, surveillance, and related intelligent transportation system applications);

"(XII) facilities that incorporate community services such as daycare or health care;

"(XIII) a capital project for, and improving, equipment or a facility for an intermodal transfer facility or transportation mall; and

"(XIV) construction of space for commercial uses; and

"(vi) does not include outfitting of commercial space (other than an intercity bus or rail station or terminal) or a part

of a public facility not related to public transportation;

"(H) the introduction of new technology, through innovative and improved products, into public transportation;

"(I) the provision of nonfixed route paratransit transportation services in accordance with section 223 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12143), but only for grant recipients that are in compliance with applicable requirements of that Act, including both fixed route and demand responsive service, and only for amounts not to exceed 10 percent of such recipient's annual formula apportionment under sections 5307 and 5311;

"(J) establishing a debt service reserve, made up of deposits with a bondholder's trustee, to ensure the timely payment of principal and interest on bonds issued by a grant recipient to finance an eligible project under this chapter;

"(K) mobility management—

"(i) consisting of short-range planning and management activities and projects for improving coordination among public

transportation and other transportation service providers carried out by a recipient or subrecipient through an agreement entered into with a person, including a governmental entity, under this chapter (other than section 5309); but

"(ii) excluding operating public transportation services; or

"(L) associated capital maintenance, including—

"(i) equipment, tires, tubes, and material, each costing at least .5 percent of the current fair market value of rolling stock comparable to the rolling stock for which the equipment, tires, tubes, and material are to be used; and

"(ii) reconstruction of equipment and material, each of which after reconstruction will have a fair market value of at least .5 percent of the current fair market value of rolling stock comparable to the rolling stock for which the equipment and material will be used.

"(4) DESIGNATED RECIPIENT.—The term 'designated recipient' means—

"(A) an entity designated, in accordance with the planning process under sections 5303 and 5304, by the Governor of a State, responsible local officials, and publicly owned operators of public transportation, to receive and apportion amounts under section 5336 to urbanized areas of 200,000 or more in population; or

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

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

"(6) EMERGENCY REGULATION.—The term 'emergency regulation' means a regulation—

"(A) that is effective temporarily before the expiration of the otherwise specified periods of time for public notice and comment under section 5334(c); and

"(B) prescribed by the Secretary as the result of a finding that a delay in the effective date of the regulation—

"(i) would injure seriously an important public interest;

"(ii) would frustrate substantially legislative policy and intent; or

"(iii) would damage seriously a person or class without serving an important public interest.

"(7) FIXED GUIDEWAY.—The term 'fixed guideway' means a public transportation facility—

"(A) using and occupying a separate right-of-way for the exclusive use of public transportation;

"(B) using rail;

"(C) using a fixed catenary system;

"(D) for a passenger ferry system; or

"(E) for a bus rapid transit system.

"(8) GOVERNOR.—The term 'Governor'—

"(A) means the Governor of a State, the mayor of the District of Columbia, and the chief executive officer of a territory of the United States; and

"(B) includes the designee of the Governor.

"(9) LOCAL GOVERNMENTAL AUTHORITY.—The term 'local governmental authority' includes—

"(A) a political subdivision of a State;

"(B) an authority of at least 1 State or political subdivision of a State;

"(C) an Indian tribe; and

"(D) a public corporation, board, or commission established under the laws of a State.

"(10) LOW-INCOME INDIVIDUAL.—The term 'low-income individual' means an individual whose family income is at or below 150 percent of the poverty line, as that term is defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by that section, for a family of the size involved.

"(11) NET PROJECT COST.—The term 'net project cost' means the part of a project that reasonably cannot be financed from revenues.

"(12) NEW BUS MODEL.—The term 'new bus model' means a bus model (including a model using alternative fuel)—

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

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

"(13) PUBLIC TRANSPORTATION.—The term 'public transportation'—

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

"(B) does not include—

"(i) intercity passenger rail transportation provided by the entity described in chapter 243 (or a successor to such entity);

"(ii) intercity bus service;

"(iii) charter bus service;

"(iv) school bus service;

"(v) sightseeing service;

"(vi) courtesy shuttle service for patrons of one or more specific establishments; or

"(vii) intra-terminal or intra-facility shuttle services.

"(14) REGULATION.—The term 'regulation' means any part of a statement of general or particular applicability of the Secretary designed to

carry out, interpret, or prescribe law or policy in carrying out this chapter.

''(15) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

''(16) SENIOR.—The term 'senior' means an individual who is 65 years of age or older.

''(17) STATE.—The term 'State' means a State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, and the Virgin Islands.

''(18) STATE OF GOOD REPAIR.—The term 'state of good repair' has the meaning given that term by the Secretary, by rule, under section 5326(b).

''(19) TRANSIT.—The term 'transit' means public transportation.

''(20) URBAN AREA.—The term 'urban area' means an area that includes a municipality or other built-up place that the Secretary, after considering local patterns and trends of urban growth, decides is appropriate for a local public transportation system to serve individuals in the locality.

''(21) URBANIZED AREA.—The term 'urbanized area' means an area encompassing a population of not less than 50,000 people that has been defined

and designated in the most recent decennial census as an 'urbanized area' by the Secretary of Commerce.''.

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

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

**"§ 5303. Metropolitan transportation planning**

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

''(1) to encourage and promote the safe, cost-effective, and efficient management, operation, and development of surface transportation systems that will serve efficiently the mobility needs of individuals and freight, reduce transportation-related fatalities and serious injuries, and foster economic growth and development within and between States and urbanized areas, while fitting the needs and complexity of individual communities, maximizing value for taxpayers, leveraging cooperative investments, and minimizing transportation-related fuel consumption and air pollution through the metropolitan and statewide transportation planning processes identified in this chapter;

''(2) to encourage the continued improvement, evolution, and coordination of the metropolitan and statewide transportation planning processes by and

among metropolitan planning organizations, State departments of transportation, regional planning organizations, interstate partnerships, and public transportation and intercity service operators as guided by the planning factors identified in subsection (h) of this section and section 5304(d);

"(3) to encourage and promote transportation needs and decisions that are integrated with other planning needs and priorities; and

"(4) to maximize the effectiveness of transportation investments.

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

"(1) EXISTING MPO.—The term 'existing MPO' means a metropolitan planning organization that was designated as a metropolitan planning organization on the day before the date of enactment of the Federal Public Transportation Act of 2012.

"(2) LOCAL OFFICIAL.—The term 'local official' means any elected or appointed official of general purpose local government with responsibility for transportation in a designated area.

"(3) MAINTENANCE AREA.—The term 'maintenance area' means an area that was designated as an air quality nonattainment area, but was later re-

designated by the Administrator of the Environmental Protection Agency as an air quality attainment area, under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)).

"(4) METROPOLITAN PLANNING AREA.—The term 'metropolitan planning area' means a geographical area determined by agreement between the metropolitan planning organization for the area and the applicable Governor under subsection (c).

"(5) METROPOLITAN PLANNING ORGANIZATION.—The term 'metropolitan planning organization' means the policy board of an organization established pursuant to subsection (c).

"(6) METROPOLITAN TRANSPORTATION PLAN.—The term 'metropolitan transportation plan' means a plan developed by a metropolitan planning organization under subsection (i).

"(7) NONATTAINMENT AREA.—The term 'nonattainment area' has the meaning given the term in section 171 of the Clean Air Act (42 U.S.C. 7501).

"(8) NONMETROPOLITAN AREA.—

"(A) IN GENERAL.—The term 'nonmetropolitan area' means a geographical area outside the boundaries of a designated metropolitan planning area.

"(B) INCLUSIONS.—The term 'nonmetropolitan area' includes—

"(i) a small urbanized area with a population of more than 50,000, but fewer than 200,000 individuals, as calculated according to the most recent decennial census; and

"(ii) a nonurbanized area.

"(9) NONMETROPOLITAN PLANNING ORGANIZATION.—The term 'nonmetropolitan planning organization' means an organization that—

"(A) was designated as a metropolitan planning organization as of the day before the date of enactment of the Federal Public Transportation Act of 2012; and

"(B) is not designated as a tier I MPO or tier II MPO.

"(10) REGIONALLY SIGNIFICANT.—The term 'regionally significant', with respect to a transportation project, program, service, or strategy, means a project, program, service, or strategy that—

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

"(B) would normally be included in the modeling of a transportation network of a metropolitan area.

"(11) RURAL PLANNING ORGANIZATION.—The term 'rural planning organization' means an organization that—

"(A) is responsible for the planning, coordination, and implementation of statewide transportation plans and programs outside of metropolitan areas, with an emphasis on addressing the needs of rural areas of a State;

"(B) is not designated as a tier I MPO, a tier II MPO, or a nonmetropolitan planning organization.

"(12) STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM.—The term 'statewide transportation improvement program' means a statewide transportation improvement program developed by a State under section 5304(g).

"(13) STATEWIDE TRANSPORTATION PLAN.—The term 'statewide transportation plan' means a plan developed by a State under section 5304(f).

"(14) TIER I MPO.—The term 'tier I MPO' means a metropolitan planning organization designated as a tier I MPO under subsection (e)(4)(A).

"(15) TIER II MPO.—The term 'tier II MPO' means a metropolitan planning organization designated as a tier II MPO under subsection (e)(4)(B).

"(16) TRANSPORTATION IMPROVEMENT PROGRAM.—The term 'transportation improvement program' means a program developed by a metropolitan planning organization under subsection (j).

"(17) URBANIZED AREA.—The term 'urbanized area' means a geographical area with a population of 50,000 or more individuals, as calculated according to the most recent decennial census.

"(c) DESIGNATION OF METROPOLITAN PLANNING ORGANIZATIONS.—

"(1) IN GENERAL.—To carry out the metropolitan transportation planning process under this section, a metropolitan planning organization shall be designated for each urbanized area with a population of 200,000 or more individuals, as calculated according to the most recent decennial census—

"(A) by agreement between the applicable Governor and local officials that, in the aggregate, represent at least 75 percent of the affected population (including the largest incorporated city (based on population), as cal-

culated according to the most recent decennial census); or

"(B) in accordance with procedures established by applicable State or local law.

"(2) SMALL URBANIZED AREAS.—To carry out the metropolitan transportation planning process under this section, a metropolitan planning organization may be designated for any urbanized area with a population of 50,000 or more individuals, but fewer than 200,000 individuals, as calculated according to the most recent decennial census—

"(A) by agreement between the applicable Governor and local officials that, in the aggregate, represent at least 75 percent of the affected population (including the largest incorporated city (based on population), as calculated according to the most recent decennial census); and

"(B) with the consent of the Secretary, based on a finding that the resulting metropolitan planning organization has met the minimum requirements under subsection (e)(4)(B).

"(3) STRUCTURE.—Not later than 1 year after the date of enactment of the Federal Public Trans-

portation Act of 2012, a metropolitan planning organization shall consist of—

"(A) elected local officials in the relevant metropolitan area;

"(B) officials of public agencies that administer or operate major modes of transportation in the relevant metropolitan area, including providers of public transportation; and

"(C) appropriate State officials.

"(4) EFFECT OF SUBSECTION.—Nothing in this subsection interferes with any authority under any State law in effect on December 18, 1991, of a public agency with multimodal transportation responsibilities—

"(A) to develop the metropolitan transportation plans and transportation improvement programs for adoption by a metropolitan planning organization; or

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

"(5) CONTINUING DESIGNATION.—

"(A) POPULATION OF 200,000 OR MORE.—A designation of an existing MPO for an urbanized area with a population of 200,000 or more

individuals, as calculated according to the most recent decennial census, shall remain in effect—

"(i) for the period during which the structure of the existing MPO complies with the requirements of paragraph (1); or

"(ii) until the date on which the existing MPO is redesignated under paragraph (6).

"(B) POPULATION OF FEWER THAN 200,000.—

"(i) IN GENERAL.—A designation of an existing MPO for an urbanized area with a population of fewer than 200,000 individuals, as calculated according to the most recent decennial census, shall remain in effect until the date on which the existing MPO is redesignated under paragraph (6) unless—

"(I) the existing MPO requests that its planning responsibilities be transferred to the State or to another planning organization designated by the State; or

"(II)(aa) the Secretary determines 3 years after the date on which the Secretary issues a rule pursuant to subsection (e)(4)(B)(i), that the existing MPO is not meeting the minimum requirements established by the rule; and

"(bb) the Secretary approves the Governor's determination.

"(ii) WRITTEN JUSTIFICATION.—The Secretary shall in a timely manner provide a substantive written justification to each metropolitan planning organization that is the subject of a negative determination of the Secretary under clause (i)(II).

"(C) EXTENSION.—If a metropolitan planning organization for an urbanized area with a population of less than 200,000 that would otherwise be terminated under subparagraph (B), requests a probationary continuation before the termination of the metropolitan planning organization, the Secretary shall—

"(i) delay the termination of the metropolitan planning organization under subparagraph (B) for a period of 1 year;

"(ii) provide additional technical assistance to all metropolitan planning organizations provided an extension under this paragraph to assist the metropolitan planning organization in meeting the minimum requirements under subsection (e)(4)(B)(i); and

"(iii) make a determination 1 year after the date on which the Secretary issues an extension, whether the MPO has meet the minimum requirements established under subsection (e)(4)(B)(i).

"(D) DESIGNATION AS TIER II MPO.—If the Secretary determines the existing MPO has met the minimum requirements under the rule issued under subsection (e)(4)(B)(i), the Secretary shall designate the existing MPO as a tier II MPO.

"(6) REDESIGNATION.—

"(A) IN GENERAL.—The designation of a metropolitan planning organization under this subsection shall remain in effect until the date on which the metropolitan planning organization is redesignated, as appropriate, in accord-

ance with the requirements of this subsection pursuant to an agreement between—

"(i) the applicable Governor; and

"(ii) affected local officials who, in the aggregate, represent at least 75 percent of the existing metropolitan planning area population (including the largest incorporated city (based on population), as calculated according to the most recent decennial census).

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

"(7) ABSENCE OF DESIGNATION.—

"(A) IN GENERAL.—A metropolitan planning organization that is the subject of a negative determination of the Secretary under paragraph (5)(B)(i)(II) shall submit to the State in which the metropolitan planning organization is located, or to a planning organization designated by the State, by not later than 180 days after the date on which a notice of the negative determination is received, a 6-month plan that includes a description of a method—

"(i) to transfer the responsibilities of the metropolitan planning organization to the State; and

"(ii) to dissolve the metropolitan planning organization.

"(B) ACTION ON DISSOLUTION.—On submission of a plan under subparagraph (A), the metropolitan planning area served by the applicable metropolitan planning organization shall—

"(i) continue to receive metropolitan transportation planning funds until the earlier of—

"(I) the date of dissolution of the metropolitan planning organization; and

"(II) the date that is 4 years after the date of enactment of the Federal Public Transportation Act of 2012; and

"(ii) be treated by the State as a nonmetropolitan area for purposes of this chapter.

"(8) DESIGNATION OF MULTIPLE MPOS.—

"(A) IN GENERAL.—More than 1 metropolitan planning organization may be designated within an existing metropolitan planning area only if the applicable Governor and an existing MPO determine that the size and complexity of the existing metropolitan planning area make the designation of more than 1 metropolitan planning organization for the metropolitan planning area appropriate.

"(B) SERVICE JURISDICTIONS.—If more than 1 metropolitan planning organization is designated for an existing metropolitan planning area under subparagraph (A), the existing metropolitan planning area shall be split into multiple metropolitan planning areas, each of which shall be served by the existing MPO or a new metropolitan planning organization.

"(C) TIER DESIGNATION.—The tier designation of each metropolitan planning organization subject to a designation under this paragraph shall be determined based on the size of each respective metropolitan planning area, in accordance with subsection (e)(4).

"(d) METROPOLITAN PLANNING AREA BOUNDARIES.—

"(1) IN GENERAL.—For purposes of this section, the boundaries of a metropolitan planning area shall be determined by agreement between the applicable metropolitan planning organization and the Governor of the State in which the metropolitan planning area is located.

"(2) INCLUDED AREA.—Each metropolitan planning area—

"(A) shall encompass at least the relevant existing urbanized area and any contiguous area expected to become urbanized within a 20-year forecast period under the applicable metropolitan transportation plan; and

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

"(3) IDENTIFICATION OF NEW URBANIZED AREAS.—The designation by the Bureau of the Census of a new urbanized area within the boundaries of an existing metropolitan planning area shall not require the redesignation of the relevant existing MPO.

"(4) NONATTAINMENT AND MAINTENANCE AREAS.—

"(A) EXISTING METROPOLITAN PLANNING AREAS.—

"(i) IN GENERAL.—Except as provided in clause (ii), notwithstanding paragraph (2), in the case of an urbanized area designated as a nonattainment area or maintenance area as of the date of enactment of the Federal Public Transportation Act of 2012, the boundaries of the existing metropolitan planning area as of that date of enactment shall remain in force and effect.

"(ii) EXCEPTION.—Notwithstanding clause (i), the boundaries of an existing metropolitan planning area described in that clause may be adjusted by agreement of the applicable Governor and the affected metropolitan planning organizations in accordance with paragraph (1).

"(B) NEW METROPOLITAN PLANNING AREAS.—In the case of an urbanized area designated as a nonattainment area or maintenance area after the date of enactment of the Federal Public Transportation Act of 2012, the

boundaries of the applicable metropolitan planning area—

"(i) shall be established in accordance with subsection (c)(1);

"(ii) shall encompass the areas described in paragraph (2)(A);

"(iii) may encompass the areas described in paragraph (2)(B); and

"(iv) may address any appropriate nonattainment area or maintenance area.

"(e) REQUIREMENTS.—

"(1) DEVELOPMENT OF PLANS AND TIPS.—To accomplish the policy objectives described in subsection (a), each metropolitan planning organization, in cooperation with the applicable State and public transportation operators, shall develop metropolitan transportation plans and transportation improvement programs for metropolitan planning areas of the State through a performance-driven, outcome-based approach to metropolitan transportation planning consistent with subsection (h).

"(2) CONTENTS.—The metropolitan transportation plans and transportation improvement programs for each metropolitan area shall provide for the development and integrated management and

operation of transportation systems and facilities (including accessible pedestrian walkways, bicycle transportation facilities, and intermodal facilities that support intercity transportation) that will function as—

"(A) an intermodal transportation system for the metropolitan planning area; and

"(B) an integral part of an intermodal transportation system for the applicable State and the United States.

"(3) PROCESS OF DEVELOPMENT.—The process for developing metropolitan transportation plans and transportation improvement programs shall—

"(A) provide for consideration of all modes of transportation; and

"(B) be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation needs to be addressed.

"(4) TIERING.—

"(A) TIER I MPOS.—

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

"(I) as certified by the Governor of each applicable State, the metropolitan planning organization operates within, and primarily serves, a metropolitan planning area with a population of 1,000,000 or more individuals, as calculated according to the most recent decennial census; and

"(II) the Secretary determines the metropolitan planning organization—

"(aa) meets the minimum technical requirements under clause (iv); and

"(bb) not later than 2 years after the date of enactment of the Federal Public Transportation Act of 2012, will fully implement the processes described in subsections (h) though (j).

"(ii) ABSENCE OF DESIGNATION.—In the absence of designation as a tier I MPO under clause (i), a metropolitan planning organization shall operate as a tier II MPO until the date on which the Secretary

determines the metropolitan planning organization can meet the minimum technical requirements under clause (iv).

"(iii) REDESIGNATION AS TIER I.—A metropolitan planning organization operating within a metropolitan planning area with a population of 200,000 or more and fewer than 1,000,000 individuals and primarily within urbanized areas with populations of 200,000 or more individuals, as calculated according to the most recent decennial census, that is designated as a tier II MPO under subparagraph (B) may request, with the support of the applicable Governor, a redesignation as a tier I MPO on a determination by the Secretary that the metropolitan planning organization has met the minimum technical requirements under clause (iv).

"(iv) MINIMUM TECHNICAL REQUIREMENTS.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall issue a rule that establishes the minimum technical requirements necessary for

a metropolitan planning organization to be designated as a tier I MPO, including, at a minimum, modeling, data, staffing, and other technical requirements.

"(B) TIER II MPOS.—

"(i) IN GENERAL.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall issue a rule that establishes minimum requirements necessary for a metropolitan planning organization to be designated as a tier II MPO.

"(ii) REQUIREMENTS.—The minimum requirements established under clause (i) shall—

"(I) be limited to ensuring that each metropolitan planning organization has the capabilities necessary to develop the metropolitan transportation plan and transportation improvement program under this section; and

"(II) include—

"(aa) only the staffing capabilities necessary to operate the

metropolitan planning organization; and

"(bb) a requirement that the metropolitan planning organization has the technical capacity to conduct the travel demand model and forecasting necessary, as appropriate to the size and resources of the metropolitan planning organization, to fulfill the requirements of this section, except that in cases in which a metropolitan planning organization has a formal agreement with a State to conduct the modeling on behalf of the metropolitan planning organization, the metropolitan planning organization shall be exempt from the technical capacity requirement.

"(iii) LIMITATION.—The rule issued pursuant to this subparagraph shall only include the minimum requirements established in clause (ii).

"(iv) INCLUSION.—A metropolitan planning organization operating primarily within an urbanized area with a population of 200,000 or more individuals, as calculated according to the most recent decennial census, and that does not qualify as a tier I MPO under subparagraph (A)(i), shall—

"(I) be designated as a tier II MPO; and

"(II) follow the processes under subsection (k).

"(C) CONSOLIDATION.—

"(i) IN GENERAL.—Metropolitan planning organizations operating within contiguous or adjacent urbanized areas may elect to consolidate in order to meet the population thresholds required to achieve designation as a tier I or tier II MPO under this paragraph.

"(ii) EFFECT OF SUBSECTION.—Nothing in this subsection requires or prevents consolidation among multiple metropolitan planning organizations located within a single urbanized area.

"(f) COORDINATION IN MULTISTATE AREAS.—

"(1) IN GENERAL.—The Secretary shall encourage each Governor with responsibility for a portion of a multistate metropolitan area and the appropriate metropolitan planning organizations to provide coordinated transportation planning for the entire metropolitan area.

"(2) COORDINATION ALONG DESIGNATED TRANSPORTATION CORRIDORS.—The Secretary shall encourage each Governor with responsibility for a portion of a multistate metropolitan area and the appropriate metropolitan planning organizations to provide coordinated transportation planning for the entire designated transportation corridor.

"(3) COORDINATION WITH INTERSTATE COMPACTS.—The Secretary shall encourage metropolitan planning organizations to take into consideration, during the development of metropolitan transportation plans and transportation improvement programs, any relevant transportation studies concerning planning for regional transportation (including high-speed and intercity rail corridor studies, commuter rail corridor studies, intermodal terminals, and interstate highways) in support of freight, intercity, or multistate area projects and services

that have been developed pursuant to interstate compacts or agreements, or by organizations established under section 5304.

"(g) ENGAGEMENT IN METROPOLITAN TRANSPORTATION PLAN AND TIP DEVELOPMENT.—

"(1) NONATTAINMENT AND MAINTENANCE AREAS.—If more than 1 metropolitan planning organization has authority within a metropolitan area, nonattainment area, or maintenance area, each metropolitan planning organization shall consult with all other metropolitan planning organizations designated for the metropolitan area, nonattainment area, or maintenance area and the State in the development of metropolitan transportation plans and transportation improvement programs under this section.

"(2) TRANSPORTATION IMPROVEMENTS LOCATED IN MULTIPLE METROPOLITAN PLANNING AREAS.—If a transportation improvement project funded under this chapter or title 23 is located within the boundaries of more than 1 metropolitan planning area, the affected metropolitan planning organizations shall coordinate metropolitan transportation plans and transportation improvement programs regarding the project.

"(3) COORDINATION OF ADJACENT PLANNING ORGANIZATIONS.—

"(A) IN GENERAL.—A metropolitan planning organization that is adjacent or located in reasonably close proximity to another metropolitan planning organization shall coordinate with that metropolitan planning organization with respect to planning processes, including preparation of metropolitan transportation plans and transportation improvement programs, to the maximum extent practicable.

"(B) NONMETROPOLITAN PLANNING ORGANIZATIONS.—A metropolitan planning organization that is adjacent or located in reasonably close proximity to a nonmetropolitan planning organization shall consult with that nonmetropolitan planning organization with respect to planning processes, to the maximum extent practicable.

"(4) RELATIONSHIP WITH OTHER PLANNING OFFICIALS.—

"(A) IN GENERAL.—The Secretary shall encourage each metropolitan planning organization to cooperate with Federal, State, tribal, and local officers and entities responsible for

other types of planning activities that are affected by transportation in the relevant area (including planned growth, economic development, infrastructure services, housing, other public services, environmental protection, airport operations, high-speed and intercity passenger rail, freight rail, port access, and freight movements), to the maximum extent practicable, to ensure that the metropolitan transportation planning process, metropolitan transportation plans, and transportation improvement programs are developed in cooperation with other related planning activities in the area.

''(B) INCLUSION.—Cooperation under subparagraph (A) shall include the design and delivery of transportation services within the metropolitan area that are provided by—

''(i) recipients of assistance under sections 202, 203, and 204 of title 23;

''(ii) recipients of assistance under this title;

''(iii) government agencies and nonprofit organizations (including representatives of the agencies and organizations)

that receive Federal assistance from a source other than the Department of Transportation to provide nonemergency transportation services; and

"(iv) sponsors of regionally significant programs, projects, and services that are related to transportation and receive assistance from any public or private source.

"(5) COORDINATION OF OTHER FEDERALLY REQUIRED PLANNING PROGRAMS.—The Secretary shall encourage each metropolitan planning organization to coordinate, to the maximum extent practicable, the development of metropolitan transportation plans and transportation improvement programs with other relevant federally required planning programs.

"(h) SCOPE OF PLANNING PROCESS.—

"(1) IN GENERAL.—The metropolitan transportation planning process for a metropolitan planning area under this section shall provide for consideration of projects and strategies that will—

"(A) support the economic vitality of the metropolitan area, especially by enabling global competitiveness, travel and tourism (where applicable), productivity, and efficiency;

"(B) increase the safety of the transportation system for motorized and nonmotorized users;

"(C) increase the security of the transportation system for motorized and nonmotorized users;

"(D) increase the accessibility and mobility of individuals and freight;

"(E) protect and enhance the environment, promote energy conservation, improve the quality of life, and promote consistency between transportation improvements and State and local planned growth and economic development patterns;

"(F) enhance the integration and connectivity of the transportation system, across and between modes, for individuals and freight;

"(G) increase efficient system management and operation; and

"(H) emphasize the preservation of the existing transportation system.

"(2) PERFORMANCE-BASED APPROACH.—

"(A) IN GENERAL.—The metropolitan transportation planning process shall provide

for the establishment and use of a performance-based approach to transportation decision-making to support the national goals described in section 5301(c) of this title and in section 150(b) of title 23.

"(B) PERFORMANCE TARGETS.—

"(i) SURFACE TRANSPORTATION PERFORMANCE TARGETS.—

"(I) IN GENERAL.—Each metropolitan planning organization shall establish performance targets that address the performance measures described in sections 119(f), 148(h), 149(k) (where applicable), and 167(i) of title 23, to use in tracking attainment of critical outcomes for the region of the metropolitan planning organization.

"(II) COORDINATION.—Selection of performance targets by a metropolitan planning organization shall be coordinated with the relevant State to ensure consistency, to the maximum extent practicable.

"(ii) PUBLIC TRANSPORTATION PERFORMANCE TARGETS.—Each metropolitan planning organization shall adopt the performance targets identified by providers of public transportation pursuant to sections 5326(c) and 5329(d), for use in tracking attainment of critical outcomes for the region of the metropolitan planning organization.

"(C) TIMING.—Each metropolitan planning organization shall establish the performance targets under subparagraph (B) not later than 90 days after the date on which the relevant State or provider of public transportation establishes the performance targets.

"(D) INTEGRATION OF OTHER PERFORMANCE-BASED PLANS.—A metropolitan planning organization shall integrate in the metropolitan transportation planning process, directly or by reference, the goals, objectives, performance measures, and targets described in other State plans and processes, as well as asset management and safety plans developed by providers of public transportation, required as part of a per-

formance-based program, including plans such as—

"(i) the State National Highway System asset management plan;

"(ii) asset management plans developed by providers of public transportation;

"(iii) the State strategic highway safety plan;

"(iv) a congestion mitigation and air quality performance plan developed under section 149(k) of title 23 by a tier I MPO representing a nonattainment or maintenance area;

"(v) safety plans developed by providers of public transportation; and

"(vi) the national freight strategic plan.

"(E) USE OF PERFORMANCE MEASURES AND TARGETS.—The performance measures and targets established under this paragraph shall be used, at a minimum, by the relevant metropolitan planning organization as the basis for development of policies, programs, and investment priorities reflected in the metropolitan

transportation plan and transportation improvement program.

"(3) FAILURE TO CONSIDER FACTORS.—The failure to take into consideration 1 or more of the factors specified in paragraphs (1) and (2) shall not be subject to review by any court under this chapter, title 23, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a metropolitan transportation plan, a transportation improvement program, a project or strategy, or the certification of a planning process.

"(4) PARTICIPATION BY INTERESTED PARTIES.—

"(A) IN GENERAL.—Each metropolitan planning organization shall provide to affected individuals, public agencies, and other interested parties (including State representatives of nonmotorized users) notice and a reasonable opportunity to comment on the metropolitan transportation plan and transportation improvement program and any relevant scenarios.

"(B) CONTENTS OF PARTICIPATION PLAN.—Each metropolitan planning organization shall establish a participation plan that—

"(i) is developed in consultation with interested parties and local officials; and

"(ii) provides that interested parties and local officials have reasonable opportunities to comment on the contents of the metropolitan transportation plan of the metropolitan planning organization.

"(C) METHODS.—In carrying out subparagraph (A), the metropolitan planning organization shall, to the maximum extent practicable—

"(i) develop the metropolitan transportation plan and transportation improvement program in consultation with interested parties (including State representatives of nonmotorized users), as appropriate, including by the formation of advisory groups representative of the community and interested parties that participate in the development of the metropolitan transportation plan and transportation improvement program;

"(ii) hold any public meetings at times and locations that are, as applicable—

"(I) convenient; and

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

"(iii) employ visualization techniques to describe metropolitan transportation plans and transportation improvement programs; and

"(iv) make public information available in appropriate electronically accessible formats and means, such as the Internet, to afford reasonable opportunity for consideration of public information under subparagraph (A).

"(i) DEVELOPMENT OF METROPOLITAN TRANSPORTATION PLAN.—

"(1) DEVELOPMENT.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), not later than 5 years after the date of enactment of the Federal Public Transportation Act of 2012, and not less frequently than once every 5 years thereafter, each metropolitan planning organization shall prepare and update, respectively, a metropolitan transportation plan for the relevant metropoli-

tan planning area in accordance with this section.

"(B) EXCEPTIONS.—A metropolitan planning organization shall prepare or update, as appropriate, the metropolitan transportation plan not less frequently than once every 4 years if the metropolitan planning organization is operating within—

"(i) a nonattainment area; or

"(ii) a maintenance area.

"(2) OTHER REQUIREMENTS.—A metropolitan transportation plan under this section shall—

"(A) be in a form that the Secretary determines to be appropriate;

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

"(C) contain, at a minimum—

"(i) an identification of the existing transportation infrastructure, including highways, local streets and roads, bicycle and pedestrian facilities, public transportation facilities and services, commuter rail facilities and services, high-speed and intercity passenger rail facilities and services, freight facilities (including freight

railroad and port facilities), multimodal and intermodal facilities, and intermodal connectors that, evaluated in the aggregate, function as an integrated metropolitan transportation system;

''(ii) a description of the performance measures and performance targets used in assessing the existing and future performance of the transportation system in accordance with subsection (h)(2);

''(iii) a description of the current and projected future usage of the transportation system, including a projection based on a preferred scenario, and further including, to the extent practicable, an identification of existing or planned transportation rights-of-way, corridors, facilities, and related real properties;

''(iv) a system performance report evaluating the existing and future condition and performance of the transportation system with respect to the performance targets described in subsection (h)(2) and updates in subsequent system performance reports, including—

"(I) progress achieved by the metropolitan planning organization in meeting the performance targets in comparison with system performance recorded in previous reports;

"(II) an accounting of the performance of the metropolitan planning organization on outlay of obligated project funds and delivery of projects that have reached substantial completion in relation to—

"(aa) the projects included in the transportation improvement program; and

"(bb) the projects that have been removed from the previous transportation improvement program; and

"(III) when appropriate, an analysis of how the preferred scenario has improved the conditions and performance of the transportation system and how changes in local policies, investments, and growth have impacted the

costs necessary to achieve the identified performance targets;

"(v) recommended strategies and investments for improving system performance over the planning horizon, including transportation systems management and operations strategies, maintenance strategies, demand management strategies, asset management strategies, capacity and enhancement investments, State and local economic development and land use improvements, intelligent transportation systems deployment, and technology adoption strategies, as determined by the projected support of the performance targets described in subsection (h)(2);

"(vi) recommended strategies and investments to improve and integrate disability-related access to transportation infrastructure, including strategies and investments based on a preferred scenario, when appropriate;

"(vii) investment priorities for using projected available and proposed revenues over the short- and long-term stages of the

planning horizon, in accordance with the financial plan required under paragraph (4);

"(viii) a description of interstate compacts entered into in order to promote coordinated transportation planning in multistate areas, if applicable;

"(ix) an optional illustrative list of projects containing investments that—

"(I) are not included in the metropolitan transportation plan; but

"(II) would be so included if resources in addition to the resources identified in the financial plan under paragraph (4) were available;

"(x) a discussion (developed in consultation with Federal, State, and tribal wildlife, land management, and regulatory agencies) of types of potential environmental and stormwater mitigation activities and potential areas to carry out those activities, including activities that may have the greatest potential to restore and maintain the environmental functions af-

fected by the metropolitan transportation plan; and

"(xi) recommended strategies and investments, including those developed by the State as part of interstate compacts, agreements, or organizations, that support intercity transportation.

"(3) SCENARIO DEVELOPMENT.—

"(A) IN GENERAL.—When preparing the metropolitan transportation plan, the metropolitan planning organization may, while fitting the needs and complexity of their community, develop multiple scenarios for consideration as a part of the development of the metropolitan transportation plan, in accordance with subparagraph (B).

"(B) COMPONENTS OF SCENARIOS.—The scenarios—

"(i) shall include potential regional investment strategies for the planning horizon;

"(ii) shall include assumed distribution of population and employment;

"(iii) may include a scenario that, to the maximum extent practicable, maintains

baseline conditions for the performance measures identified in subsection (h)(2);

"(iv) may include a scenario that improves the baseline conditions for as many of the performance measures under subsection (h)(2) as possible;

"(v) shall be revenue constrained based on the total revenues expected to be available over the forecast period of the plan; and

"(vi) may include estimated costs and potential revenues available to support each scenario.

"(C) METRICS.—In addition to the performance measures identified in subsection (h)(2), scenarios developed under this paragraph may be evaluated using locally developed metrics for the following categories:

"(i) Congestion and mobility, including transportation use by mode.

"(ii) Freight movement.

"(iii) Safety.

"(iv) Efficiency and costs to taxpayers.

"(4) FINANCIAL PLAN.—A financial plan referred to in paragraph (2)(C)(vii) shall—

"(A) be prepared by each metropolitan planning organization to support the metropolitan transportation plan; and

"(B) contain a description of the following:

"(i) Projected resource requirements for implementing projects, strategies, and services recommended in the metropolitan transportation plan, including existing and projected system operating and maintenance needs, proposed enhancement and expansions to the system, projected available revenue from Federal, State, local, and private sources, and innovative financing techniques to finance projects and programs.

"(ii) The projected difference between costs and revenues, and strategies for securing additional new revenue (such as by capture of some of the economic value created by any new investment).

"(iii) Estimates of future funds, to be developed cooperatively by the metropolitan planning organization, any public transpor-

tation agency, and the State, that are reasonably expected to be available to support the investment priorities recommended in the metropolitan transportation plan.

"(iv) Each applicable project only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

"(5) COORDINATION WITH CLEAN AIR ACT AGENCIES.—The metropolitan planning organization for any metropolitan area that is a nonattainment area or maintenance area shall coordinate the development of a transportation plan with the process for development of the transportation control measures of the State implementation plan required by the Clean Air Act (42 U.S.C. 7401 et seq.).

"(6) PUBLICATION.—On approval by the relevant metropolitan planning organization, a metropolitan transportation plan involving Federal participation shall be, at such times and in such manner as the Secretary shall require—

"(A) published or otherwise made readily available by the metropolitan planning organization for public review, including (to the max-

imum extent practicable) in electronically accessible formats and means, such as the Internet; and

"(B) submitted for informational purposes to the applicable Governor.

"(7) CONSULTATION.—

"(A) IN GENERAL.—In each metropolitan area, the metropolitan planning organization shall consult, as appropriate, with Federal, State, tribal, and local agencies responsible for land use management, natural resources, environmental protection, conservation, and historic preservation concerning the development of a metropolitan transportation plan.

"(B) ISSUES.—The consultation under subparagraph (A) shall involve, as available, consideration of—

"(i) metropolitan transportation plans with Federal, State, tribal, and local conservation plans or maps; and

"(ii) inventories of natural or historic resources.

"(8) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—Notwithstanding paragraph (4), a State or metropolitan planning organization shall

not be required to select any project from the illustrative list of additional projects included in the metropolitan transportation plan under paragraph (2)(C)(ix).

"(j) TRANSPORTATION IMPROVEMENT PROGRAM.—

"(1) DEVELOPMENT.—

"(A) IN GENERAL.—In cooperation with the applicable State and any affected public transportation operator, the metropolitan planning organization designated for a metropolitan area shall develop a transportation improvement program for the metropolitan planning area that—

"(i) contains projects consistent with the current metropolitan transportation plan;

"(ii) reflects the investment priorities established in the current metropolitan transportation plan; and

"(iii) once implemented, will make significant progress toward achieving the performance targets established under subsection (h)(2).

"(B) OPPORTUNITY FOR PARTICIPATION.—In developing the transportation im-

provement program, the metropolitan planning organization, in cooperation with the State and any affected public transportation operator, shall provide an opportunity for participation by interested parties, in accordance with subsection (h)(4).

"(C) UPDATING AND APPROVAL.—The transportation improvement program shall be—

"(i) updated not less frequently than once every 4 years, on a cycle compatible with the development of the relevant statewide transportation improvement program under section 5304; and

"(ii) approved by the applicable Governor.

"(2) CONTENTS.—

"(A) PRIORITY LIST.—The transportation improvement program shall include a priority list of proposed federally supported projects and strategies to be carried out during the 4-year period beginning on the date of adoption of the transportation improvement program, and each 4-year period thereafter, using existing and reasonably available revenues in accordance with the financial plan under paragraph (3).

"(B) DESCRIPTIONS.—Each project described in the transportation improvement program shall include sufficient descriptive material (such as type of work, termini, length, and other similar factors) to identify the project or phase of the project and the effect that the project or project phase will have in addressing the targets described in subsection (h)(2).

"(C) PERFORMANCE TARGET ACHIEVEMENT.—The transportation improvement program shall include, to the maximum extent practicable, a description of the anticipated effect of the transportation improvement program on attainment of the performance targets established in the metropolitan transportation plan, linking investment priorities to those performance targets.

"(D) ILLUSTRATIVE LIST OF PROJECTS.—In developing a transportation improvement program, an optional illustrative list of projects may be prepared containing additional investment priorities that—

"(i) are not included in the transportation improvement program; but

"(ii) would be so included if resources in addition to the resources identified in the financial plan under paragraph (3) were available.

"(3) FINANCIAL PLAN.—A financial plan referred to in paragraph (2)(D)(ii) shall—

"(A) be prepared by each metropolitan planning organization to support the transportation improvement program; and

"(B) contain a description of the following:

"(i) Projected resource requirements for implementing projects, strategies, and services recommended in the transportation improvement program, including existing and projected system operating and maintenance needs, proposed enhancement and expansions to the system, projected available revenue from Federal, State, local, and private sources, and innovative financing techniques to finance projects and programs.

"(ii) The projected difference between costs and revenues, and strategies for securing additional new revenue (such as by

capture of some of the economic value created by any new investment).

"(iii) Estimates of future funds, to be developed cooperatively by the metropolitan planning organization, any public transportation agency, and the State, that are reasonably expected to be available to support the investment priorities recommended in the transportation improvement program.

"(iv) Each applicable project, only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

"(4) INCLUDED PROJECTS.—

"(A) PROJECTS UNDER THIS CHAPTER AND TITLE 23.—A transportation improvement program developed under this subsection for a metropolitan area shall include a description of the projects within the area that are proposed for funding under this chapter and chapter 1 of title 23.

"(B) PROJECTS UNDER CHAPTER 2.—

"(i) REGIONALLY SIGNIFICANT.—Each regionally significant project pro-

posed for funding under chapter 2 of title 23 shall be identified individually in the transportation improvement program.

"(ii) NONREGIONALLY SIGNIFICANT.—A description of each project proposed for funding under chapter 2 of title 23 that is not determined to be regionally significant shall be contained in 1 line item or identified individually in the transportation improvement program.

"(5) OPPORTUNITY FOR PARTICIPATION.—Before approving a transportation improvement program, a metropolitan planning organization, in cooperation with the State and any affected public transportation operator, shall provide an opportunity for participation by interested parties in the development of the transportation improvement program, in accordance with subsection (h)(4).

"(6) SELECTION OF PROJECTS.—

"(A) IN GENERAL.—Each tier I MPO and tier II MPO shall select projects carried out within the boundaries of the applicable metropolitan planning area from the transportation improvement program, in consultation with the relevant State and on concurrence of the af-

fected facility owner, for funds apportioned to the State under section 104(b)(2) of title 23 and suballocated to the metropolitan planning area under section 133(d) of title 23.

"(B) PROJECTS UNDER CHAPTER 53.—In the case of projects under this chapter, the selection of federally funded projects in metropolitan areas shall be carried out, from the approved transportation improvement program, by the designated recipients of public transportation funding in cooperation with the metropolitan planning organization.

"(C) CONGESTION MITIGATION AND AIR QUALITY PROJECTS.—Each tier I MPO shall select projects carried out within the boundaries of the applicable metropolitan planning area from the transportation improvement program, in consultation with the relevant State and on concurrence of the affected facility owner, for funds apportioned to the State under section 104(b)(4) of title 23 and suballocated to the metropolitan planning area under section 149(j) of title 23.

"(D) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of

law, approval by the Secretary shall not be required to carry out a project included in a transportation improvement program in place of another project in the transportation improvement program.

"(7) PUBLICATION.—

"(A) IN GENERAL.—A transportation improvement program shall be published or otherwise made readily available by the applicable metropolitan planning organization for public review in electronically accessible formats and means, such as the Internet.

"(B) ANNUAL LIST OF PROJECTS.—An annual list of projects, including investments in pedestrian walkways, bicycle transportation facilities, and intermodal facilities that support intercity transportation, for which Federal funds have been obligated during the preceding fiscal year shall be published or otherwise made available by the cooperative effort of the State, public transportation operator, and metropolitan planning organization in electronically accessible formats and means, such as the Internet, in a manner that is consistent with the cat-

egories identified in the relevant transportation improvement program.

"(k) PLANNING REQUIREMENTS FOR TIER II MPOS.—

"(1) IN GENERAL.—The Secretary may provide for the performance-based development of a metropolitan transportation plan and transportation improvement program for the metropolitan planning area of a tier II MPO, as the Secretary determines to be appropriate, taking into account—

"(A) the complexity of transportation needs in the area; and

"(B) the technical capacity of the metropolitan planning organization.

"(2) EVALUATION OF PERFORMANCE-BASED PLANNING.—In reviewing a tier II MPO under subsection (m), the Secretary shall take into consideration the effectiveness of the tier II MPO in implementing and maintaining a performance-based planning process that—

"(A) addresses the performance targets described in subsection (h)(2); and

"(B) demonstrates progress on the achievement of those performance targets.

"(l) CERTIFICATION.—

"(1) IN GENERAL.—The Secretary shall—

"(A) ensure that the metropolitan transportation planning process of a metropolitan planning organization is being carried out in accordance with applicable Federal law; and

"(B) subject to paragraph (2), certify, not less frequently than once every 4 years, that the requirements of subparagraph (A) are met with respect to the metropolitan transportation planning process.

"(2) REQUIREMENTS FOR CERTIFICATION.—The Secretary may make a certification under paragraph (1)(B) if—

"(A) the metropolitan transportation planning process complies with the requirements of this section and other applicable Federal law;

"(B) representation on the metropolitan planning organization board includes officials of public agencies that administer or operate major modes of transportation in the relevant metropolitan area, including providers of public transportation; and

"(C) a transportation improvement program for the metropolitan planning area has

been approved by the relevant metropolitan planning organization and applicable Governor.

"(3) DELEGATION OF AUTHORITY.—The Secretary may—

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

"(B) make the certification under paragraph (1) in consultation with the State.

"(4) EFFECT OF FAILURE TO CERTIFY.—

"(A) WITHHOLDING OF PROJECT FUNDS.—If a metropolitan transportation planning process of a metropolitan planning organization is not certified under paragraph (1), the Secretary may withhold up to 20 percent of the funds attributable to the metropolitan planning area of the metropolitan planning organization for projects funded under this chapter and title 23.

"(B) RESTORATION OF WITHHELD FUNDS.—Any funds withheld under subparagraph (A) shall be restored to the metropolitan planning area on the date of certification of the metropolitan transportation planning process by the Secretary.

"(5) PUBLIC INVOLVEMENT.—In making a determination regarding certification under this subsection, the Secretary shall provide for public involvement appropriate to the metropolitan planning area under review.

"(m) PERFORMANCE-BASED PLANNING PROCESSES EVALUATION.—

"(1) IN GENERAL.—The Secretary shall establish criteria to evaluate the effectiveness of the performance-based planning processes of metropolitan planning organizations under this section, taking into consideration the following:

"(A) The extent to which the metropolitan planning organization has achieved, or is currently making substantial progress toward achieving, the performance targets specified in subsection (h)(2), taking into account whether the metropolitan planning organization developed meaningful performance targets.

"(B) The extent to which the metropolitan planning organization has used proven best practices that help ensure transportation investment that is efficient and cost-effective.

"(C) The extent to which the metropolitan planning organization—

"(i) has developed an investment process that relies on public input and awareness to ensure that investments are transparent and accountable; and

"(ii) provides regular reports allowing the public to access the information being collected in a format that allows the public to meaningfully assess the performance of the metropolitan planning organization.

"(2) REPORT.—

"(A) IN GENERAL.—Not later than 5 years after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall submit to Congress a report evaluating—

"(i) the overall effectiveness of performance-based planning as a tool for guiding transportation investments; and

"(ii) the effectiveness of the performance-based planning process of each metropolitan planning organization under this section.

"(B) PUBLICATION.—The report under subparagraph (A) shall be published or otherwise made available in electronically accessible formats and means, including on the Internet.

"(n) ADDITIONAL REQUIREMENTS FOR CERTAIN NONATTAINMENT AREAS.—

"(1) IN GENERAL.—Notwithstanding any other provision of this chapter or title 23, Federal funds may not be advanced in any metropolitan planning area classified as a nonattainment area or maintenance area for any highway project that will result in a significant increase in the carrying capacity for single-occupant vehicles, unless the owner or operator of the project demonstrates that the project will achieve or make substantial progress toward achieving the performance targets described in subsection (h)(2).

"(2) APPLICABILITY.—This subsection applies to any nonattainment area or maintenance area within the boundaries of a metropolitan planning area, as determined under subsection (c).

"(o) EFFECT OF SECTION.—Nothing in this section provides to any metropolitan planning organization the authority to impose any legal requirement on any transportation facility, provider, or project not subject to the requirements of this chapter or title 23.

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

"(q) CONTINUATION OF CURRENT REVIEW PRACTICE.—

"(1) IN GENERAL.—In consideration of the factors described in paragraph (2), any decision by the Secretary concerning a metropolitan transportation plan or transportation improvement program shall not be considered to be a Federal action subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

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

"(A) metropolitan transportation plans and transportation improvement programs are subject to a reasonable opportunity for public comment;

"(B) the projects included in metropolitan transportation plans and transportation improvement programs are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

"(C) decisions by the Secretary concerning metropolitan transportation plans and transportation improvement programs have not been reviewed under the National Environmental Pol-

icy Act of 1969 (42 U.S.C. 4321 et seq.) as of January 1, 1997.

"(r) SCHEDULE FOR IMPLEMENTATION.—The Secretary shall issue guidance on a schedule for implementation of the changes made by this section, taking into consideration the established planning update cycle for metropolitan planning organizations. The Secretary shall not require a metropolitan planning organization to deviate from its established planning update cycle to implement changes made by this section. Metropolitan planning organizations shall reflect changes made to their transportation plan or transportation improvement program updates not later than 2 years after the date of issuance of guidance by the Secretary.".

(b) PILOT PROGRAM FOR TRANSIT-ORIENTED DEVELOPMENT PLANNING.—

(1) DEFINITIONS.—In this subsection the following definitions shall apply:

(A) ELIGIBLE PROJECT.—The term "eligible project" means a new fixed guideway capital project or a core capacity improvement project, as those terms are defined in section 5309 of title 49, United States Code, as amended by this division.

(B) SECRETARY.—The term ''Secretary'' means the Secretary of Transportation.

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

(A) enhance economic development, ridership, and other goals established during the project development and engineering processes;

(B) facilitate multimodal connectivity and accessibility;

(C) increase access to transit hubs for pedestrian and bicycle traffic;

(D) enable mixed-use development;

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

(F) include private sector participation.

(3) ELIGIBILITY.—A State or local governmental authority that desires to participate in the program under this subsection shall submit to the Secretary an application that contains, at a minimum—

(A) identification of an eligible project;

(B) a schedule and process for the development of a comprehensive plan;

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

(D) proposed performance criteria for the development and implementation of the comprehensive plan; and

(E) identification of—

(i) partners;

(ii) availability of and authority for funding; and

(iii) potential State, local or other impediments to the implementation of the comprehensive plan.

**SEC. 20006. STATEWIDE AND NONMETROPOLITAN TRANSPORTATION PLANNING.**

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

**"§ 5304. Statewide and nonmetropolitan transportation planning**

''(a) STATEWIDE TRANSPORTATION PLANS AND STIPS.—

''(1) DEVELOPMENT.—

"(A) IN GENERAL.—To accomplish the policy objectives described in section 5303(a), each State shall develop a statewide transportation plan and a statewide transportation improvement program for all areas of the State in accordance with this section.

"(B) INCORPORATION OF METROPOLITAN TRANSPORTATION PLANS AND TIPS.—Each State shall incorporate in the statewide transportation plan and statewide transportation improvement program, without change or by reference, the metropolitan transportation plans and transportation improvement programs, respectively, for each metropolitan planning area in the State.

"(C) NONMETROPOLITAN AREAS.—Each State shall consult with local officials in small urbanized areas with a population of 50,000 or more individuals, but fewer than 200,000 individuals, as calculated according to the most recent decennial census, and nonurbanized areas of the State in preparing the nonmetropolitan portions of statewide transportation plans and statewide transportation improvement programs.

"(2) CONTENTS.—The statewide transportation plan and statewide transportation improvement program developed for each State shall provide for the development and integrated management and operation of transportation systems and facilities (including accessible pedestrian walkways, bicycle transportation facilities, and intermodal facilities that support intercity transportation) that will function as—

"(A) an intermodal transportation system for the State; and

"(B) an integral part of an intermodal transportation system for the United States.

"(3) PROCESS.—The process for developing the statewide transportation plan and statewide transportation improvement program shall—

"(A) provide for consideration of all modes of transportation; and

"(B) be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation needs to be addressed.

"(b) COORDINATION AND CONSULTATION.—

"(1) IN GENERAL.—Each State shall—

"(A) coordinate planning carried out under this section with—

"(i) the transportation planning activities carried out under section 5303 for metropolitan areas of the State; and

"(ii) statewide trade and economic development planning activities and related multistate planning efforts;

"(B) coordinate planning carried out under this section with the transportation planning activities carried out by each nonmetropolitan planning organization in the State, as applicable;

"(C) consult on planning carried out under this section with the transportation planning activities carried out by each rural planning organization in the State, as applicable; and

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

"(2) MULTISTATE AREAS.—

"(A) IN GENERAL.—The Secretary shall encourage each Governor with responsibility for a portion of a multistate metropolitan planning area and the appropriate metropolitan planning organizations to provide coordinated transpor-

tation planning for the entire metropolitan area.

"(B) COORDINATION ALONG DESIGNATED TRANSPORTATION CORRIDORS.—The Secretary shall encourage each Governor with responsibility for a portion of a multistate transportation corridor to provide coordinated transportation planning for the entire designated corridor.

"(C) INTERSTATE COMPACTS.—For purposes of this section, any 2 or more States—

"(i) may enter into compacts, agreements, or organizations not in conflict with any Federal law for cooperative efforts and mutual assistance in support of activities authorized under this section, as the activities relate to interstate areas and localities within the States;

"(ii) may establish such agencies (joint or otherwise) as the States determine to be appropriate for ensuring the effectiveness of the agreements and compacts; and

"(iii) are encouraged to enter into such compacts, agreements, or organiza-

tions as are appropriate to develop planning documents in support of intercity or multistate area projects, facilities, and services, the relevant components of which shall be reflected in statewide transportation improvement programs and statewide transportation plans.

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

"(c) RELATIONSHIP WITH OTHER PLANNING OFFICIALS.—

"(1) IN GENERAL.—The Secretary shall encourage each State to cooperate with Federal, State, tribal, and local officers and entities responsible for other types of planning activities that are affected by transportation in the relevant area (including planned growth, economic development, infrastructure services, housing, other public services, environmental protection, airport operations, high-speed and intercity passenger rail, freight rail, port access, and freight movements), to the maximum extent practicable, to ensure that the statewide and nonmetropolitan planning process, statewide transportation

plans, and statewide transportation improvement programs are developed with due consideration for other related planning activities in the State.

"(2) INCLUSION.—Cooperation under paragraph (1) shall include the design and delivery of transportation services within the State that are provided by—

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

"(B) recipients of assistance under this chapter;

"(C) government agencies and nonprofit organizations (including representatives of the agencies and organizations) that receive Federal assistance from a source other than the Department of Transportation to provide non-emergency transportation services; and

"(D) sponsors of regionally significant programs, projects, and services that are related to transportation and receive assistance from any public or private source.

"(d) SCOPE OF PLANNING PROCESS.—

"(1) IN GENERAL.—The statewide transportation planning process for a State under this sec-

tion shall provide for consideration of projects, strategies, and services that will—

"(A) support the economic vitality of the United States, the State, nonmetropolitan areas, and metropolitan areas, especially by enabling global competitiveness, travel and tourism (where applicable), productivity, and efficiency;

"(B) increase the safety of the transportation system for motorized and nonmotorized users;

"(C) increase the security of the transportation system for motorized and nonmotorized users;

"(D) increase the accessibility and mobility of individuals and freight;

"(E) protect and enhance the environment, promote energy conservation, improve the quality of life, and promote consistency between transportation improvements and State and local planned growth and economic development patterns;

"(F) enhance the integration and connectivity of the transportation system,

across and between modes, for individuals and freight;

"(G) increase efficient system management and operation; and

"(H) emphasize the preservation of the existing transportation system.

"(2) PERFORMANCE-BASED APPROACH.—

"(A) IN GENERAL.—The statewide transportation planning process shall provide for the establishment and use of a performance-based approach to transportation decisionmaking to support the national goals described in section 5301(c) of this title and in section 150(b) of title 23.

"(B) SURFACE TRANSPORTATION PERFORMANCE TARGETS.—

"(i) IN GENERAL.—Each State shall establish performance targets that address the performance measures described in sections 119(f), 148(h), and 167(i) of title 23 to use in tracking attainment of critical outcomes for the region of the State.

"(ii) COORDINATION.—Selection of performance targets by a State shall be coordinated with relevant metropolitan plan-

ning organizations to ensure consistency, to the maximum extent practicable.

"(C) PUBLIC TRANSPORTATION PERFORMANCE TARGETS.—For providers of public transportation operating in urbanized areas with a population of fewer than 200,000 individuals, as calculated according to the most recent decennial census, and not represented by a metropolitan planning organization, each State shall adopt the performance targets identified by such providers of public transportation pursuant to sections 5326(c) and 5329(d), for use in tracking attainment of critical outcomes for the region of the metropolitan planning organization.

"(D) INTEGRATION OF OTHER PERFORMANCE-BASED PLANS.—A State shall integrate into the statewide transportation planning process, directly or by reference, the goals, objectives, performance measures, and performance targets described in this paragraph in other State plans and processes, and asset management and safety plans developed by providers of public transportation in urbanized areas with a population of fewer than 200,000 individuals,

as calculated according to the most recent decennial census, and not represented by a metropolitan planning organization, required as part of a performance-based program, including plans such as—

"(i) the State National Highway System asset management plan;

"(ii) asset management plans developed by providers of public transportation;

"(iii) the State strategic highway safety plan;

"(iv) safety plans developed by providers of public transportation; and

"(v) the national freight strategic plan.

"(E) USE OF PERFORMANCE MEASURES AND TARGETS.—The performance measures and targets established under this paragraph shall be used, at a minimum, by a State as the basis for development of policies, programs, and investment priorities reflected in the statewide transportation plan and statewide transportation improvement program.

"(3) FAILURE TO CONSIDER FACTORS.—The failure to take into consideration 1 or more of the

factors specified in paragraphs (1) and (2) shall not be subject to review by any court under this chapter, title 23, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a statewide transportation plan, a statewide transportation improvement program, a project or strategy, or the certification of a planning process.

"(4) PARTICIPATION BY INTERESTED PARTIES.—

"(A) IN GENERAL.—Each State shall provide to—

"(i) nonmetropolitan local elected officials an opportunity to participate in accordance with subparagraph (B)(i); and

"(ii) affected individuals, public agencies, and other interested parties notice and a reasonable opportunity to comment on the statewide transportation plan and statewide transportation improvement program.

"(B) METHODS.—In carrying out this paragraph, the State shall—

"(i) develop and document a consultative process to carry out subparagraph (A)(i) that is separate and discrete from

the public involvement process developed under clause (ii);

"(ii) develop the statewide transportation plan and statewide transportation improvement program in consultation with interested parties, as appropriate, including by the formation of advisory groups representative of the State and interested parties that participate in the development of the statewide transportation plan and statewide transportation improvement program;

"(iii) hold any public meetings at times and locations that are, as applicable—

"(I) convenient; and

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

"(iv) employ visualization techniques to describe statewide transportation plans and statewide transportation improvement programs; and

"(v) make public information available in appropriate electronically accessible for-

mats and means, such as the Internet, to afford reasonable opportunity for consideration of public information under subparagraph (A).

"(e) COORDINATION AND CONSULTATION.—

"(1) METROPOLITAN AREAS.—

"(A) IN GENERAL.—Each State shall develop a statewide transportation plan and statewide transportation improvement program for each metropolitan area in the State by incorporating, without change or by reference, at a minimum, as prepared by each metropolitan planning organization designated for the metropolitan area under section 5303—

"(i) all regionally significant projects to be carried out during the 10-year period beginning on the effective date of the relevant existing metropolitan transportation plan; and

"(ii) all projects to be carried out during the 4-year period beginning on the effective date of the relevant transportation improvement program.

"(B) PROJECTED COSTS.—Each metropolitan planning organization shall provide to each

applicable State a description of the projected costs of implementing the projects included in the metropolitan transportation plan of the metropolitan planning organization for purposes of metropolitan financial planning and fiscal constraint.

"(2) NONMETROPOLITAN AREAS.—With respect to nonmetropolitan areas in a State, the statewide transportation plan and statewide transportation improvement program of the State shall be developed in consultation with affected nonmetropolitan local officials with responsibility for transportation, including providers of public transportation.

"(3) INDIAN TRIBAL AREAS.—With respect to each area of a State under the jurisdiction of an Indian tribe, the statewide transportation plan and statewide transportation improvement program of the State shall be developed in consultation with—

"(A) the tribal government; and

"(B) the Secretary of the Interior.

"(4) FEDERAL LAND MANAGEMENT AGENCIES.—With respect to each area of a State under the jurisdiction of a Federal land management agency, the statewide transportation plan and statewide transportation improvement program of the State

shall be developed in consultation with the relevant Federal land management agency.

"(5) CONSULTATION, COMPARISON, AND CONSIDERATION.—

"(A) IN GENERAL.—A statewide transportation plan shall be developed, as appropriate, in consultation with Federal, State, tribal, and local agencies responsible for land use management, natural resources, infrastructure permitting, environmental protection, conservation, and historic preservation.

"(B) COMPARISON AND CONSIDERATION.—Consultation under subparagraph (A) shall involve the comparison of statewide transportation plans to, as available—

"(i) Federal, State, tribal, and local conservation plans or maps; and

"(ii) inventories of natural or historic resources.

"(f) STATEWIDE TRANSPORTATION PLAN.—

"(1) DEVELOPMENT.—

"(A) IN GENERAL.—Each State shall develop a statewide transportation plan, the forecast period of which shall be not less than 20 years for all areas of the State, that provides

for the development and implementation of the intermodal transportation system of the State.

"(B) INITIAL PERIOD.—A statewide transportation plan shall include, at a minimum, for the first 10-year period of the statewide transportation plan, the identification of existing and future transportation facilities that will function as an integrated statewide transportation system, giving emphasis to those facilities that serve important national, statewide, and regional transportation functions.

"(C) SUBSEQUENT PERIOD.—For the second 10-year period of the statewide transportation plan (referred to in this subsection as the 'outer years period'), a statewide transportation plan—

"(i) may include identification of future transportation facilities; and

"(ii) shall describe the policies and strategies that provide for the development and implementation of the intermodal transportation system of the State.

"(D) OTHER REQUIREMENTS.—A statewide transportation plan shall—

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

"(I) the projected aggregate cost of projects anticipated by a State to be implemented; and

"(II) the revenues necessary to support the projects;

"(ii) include, in such form as the Secretary determines to be appropriate, a description of—

"(I) the existing transportation infrastructure, including an identification of highways, local streets and roads, bicycle and pedestrian facilities, public transportation facilities and services, commuter rail facilities and services, high-speed and intercity passenger rail facilities and services, freight facilities (including freight railroad and port facilities), multimodal and intermodal facilities, and intermodal connectors that, evaluated in the aggregate, function as an integrated transportation system;

"(II) the performance measures and performance targets used in assessing the existing and future performance of the transportation system described in subsection (d)(2);

"(III) the current and projected future usage of the transportation system, including, to the maximum extent practicable, an identification of existing or planned transportation rights-of-way, corridors, facilities, and related real properties;

"(IV) a system performance report evaluating the existing and future condition and performance of the transportation system with respect to the performance targets described in subsection (d)(2) and updates to subsequent system performance reports, including—

"(aa) progress achieved by the State in meeting performance targets, as compared to system performance recorded in previous reports; and

"(bb) an accounting of the performance by the State on outlay of obligated project funds and delivery of projects that have reached substantial completion, in relation to the projects currently on the statewide transportation improvement program and those projects that have been removed from the previous statewide transportation improvement program;

"(V) recommended strategies and investments for improving system performance over the planning horizon, including transportation systems management and operations strategies, maintenance strategies, demand management strategies, asset management strategies, capacity and enhancement investments, land use improvements, intelligent transportation systems deployment and technology adoption strategies as determined by the pro-

jected support of performance targets described in subsection (d)(2);

"(VI) recommended strategies and investments to improve and integrate disability-related access to transportation infrastructure;

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

"(VIII) a description of interstate compacts entered into in order to promote coordinated transportation planning in multistate areas, if applicable;

"(IX) an optional illustrative list of projects containing investments that—

"(aa) are not included in the statewide transportation plan; but

"(bb) would be so included if resources in addition to the re-

sources identified in the financial plan under paragraph (2) were available;

"(X) a discussion (developed in consultation with Federal, State, and tribal wildlife, land management, and regulatory agencies) of types of potential environmental and stormwater mitigation activities and potential areas to carry out those activities, including activities that may have the greatest potential to restore and maintain the environmental functions affected by the statewide transportation plan; and

"(XI) recommended strategies and investments, including those developed by the State as part of interstate compacts, agreements, or organizations, that support intercity transportation; and

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

"(2) FINANCIAL PLAN.—A financial plan referred to in paragraph (1)(D)(ii)(VII) shall—

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

"(B) contain a description of the following:

"(i) Projected resource requirements during the 20-year planning horizon for implementing projects, strategies, and services recommended in the statewide transportation plan, including existing and projected system operating and maintenance needs, proposed enhancement and expansions to the system, projected available revenue from Federal, State, local, and private sources, and innovative financing techniques to finance projects and programs.

"(ii) The projected difference between costs and revenues, and strategies for securing additional new revenue (such as by capture of some of the economic value created by any new investment).

"(iii) Estimates of future funds, to be developed cooperatively by the State, any public transportation agency, and relevant metropolitan planning organizations, that are reasonably expected to be available to

support the investment priorities recommended in the statewide transportation plan.

"(iv) Each applicable project, only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

"(v) For the outer years period of the statewide transportation plan, a description of the aggregate cost ranges or bands, subject to the condition that any future funding source shall be reasonably expected to be available to support the projected cost ranges or bands.

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

"(4) PUBLICATION.—A statewide transportation plan involving Federal and non-Federal par-

ticipation programs, projects, and strategies shall be published or otherwise made readily available by the State for public review, including (to the maximum extent practicable) in electronically accessible formats and means, such as the Internet, in such manner as the Secretary shall require.

"(5) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—Notwithstanding paragraph (2), a State shall not be required to select any project from the illustrative list of additional projects included in the statewide transportation plan under paragraph (1)(D)(ii)(IX).

"(6) USE OF POLICY PLANS.—Notwithstanding any other provision of this section, a State that has in effect, as of the date of enactment of the Federal Public Transportation Act of 2012, a statewide transportation plan that follows a policy plan approach—

"(A) may, for 4 years after the date of enactment of the Federal Public Transportation Act of 2012, continue to use a policy plan approach to the statewide transportation plan; and

"(B) shall be subject to the requirements of this subsection only to the extent that such

requirements were applicable under this section (as in effect on the day before the date of enactment of the Federal Public Transportation Act of 2012).

"(g) STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAMS.—

"(1) DEVELOPMENT.—

"(A) IN GENERAL.—In consultation with nonmetropolitan officials with responsibility for transportation and affected public transportation operators, the State shall develop a statewide transportation improvement program for the State that—

"(i) includes projects consistent with the statewide transportation plan;

"(ii) reflects the investment priorities established in the statewide transportation plan; and

"(iii) once implemented, makes significant progress toward achieving the performance targets described in subsection (d)(2).

"(B) OPPORTUNITY FOR PARTICIPATION.—In developing a statewide transportation improvement program, the State, in cooperation

with affected public transportation operators, shall provide an opportunity for participation by interested parties (including State representatives of nonmotorized users) in the development of the statewide transportation improvement program, in accordance with subsection (e).

"(C) OTHER REQUIREMENTS.—

"(i) IN GENERAL.—A statewide transportation improvement program shall—

"(I) cover a period of not less than 4 years; and

"(II) be updated not less frequently than once every 4 years, or more frequently, as the Governor determines to be appropriate.

"(ii) INCORPORATION OF TIPS.—A statewide transportation improvement program shall incorporate any relevant transportation improvement program developed by a metropolitan planning organization under section 5303, without change.

"(iii) PROJECTS.—Each project included in a statewide transportation improvement program shall be—

"(I) consistent with the statewide transportation plan developed under this section for the State;

"(II) identical to a project or phase of a project described in a relevant transportation improvement program; and

"(III) for any project located in a nonattainment area or maintenance area, carried out in accordance with the applicable State air quality implementation plan developed under the Clean Air Act (42 U.S.C. 7401 et seq.).

"(2) CONTENTS.—

"(A) PRIORITY LIST.—A statewide transportation improvement program shall include a priority list of proposed federally supported projects and strategies, to be carried out during the 4-year period beginning on the date of adoption of the statewide transportation improvement program, and during each 4-year period thereafter, using existing and reasonably available revenues in accordance with the financial plan under paragraph (3).

"(B) DESCRIPTIONS.—Each project or phase of a project included in a statewide transportation improvement program shall include sufficient descriptive material (such as type of work, termini, length, estimated completion date, and other similar factors) to identify—

"(i) the project or project phase; and

"(ii) the effect that the project or project phase will have in addressing the performance targets described in subsection (d)(2).

"(C) PERFORMANCE TARGET ACHIEVEMENT.—A statewide transportation improvement program shall include, to the maximum extent practicable, a discussion of the anticipated effect of the statewide transportation improvement program toward achieving the performance targets established in the statewide transportation plan, linking investment priorities to those performance targets.

"(D) ILLUSTRATIVE LIST OF PROJECTS.—An optional illustrative list of projects may be prepared containing additional investment priorities that—

"(i) are not included in the statewide transportation improvement program; but

"(ii) would be so included if resources in addition to the resources identified in the financial plan under paragraph (3) were available.

"(3) FINANCIAL PLAN.—A financial plan referred to in paragraph (2)(D)(ii) shall—

"(A) be prepared by each State to support the statewide transportation improvement program; and

"(B) contain a description of the following:

"(i) Projected resource requirements for implementing projects, strategies, and services recommended in the statewide transportation improvement program, including existing and projected system operating and maintenance needs, proposed enhancement and expansions to the system, projected available revenue from Federal, State, local, and private sources, and innovative financing techniques to finance projects and programs.

"(ii) The projected difference between costs and revenues, and strategies for se-

curing additional new revenue (such as by capture of some of the economic value created by any new investment).

"(iii) Estimates of future funds, to be developed cooperatively by the State and relevant metropolitan planning organizations and public transportation agencies, that are reasonably expected to be available to support the investment priorities recommended in the statewide transportation improvement program.

"(iv) Each applicable project, only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

"(4) INCLUDED PROJECTS.—

"(A) PROJECTS UNDER THIS CHAPTER AND TITLE 23.—A statewide transportation improvement program developed under this subsection for a State shall include the projects within the State that are proposed for funding under this chapter and chapter 1 of title 23.

"(B) PROJECTS UNDER THIS CHAPTER AND CHAPTER 2.—

"(i) REGIONALLY SIGNIFICANT.—Each regionally significant project proposed for funding under this chapter and chapter 2 of title 23 shall be identified individually in the statewide transportation improvement program.

"(ii) NONREGIONALLY SIGNIFICANT.—A description of each project proposed for funding under this chapter and chapter 2 of title 23 that is not determined to be regionally significant shall be contained in 1 line item or identified individually in the statewide transportation improvement program.

"(5) PUBLICATION.—

"(A) IN GENERAL.—A statewide transportation improvement program shall be published or otherwise made readily available by the State for public review in electronically accessible formats and means, such as the Internet.

"(B) ANNUAL LIST OF PROJECTS.—An annual list of projects, including investments in pedestrian walkways, bicycle transportation facilities, and intermodal facilities that support intercity transportation, for which Federal

funds have been obligated during the preceding fiscal year shall be published or otherwise made available by the cooperative effort of the State, public transportation operator, and relevant metropolitan planning organizations in electronically accessible formats and means, such as the Internet, in a manner that is consistent with the categories identified in the relevant statewide transportation improvement program.

"(6) PROJECT SELECTION FOR URBANIZED AREAS WITH POPULATIONS OF FEWER THAN 200,000 NOT REPRESENTED BY DESIGNATED MPOS.—Projects carried out in urbanized areas with populations of fewer than 200,000 individuals, as calculated according to the most recent decennial census, and that are not represented by designated metropolitan planning organizations, shall be selected from the approved statewide transportation improvement program (including projects carried out under this chapter and projects carried out on the National Highway System) by the State, in cooperation with the affected nonmetropolitan planning organization, if any exists, and in consultation with the affected nonmetropolitan area local officials with responsibility for transportation.

"(7) APPROVAL BY SECRETARY.—

"(A) IN GENERAL.—Not less frequently than once every 4 years, a statewide transportation improvement program developed under this subsection shall be reviewed and approved by the Secretary, based on the current planning finding of the Secretary under subparagraph (B).

"(B) PLANNING FINDING.—The Secretary shall make a planning finding referred to in subparagraph (A) not less frequently than once every 5 years regarding whether the transportation planning process through which statewide transportation plans and statewide transportation improvement programs are developed is consistent with this section and section 5303.

"(8) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, approval by the Secretary shall not be required to carry out a project included in an approved statewide transportation improvement program in place of another project in the statewide transportation improvement program.

"(h) CERTIFICATION.—

"(1) IN GENERAL.—The Secretary shall—

"(A) ensure that the statewide transportation planning process of a State is being carried out in accordance with this section and applicable Federal law (including rules and regulations); and

"(B) subject to paragraph (2), certify, not later than 180 days after the date of enactment of the Federal Public Transportation Act of 2012 and not less frequently than once every 5 years thereafter, that the requirements of subparagraph (A) are met with respect to the statewide transportation planning process.

"(2) REQUIREMENTS FOR CERTIFICATION.—The Secretary may make a certification under paragraph (1)(B) if—

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

"(B) a statewide transportation improvement program for the State has been approved by the Governor of the State.

"(3) EFFECT OF FAILURE TO CERTIFY.—

"(A) WITHHOLDING OF PROJECT FUNDS.—If a statewide transportation planning process of a State is not certified under para-

graph (1), the Secretary may withhold up to 20 percent of the funds attributable to the State for projects funded under this chapter and title 23.

"(B) RESTORATION OF WITHHELD FUNDS.—Any funds withheld under subparagraph (A) shall be restored to the State on the date of certification of the statewide transportation planning process by the Secretary.

"(4) PUBLIC INVOLVEMENT.—In making a determination regarding certification under this subsection, the Secretary shall provide for public involvement appropriate to the State under review.

"(i) PERFORMANCE-BASED PLANNING PROCESSES EVALUATION.—

"(1) IN GENERAL.—The Secretary shall establish criteria to evaluate the effectiveness of the performance-based planning processes of States, taking into consideration the following:

"(A) The extent to which the State has achieved, or is currently making substantial progress toward achieving, the performance targets described in subsection (d)(2), taking into account whether the State developed meaningful performance targets.

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

"(C) The extent to which the State—

"(i) has developed an investment process that relies on public input and awareness to ensure that investments are transparent and accountable; and

"(ii) provides regular reports allowing the public to access the information being collected in a format that allows the public to meaningfully assess the performance of the State.

"(2) REPORT.—

"(A) IN GENERAL.—Not later than 5 years after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall submit to Congress a report evaluating—

"(i) the overall effectiveness of performance-based planning as a tool for guiding transportation investments; and

"(ii) the effectiveness of the performance-based planning process of each State.

"(B) PUBLICATION.—The report under subparagraph (A) shall be published or otherwise made available in electronically accessible formats and means, including on the Internet.

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

"(k) CONTINUATION OF CURRENT REVIEW PRACTICE.—

"(1) IN GENERAL.—In consideration of the factors described in paragraph (2), any decision by the Secretary concerning a statewide transportation plan or statewide transportation improvement program shall not be considered to be a Federal action subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

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

"(A) statewide transportation plans and statewide transportation improvement programs are subject to a reasonable opportunity for public comment;

"(B) the projects included in statewide transportation plans and statewide transportation improvement programs are subject to re-

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

"(C) decisions by the Secretary concerning statewide transportation plans and statewide transportation improvement programs have not been reviewed under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) as of January 1, 1997.

"(l) SCHEDULE FOR IMPLEMENTATION.—The Secretary shall issue guidance on a schedule for implementation of the changes made by this section, taking into consideration the established planning update cycle for States. The Secretary shall not require a State to deviate from its established planning update cycle to implement changes made by this section. States shall reflect changes made to their transportation plan or transportation improvement program updates not later than 2 years after the date of issuance of guidance by the Secretary under this subsection.".

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

(a) IN GENERAL.—Section 5306 of title 49, United States Code, is amended to read as follows:

**"§ 5306. Public transportation emergency relief program**

''(a) DEFINITION.—In this section the following definitions shall apply:

''(1) ELIGIBLE OPERATING COSTS.—The term 'eligible operating costs' means costs relating to—

''(A) evacuation services;

''(B) rescue operations;

''(C) temporary public transportation service; or

''(D) reestablishing, expanding, or relocating public transportation route service before, during, or after an emergency.

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

''(A) the Governor of a State has declared an emergency and the Secretary has concurred; or

''(B) the President has declared a major disaster under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170).

"(b) GENERAL AUTHORITY.—The Secretary may make grants and enter into contracts and other agreements (including agreements with departments, agencies, and instrumentalities of the Government) for—

"(1) capital projects to protect, repair, reconstruct, or replace equipment and facilities of a public transportation system operating in the United States or on an Indian reservation that the Secretary determines is in danger of suffering serious damage, or has suffered serious damage, as a result of an emergency; and

"(2) eligible operating costs of public transportation equipment and facilities in an area directly affected by an emergency during—

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

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

"(c) COORDINATION OF EMERGENCY FUNDS.—

"(1) USE OF FUNDS.—Funds appropriated to carry out this section shall be in addition to any other funds available under this chapter.

"(2) NO EFFECT ON OTHER GOVERNMENT ACTIVITY.—The provision of funds under this section shall not affect the ability of any other agency of the Government, including the Federal Emergency Management Agency, or a State agency, a local governmental entity, organization, or person, to provide any other funds otherwise authorized by law.

"(3) NOTIFICATION.—The Secretary shall notify the Secretary of Homeland Security of the purpose and amount of any grant made or contract or other agreement entered into under this section.

"(d) GRANT REQUIREMENTS.—A grant awarded under this section or under section 5307 or 5311 that is made to address an emergency defined under subsection (a)(2) shall be—

"(1) subject to the terms and conditions the Secretary determines are necessary; and

"(2) made only for expenses that are not reimbursed under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

"(e) GOVERNMENT SHARE OF COSTS.—

"(1) CAPITAL PROJECTS AND OPERATING ASSISTANCE.—A grant, contract, or other agreement for a capital project or eligible operating costs under

this section shall be, at the option of the recipient, for not more than 80 percent of the net project cost, as determined by the Secretary.

"(2) NON-FEDERAL SHARE.—The remainder of the net project cost may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital.

"(3) WAIVER.—The Secretary may waive, in whole or part, the non-Federal share required under—

"(A) paragraph (2); or

"(B) section 5307 or 5311, in the case of a grant made available under section 5307 or 5311, respectively, to address an emergency.".

(b) MEMORANDUM OF AGREEMENT.—

(1) PURPOSES.—The purposes of this subsection are—

(A) to improve coordination between the Department of Transportation and the Department of Homeland Security; and

(B) to expedite the provision of Federal assistance for public transportation systems for activities relating to a major disaster or emergency declared by the President under the Robert T. Stafford Disaster Relief and Emergency

Assistance Act (42 U.S.C. 5121 et seq.) (referred to in this subsection as a ''major disaster or emergency'').

(2) AGREEMENT.—Not later than 180 days after the date of enactment of this Act, the Secretary of Transportation and the Secretary of Homeland Security shall enter into a memorandum of agreement to coordinate the roles and responsibilities of the Department of Transportation and the Department of Homeland Security in providing assistance for public transportation, including the provision of public transportation services and the repair and restoration of public transportation systems in areas for which the President has declared a major disaster or emergency.

(3) CONTENTS OF AGREEMENT.—The memorandum of agreement required under paragraph (2) shall—

(A) provide for improved coordination and expeditious use of public transportation, as appropriate, in response to and recovery from a major disaster or emergency;

(B) establish procedures to address—

(i) issues that have contributed to delays in the reimbursement of eligible

transportation-related expenses relating to a major disaster or emergency;

(ii) any challenges identified in the review under paragraph (4); and

(iii) the coordination of assistance for public transportation provided under the Robert T. Stafford Disaster Relief and Emergency Assistance Act and section 5306 of title 49, United States Code, as amended by this Act, as appropriate; and

(C) provide for the development and distribution of clear guidelines for State, local, and tribal governments, including public transportation systems, relating to—

(i) assistance available for public transportation systems for activities relating to a major disaster or emergency—

(I) under the Robert T. Stafford Disaster Relief and Emergency Assistance Act;

(II) under section 5306 of title 49, United States Code, as amended by this Act; and

(III) from other sources, including other Federal agencies; and

(ii) reimbursement procedures that speed the process of—

(I) applying for assistance under the Robert T. Stafford Disaster Relief and Emergency Assistance Act and section 5306 of title 49, United States Code, as amended by this Act; and

(II) distributing assistance for public transportation systems under the Robert T. Stafford Disaster Relief and Emergency Assistance Act and section 5306 of title 49, United States Code, as amended by this Act.

(4) AFTER ACTION REVIEW.—Before entering into a memorandum of agreement under paragraph (2), the Secretary of Transportation and the Secretary of Homeland Security (acting through the Administrator of the Federal Emergency Management Agency), in consultation with State, local, and tribal governments (including public transportation systems) that have experienced a major disaster or emergency, shall review after action reports relating to major disasters, emergencies, and exercises, to identify areas where coordination between the Department of Transportation and the Department of

1 Homeland Security and the provision of public
2 transportation services should be improved.
3 (5) FACTORS FOR DECLARATIONS OF MAJOR
4 DISASTERS AND EMERGENCIES.—The Administrator
5 of the Federal Emergency Management Agency shall
6 make available to State, local, and tribal govern-
7 ments, including public transportation systems, a de-
8 scription of the factors that the President considers
9 in declaring a major disaster or emergency, includ-
10 ing any pre-disaster emergency declaration policies.
11 (6) BRIEFINGS.—
12 (A) INITIAL BRIEFING.—Not later than
13 180 days after the date of enactment of this
14 Act, the Secretary of Transportation and the
15 Secretary of Homeland Security shall jointly
16 brief the Committee on Banking, Housing, and
17 Urban Affairs and the Committee on Homeland
18 Security and Governmental Affairs of the Sen-
19 ate on the memorandum of agreement required
20 under paragraph (2).
21 (B) QUARTERLY BRIEFINGS.—Each quar-
22 ter of the 1-year period beginning on the date
23 on which the Secretary of Transportation and
24 the Secretary of Homeland Security enter into
25 the memorandum of agreement required under

paragraph (2), the Secretary of Transportation and the Secretary of Homeland Security shall jointly brief the Committee on Banking, Housing, and Urban Affairs and the Committee on Homeland Security and Governmental Affairs of the Senate on the implementation of the memorandum of agreement.

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

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

**"§ 5307. Urbanized area formula grants**

''(a) GENERAL AUTHORITY.—

''(1) GRANTS.—The Secretary may make grants under this section for—

''(A) capital projects;

''(B) planning; and

''(C) operating costs of equipment and facilities for use in public transportation in an urbanized area with a population of fewer than 200,000 individuals, as determined by the Bureau of the Census.

''(2) SPECIAL RULE.—The Secretary may make grants under this section to finance the operating cost of equipment and facilities for use in public transportation, excluding rail fixed guideway, in an

urbanized area with a population of not fewer than 200,000 individuals, as determined by the Bureau of the Census—

"(A) for public transportation systems that operate 75 or fewer buses during peak service hours, in an amount not to exceed 75 percent of the share of the apportionment which is attributable to such systems within the urbanized area, as measured by vehicle revenue hours; and

"(B) for public transportation systems that operate a minimum of 76 buses and a maximum of 100 buses during peak service hours, in an amount not to exceed 50 percent of the share of the apportionment which is attributable to such systems within the urbanized area, as measured by vehicle revenue hours.

"(3) TEMPORARY AND TARGETED ASSISTANCE.—

"(A) ELIGIBILITY.—The Secretary may make a grant under this section to finance the operating cost of equipment and facilities to a recipient for use in public transportation in an area that the Secretary determines has—

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

"(ii) a 3-month unemployment rate, as reported by the Bureau of Labor Statistics, that is—

"(I) greater than 7 percent; and

"(II) at least 2 percentage points greater than the lowest 3-month unemployment rate for the area during the 5-year period preceding the date of the determination.

"(B) AWARD OF GRANT.—

"(i) IN GENERAL.—Except as otherwise provided in this subparagraph, the Secretary may make a grant under this section for not more than 2 consecutive fiscal years.

"(ii) ADDITIONAL YEAR.—If, at the end of the second fiscal year following the date on which the Secretary makes a determination under subparagraph (A) with respect to an area, the Secretary determines that the 3-month unemployment rate for the area is at least 2 percentage

points greater than the unemployment rate for the area at the time the Secretary made the determination under subparagraph (A), the Secretary may make a grant to a recipient in the area for 1 additional consecutive fiscal year.

"(iii) EXCLUSION PERIOD.—Beginning on the last day of the last consecutive fiscal year for which a recipient receives a grant under this paragraph, the Secretary may not make a subsequent grant under this paragraph to the recipient for a number of fiscal years equal to the number of consecutive fiscal years in which the recipient received a grant under this paragraph.

"(C) LIMITATION.—

"(i) FIRST FISCAL YEAR.—For the first fiscal year following the date on which the Secretary makes a determination under subparagraph (A) with respect to an area, not more than 25 percent of the amount apportioned to a designated recipient under section 5336 for the fiscal year shall be available for operating assistance for the area.

"(ii) SECOND AND THIRD FISCAL YEARS.—For the second and third fiscal years following the date on which the Secretary makes a determination under subparagraph (A) with respect to an area, not more than 20 percent of the amount apportioned to a designated recipient under section 5336 for the fiscal year shall be available for operating assistance for the area.

"(D) PERIOD OF AVAILABILITY FOR OPERATING ASSISTANCE.—Operating assistance awarded under this paragraph shall be available for expenditure to a recipient in an area until the end of the second fiscal year following the date on which the Secretary makes a determination under subparagraph (A) with respect to the area, after which time any unexpended funds shall be available to the recipient for other eligible activities under this section.

"(E) CERTIFICATION.—The Secretary may make a grant for operating assistance under this paragraph for a fiscal year only if the recipient certifies that—

"(i) the recipient will maintain public transportation service levels at or above the current service level, which shall be demonstrated by providing an equal or greater number of vehicle hours of service in the fiscal year than the number of vehicle hours of service provided in the preceding fiscal year;

"(ii) any non-Federal entity that provides funding to the recipient, including a State or local governmental entity, will maintain the tax rate or rate of allocations dedicated to public transportation at or above the rate for the preceding fiscal year;

"(iii) the recipient has allocated the maximum amount of funding under this section for preventive maintenance costs eligible as a capital expense necessary to maintain the level and quality of service provided in the preceding fiscal year; and

"(iv) the recipient will not use funding under this section for new capital assets except as necessary for the existing system to maintain or achieve a state of good re-

pair, assure safety, or replace obsolete technology.

"(b) ACCESS TO JOBS PROJECTS.—

"(1) IN GENERAL.—A designated recipient shall expend not less than 3 percent of the amount apportioned to the designated recipient under section 5336 or an amount equal to the amount apportioned to the designated recipient in fiscal year 2011 to carry out section 5316 (as in effect for fiscal year 2011), whichever is less, to carry out a program to develop and maintain job access projects. Eligible projects may include—

"(A) a project relating to the development and maintenance of public transportation services designed to transport eligible low-income individuals to and from jobs and activities related to their employment, including—

"(i) a public transportation project to finance planning, capital, and operating costs of providing access to jobs under this chapter;

"(ii) promoting public transportation by low-income workers, including the use of public transportation by workers with nontraditional work schedules;

"(iii) promoting the use of public transportation vouchers for welfare recipients and eligible low-income individuals; and

"(iv) promoting the use of employer-provided transportation, including the transit pass benefit program under section 132 of the Internal Revenue Code of 1986; and

"(B) a transportation project designed to support the use of public transportation including—

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

"(ii) guaranteed ride home programs;

"(iii) bicycle storage facilities; and

"(iv) projects that otherwise facilitate the provision of public transportation services to employment opportunities.

"(2) PROJECT SELECTION AND PLAN DEVELOPMENT.—Each grant recipient under this subsection shall certify that—

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

"(B) the plan was developed and approved through a process that included individuals with low incomes, representatives of public, private, and nonprofit transportation and human services providers, and participation by the public;

"(C) services funded under this subsection are coordinated with transportation services funded by other Federal departments and agencies to the maximum extent feasible; and

"(D) allocations of the grant to subrecipients, if any, are distributed on a fair and equitable basis.

"(3) COMPETITIVE PROCESS FOR GRANTS TO SUBRECIPIENTS.—

"(A) AREAWIDE SOLICITATIONS.—A recipient of funds apportioned under this subsection may conduct, in cooperation with the appropriate metropolitan planning organization, an areawide solicitation for applications for grants to the recipient and subrecipients under this subsection.

"(B) APPLICATION.—If the recipient elects to engage in a competitive process, recipients and subrecipients seeking to receive a grant from apportioned funds shall submit to the recipient an application in the form and in accordance with such requirements as the recipient shall establish.

"(c) PROGRAM OF PROJECTS.—Each recipient of a grant shall—

"(1) make available to the public information on amounts available to the recipient under this section;

"(2) develop, in consultation with interested parties, including private transportation providers, a proposed program of projects for activities to be financed;

"(3) publish a proposed program of projects in a way that affected individuals, private transportation providers, and local elected officials have the opportunity to examine the proposed program and submit comments on the proposed program and the performance of the recipient;

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

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

"(6) consider comments and views received, especially those of private transportation providers, in preparing the final program of projects; and

"(7) make the final program of projects available to the public.

"(d) GRANT RECIPIENT REQUIREMENTS.—A recipient may receive a grant in a fiscal year only if—

"(1) the recipient, within the time the Secretary prescribes, submits a final program of projects prepared under subsection (c) of this section and a certification for that fiscal year that the recipient (including a person receiving amounts from a Governor under this section)—

"(A) has or will have the legal, financial, and technical capacity to carry out the program, including safety and security aspects of the program;

"(B) has or will have satisfactory continuing control over the use of equipment and facilities;

"(C) will maintain equipment and facilities;

"(D) will ensure that, during non-peak hours for transportation using or involving a facility or equipment of a project financed under this section, a fare that is not more than 50 percent of the peak hour fare will be charged for any—

"(i) senior;

"(ii) individual who, because of illness, injury, age, congenital malfunction, or other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or has semiambulatory capability), cannot use a public transportation service or a public transportation facility effectively without special facilities, planning, or design; and

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

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

"(F) has complied with subsection (c) of this section;

"(G) has available and will provide the required amounts as provided by subsection (e) of this section;

"(H) will comply with sections 5303 and 5304;

"(I) has a locally developed process to solicit and consider public comment before raising a fare or carrying out a major reduction of transportation;

"(J)(i) will expend for each fiscal year for public transportation security projects, including increased lighting in or adjacent to a public transportation system (including bus stops, subway stations, parking lots, and garages), increased camera surveillance of an area in or adjacent to that system, providing an emergency telephone line to contact law enforcement or security personnel in an area in or adjacent to that system, and any other project intended to increase the security and safety of an existing or planned public transportation system, at least 1 percent of the amount the recipient re-

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

"(ii) has decided that the expenditure for security projects is not necessary;

"(K) in the case of a recipient for an urbanized area with a population of not fewer than 200,000 individuals, as determined by the Bureau of the Census—

"(i) will expend not less than 1 percent of the amount the recipient receives each fiscal year under this section for associated transit improvements, as defined in section 5302; and

"(ii) will submit an annual report listing projects carried out in the preceding fiscal year with those funds; and

"(L) will comply with section 5329(d); and

"(2) the Secretary accepts the certification.

"(e) GOVERNMENT SHARE OF COSTS.—

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

"(2) OPERATING EXPENSES.—A grant for operating expenses under this section may not exceed 50 percent of the net project cost of the project.

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

"(A) in cash from non-Government sources other than revenues from providing public transportation services;

"(B) from revenues from the sale of advertising and concessions;

"(C) from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital;

"(D) from amounts appropriated or otherwise made available to a department or agency of the Government (other than the Department of Transportation) that are eligible to be expended for transportation; and

"(E) from amounts received under a service agreement with a State or local social service agency or private social service organization.

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

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

"(f) UNDERTAKING PROJECTS IN ADVANCE.—

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

"(A) the recipient applies for the payment;

"(B) the Secretary approves the payment; and

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

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

prove an application if the payment will be more than—

"(A) the recipient's expected apportionment under section 5336 of this title if the total amount authorized to be appropriated for the fiscal year to carry out this section is appropriated; less

"(B) the maximum amount of the apportionment that may be made available for projects for operating expenses under this section.

"(3) FINANCING COSTS.—

"(A) IN GENERAL.—The cost of carrying out part of a project includes the amount of interest earned and payable on bonds issued by the recipient to the extent proceeds of the bonds are expended in carrying out the part.

"(B) LIMITATION ON THE AMOUNT OF INTEREST.—The amount of interest allowed under this paragraph may not be more than the most favorable financing terms reasonably available for the project at the time of borrowing.

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

retary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.

"(g) REVIEWS, AUDITS, AND EVALUATIONS.—

"(1) ANNUAL REVIEW.—

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

"(i) the activities proposed under subsection (d) of this section in a timely and effective way and can continue to do so; and

"(ii) those activities and its certifications and has used amounts of the Government in the way required by law.

"(B) AUDITING PROCEDURES.—An audit of the use of amounts of the Government shall comply with the auditing procedures of the Comptroller General.

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

out the recipient's program, specifically referring to compliance with statutory and administrative requirements and the extent to which actual program activities are consistent with the activities proposed under subsection (d) of this section and the planning process required under sections 5303, 5304, and 5305 of this title. To the extent practicable, the Secretary shall coordinate such reviews with any related State or local reviews.

"(3) ACTIONS RESULTING FROM REVIEW, AUDIT, OR EVALUATION.—The Secretary may take appropriate action consistent with a review, audit, and evaluation under this subsection, including making an appropriate adjustment in the amount of a grant or withdrawing the grant.

"(h) TREATMENT.—For purposes of this section, the United States Virgin Islands shall be treated as an urbanized area, as defined in section 5302.

"(i) PASSENGER FERRY GRANT PROGRAM.—

"(1) IN GENERAL.—The Secretary may make grants under this subsection to recipients for passenger ferry projects that are eligible for a grant under subsection (a).

"(2) GRANT REQUIREMENTS.—Except as otherwise provided in this subsection, a grant under this

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

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

"(4) GEOGRAPHICALLY CONSTRAINED AREAS.—Of the amounts made available to carry out this subsection, $10,000,000 shall be for capital grants relating to passenger ferries in areas with limited or no access to public transportation as a result of geographical constraints.".

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

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

**"§ 5308. Clean fuel grant program**

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

"(1) CLEAN FUEL BUS.—The term 'clean fuel bus' means a bus that is a clean fuel vehicle.

"(2) CLEAN FUEL VEHICLE.—The term 'clean fuel vehicle' means—

"(A) a passenger vehicle used to provide public transportation that the Administrator of the Environmental Protection Agency has certified sufficiently reduces energy consumption

or reduces harmful emissions, including direct carbon emissions, when compared to a comparable standard vehicle; or

"(B) a zero emission bus used to provide public transportation.

"(3) DIRECT CARBON EMISSIONS.—The term 'direct carbon emissions' means the quantity of direct greenhouse gas emissions from a vehicle, as determined by the Administrator of the Environmental Protection Agency.

"(4) ELIGIBLE AREA.—The term 'eligible area' means an area that is—

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

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

"(5) ELIGIBLE PROJECT.—The term 'eligible project' means a project or program of projects in an eligible area for—

"(A) acquiring or leasing clean fuel vehicles;

"(B) constructing or leasing facilities and related equipment for clean fuel vehicles;

"(C) constructing new public transportation facilities to accommodate clean fuel vehicles; or

"(D) rehabilitating or improving existing public transportation facilities to accommodate clean fuel vehicles.

"(6) RECIPIENT.—The term 'recipient' means—

"(A) for an eligible area that is an urbanized area with a population of fewer than 200,000 individuals, as determined by the Bureau of the Census, the State in which the eligible area is located; and

"(B) for an eligible area not described in subparagraph (A), the designated recipient for the eligible area.

"(7) ZERO EMISSION BUS.—The term 'zero emission bus' means a clean fuel vehicle that produces no carbon or particulate matter.

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

"(c) GRANT REQUIREMENTS.—

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

"(2) GOVERNMENT SHARE OF COSTS FOR CERTAIN PROJECTS.—Section 5323(j) applies to projects carried out under this section, unless the grant recipient requests a lower grant percentage.

"(3) COMBINATION OF FUNDING SOURCES.—

"(A) COMBINATION PERMITTED.—A project carried out under this section may receive funding under section 5307, or any other provision of law.

"(B) GOVERNMENT SHARE.—Nothing in this paragraph may be construed to alter the Government share required under this section, section 5307, or any other provision of law.

"(d) MINIMUM AMOUNTS.—Of amounts made available by or appropriated under section 5338(a)(2)(D) in each fiscal year to carry out this section—

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

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

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

"(f) PRIORITY CONSIDERATION.—In making grants under this section, the Secretary shall give priority to projects relating to clean fuel buses that make greater reductions in energy consumption and harmful emissions, including direct carbon emissions, than comparable standard buses or other clean fuel buses.

"(g) AVAILABILITY OF FUNDS.—Any amounts made available or appropriated to carry out this section—

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

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

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

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

**"§ 5309. Fixed guideway capital investment grants**

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

"(1) APPLICANT.—The term 'applicant' means a State or local governmental authority that applies for a grant under this section.

"(2) BUS RAPID TRANSIT PROJECT.—The term 'bus rapid transit project' means a single route bus capital project—

"(A) if—

"(i) a majority of the project operates in a separated right-of-way dedicated for public transportation use during peak periods; or

"(ii) a substantial portion of the project operates in a separated right-of-way that is semi-dedicated for public transportation use during peak periods and includes other physical elements that reduce public transportation vehicle travel time and increase service reliability;

"(B) that represents a substantial investment in a single route in a defined corridor or subarea; and

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

"(i) defined stations;

"(ii) traffic signal priority for public transportation vehicles;

"(iii) short headway bidirectional services for a substantial part of weekdays and weekend days; and

"(iv) any other features the Secretary may determine are necessary to produce high-quality public transportation services that emulate the services provided by rail fixed guideway public transportation systems.

"(3) CORE CAPACITY IMPROVEMENT PROJECT.—The term 'core capacity improvement project' means a substantial corridor-based capital investment in an existing fixed guideway system that adds capacity and functionality.

"(4) NEW FIXED GUIDEWAY CAPITAL PROJECT.—The term 'new fixed guideway capital project' means—

"(A) a new fixed guideway project that is a minimum operable segment or extension to an existing fixed guideway system; or

"(B) a bus rapid transit project that is a minimum operable segment or an extension to an existing bus rapid transit system.

"(5) PROGRAM OF INTERRELATED PROJECTS.—The term 'program of interrelated projects' means the simultaneous development of—

"(A) 2 or more new fixed guideway capital projects or core capacity improvement projects; or

"(B) 1 or more new fixed guideway capital projects and 1 or more core capacity improvement projects.

"(b) GENERAL AUTHORITY.—The Secretary may make grants under this section to State and local governmental authorities to assist in financing—

"(1) new fixed guideway capital projects, including the acquisition of real property, the initial acquisition of rolling stock for the system, the acquisition of rights-of-way, and relocation, for fixed guideway corridor development for projects in the advanced stages of project development or engineering; and

"(2) core capacity improvement projects, including the acquisition of real property, the acquisition of rights-of-way, double tracking, signalization improvements, electrification, expanding system platforms, acquisition of rolling stock, construction of infill stations, and such other capacity improvement

projects as the Secretary determines are appropriate.

"(c) GRANT REQUIREMENTS.—

"(1) IN GENERAL.—The Secretary may make a grant under this section for new fixed guideway capital projects or core capacity improvement projects, if the Secretary determines that—

"(A) the project is part of an approved transportation plan required under sections 5303 and 5304; and

"(B) the applicant has, or will have—

"(i) the legal, financial, and technical capacity to carry out the project, including the safety and security aspects of the project;

"(ii) satisfactory continuing control over the use of the equipment or facilities; and

"(iii) the technical and financial capacity to maintain new and existing equipment and facilities.

"(2) CERTIFICATION.—An applicant that has submitted the certifications required under subparagraphs (A), (B), (C), and (H) of section 5307(d)(1) shall be deemed to have provided sufficient informa-

tion upon which the Secretary may make the determinations required under this subsection.

"(3) TECHNICAL CAPACITY.—The Secretary shall use an expedited technical capacity review process for applicants that have recently and successfully completed at least 1 new bus rapid transit project, new fixed guideway capital project, or core capacity improvement project, if—

"(A) the applicant achieved budget, cost, and ridership outcomes for the project that are consistent with or better than projections; and

"(B) the applicant demonstrates that the applicant continues to have the staff expertise and other resources necessary to implement a new project.

"(4) RECIPIENT REQUIREMENTS.—A recipient of a grant awarded under this section shall be subject to all terms, conditions, requirements, and provisions that the Secretary determines to be necessary or appropriate for purposes of this section.

"(d) NEW FIXED GUIDEWAY GRANTS.—

"(1) PROJECT DEVELOPMENT PHASE.—

"(A) ENTRANCE INTO PROJECT DEVELOPMENT PHASE.—A new fixed guideway capital

project shall enter into the project development phase when—

"(i) the applicant—

"(I) submits a letter to the Secretary describing the project and requesting entry into the project development phase; and

"(II) initiates activities required to be carried out under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to the project; and

"(ii) the Secretary responds in writing to the applicant within 45 days whether the information provided is sufficient to enter into the project development phase, including, when necessary, a detailed description of any information deemed insufficient.

"(B) ACTIVITIES DURING PROJECT DEVELOPMENT PHASE.—Concurrent with the analysis required to be made under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), each applicant shall develop sufficient information to enable the Secretary to make

findings of project justification, policies and land use patterns that promote public transportation, and local financial commitment under this subsection.

"(C) COMPLETION OF PROJECT DEVELOPMENT ACTIVITIES REQUIRED.—

"(i) IN GENERAL.—Not later than 2 years after the date on which a project enters into the project development phase, the applicant shall complete the activities required to obtain a project rating under subsection (g)(2) and submit completed documentation to the Secretary.

"(ii) EXTENSION OF TIME.—Upon the request of an applicant, the Secretary may extend the time period under clause (i), if the applicant submits to the Secretary—

"(I) a reasonable plan for completing the activities required under this paragraph; and

"(II) an estimated time period within which the applicant will complete such activities.

"(2) ENGINEERING PHASE.—

"(A) IN GENERAL.—A new fixed guideway capital project may advance to the engineering phase upon completion of activities required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), as demonstrated by a record of decision with respect to the project, a finding that the project has no significant impact, or a determination that the project is categorically excluded, only if the Secretary determines that the project—

"(i) is selected as the locally preferred alternative at the completion of the process required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

"(ii) is adopted into the metropolitan transportation plan required under section 5303;

"(iii) is justified based on a comprehensive review of the project's mobility improvements, environmental benefits, and cost-effectiveness, as measured by cost per rider;

"(iv) is supported by policies and land use patterns that promote public transpor-

tation, including plans for future land use and rezoning, and economic development around public transportation stations; and

"(v) is supported by an acceptable degree of local financial commitment (including evidence of stable and dependable financing sources), as required under subsection (f).

"(B) DETERMINATION THAT PROJECT IS JUSTIFIED.—In making a determination under subparagraph (A)(iii), the Secretary shall evaluate, analyze, and consider—

"(i) the reliability of the forecasting methods used to estimate costs and utilization made by the recipient and the contractors to the recipient; and

"(ii) population density and current public transportation ridership in the transportation corridor.

"(e) CORE CAPACITY IMPROVEMENT PROJECTS.—

"(1) PROJECT DEVELOPMENT PHASE.—

"(A) ENTRANCE INTO PROJECT DEVELOPMENT PHASE.—A core capacity improvement project shall be deemed to have entered into the project development phase if—

"(i) the applicant—

"(I) submits a letter to the Secretary describing the project and requesting entry into the project development phase; and

"(II) initiates activities required to be carried out under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to the project; and

"(ii) the Secretary responds in writing to the applicant within 45 days whether the information provided is sufficient to enter into the project development phase, including when necessary a detailed description of any information deemed insufficient.

"(B) ACTIVITIES DURING PROJECT DEVELOPMENT PHASE.—Concurrent with the analysis required to be made under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), each applicant shall develop sufficient information to enable the Secretary to make findings of project justification and local financial commitment under this subsection.

"(C) COMPLETION OF PROJECT DEVELOPMENT ACTIVITIES REQUIRED.—

"(i) IN GENERAL.—Not later than 2 years after the date on which a project enters into the project development phase, the applicant shall complete the activities required to obtain a project rating under subsection (g)(2) and submit completed documentation to the Secretary.

"(ii) EXTENSION OF TIME.—Upon the request of an applicant, the Secretary may extend the time period under clause (i), if the applicant submits to the Secretary—

"(I) a reasonable plan for completing the activities required under this paragraph; and

"(II) an estimated time period within which the applicant will complete such activities.

"(2) ENGINEERING PHASE.—

"(A) IN GENERAL.—A core capacity improvement project may advance into the engineering phase upon completion of activities required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), as

demonstrated by a record of decision with respect to the project, a finding that the project has no significant impact, or a determination that the project is categorically excluded, only if the Secretary determines that the project—

"(i) is selected as the locally preferred alternative at the completion of the process required under the National Environmental Policy Act of 1969;

"(ii) is adopted into the metropolitan transportation plan required under section 5303;

"(iii) is in a corridor that is—

"(I) at or over capacity; or

"(II) projected to be at or over capacity within the next 5 years;

"(iv) is justified based on a comprehensive review of the project's mobility improvements, environmental benefits, and cost-effectiveness, as measured by cost per rider; and

"(v) is supported by an acceptable degree of local financial commitment (including evidence of stable and dependable fi-

nancing sources), as required under subsection (f).

"(B) DETERMINATION THAT PROJECT IS JUSTIFIED.—In making a determination under subparagraph (A)(iv), the Secretary shall evaluate, analyze, and consider—

"(i) the reliability of the forecasting methods used to estimate costs and utilization made by the recipient and the contractors to the recipient;

"(ii) whether the project will adequately address the capacity concerns in a corridor;

"(iii) whether the project will improve interconnectivity among existing systems; and

"(iv) whether the project will improve environmental outcomes.

"(f) FINANCING SOURCES.—

"(1) REQUIREMENTS.—In determining whether a project is supported by an acceptable degree of local financial commitment and shows evidence of stable and dependable financing sources for purposes of subsection (d)(2)(A)(v) or (e)(2)(A)(v), the Secretary shall require that—

"(A) the proposed project plan provides for the availability of contingency amounts that the Secretary determines to be reasonable to cover unanticipated cost increases or funding shortfalls;

"(B) each proposed local source of capital and operating financing is stable, reliable, and available within the proposed project timetable; and

"(C) local resources are available to recapitalize, maintain, and operate the overall existing and proposed public transportation system, including essential feeder bus and other services necessary to achieve the projected ridership levels without requiring a reduction in existing public transportation services or level of service to operate the project.

"(2) CONSIDERATIONS.—In assessing the stability, reliability, and availability of proposed sources of local financing for purposes of subsection (d)(2)(A)(v) or (e)(2)(A)(v), the Secretary shall consider—

"(A) the reliability of the forecasting methods used to estimate costs and revenues made

by the recipient and the contractors to the recipient;

"(B) existing grant commitments;

"(C) the degree to which financing sources are dedicated to the proposed purposes;

"(D) any debt obligation that exists, or is proposed by the recipient, for the proposed project or other public transportation purpose; and

"(E) the extent to which the project has a local financial commitment that exceeds the required non-Government share of the cost of the project.

"(g) PROJECT ADVANCEMENT AND RATINGS.—

"(1) PROJECT ADVANCEMENT.—A new fixed guideway capital project or core capacity improvement project proposed to be carried out using a grant under this section may not advance from the project development phase to the engineering phase, or from the engineering phase to the construction phase, unless the Secretary determines that—

"(A) the project meets the applicable requirements under this section; and

"(B) there is a reasonable likelihood that the project will continue to meet the requirements under this section.

"(2) RATINGS.—

"(A) OVERALL RATING.—In making a determination under paragraph (1), the Secretary shall evaluate and rate a project as a whole on a 5-point scale (high, medium-high, medium, medium-low, or low) based on—

"(i) in the case of a new fixed guideway capital project, the project justification criteria under subsection (d)(2)(A)(iii), the policies and land use patterns that support public transportation, and the degree of local financial commitment; and

"(ii) in the case of a core capacity improvement project, the capacity needs of the corridor, the project justification criteria under subsection (e)(2)(A)(iv), and the degree of local financial commitment.

"(B) INDIVIDUAL RATINGS FOR EACH CRITERION.—In rating a project under this paragraph, the Secretary shall—

"(i) provide, in addition to the overall project rating under subparagraph (A), individual ratings for each of the criteria established under subsection (d)(2)(A)(iii) or (e)(2)(A)(iv), as applicable; and

"(ii) give comparable, but not necessarily equal, numerical weight to each of the criteria established under subsections (d)(2)(A)(iii) or (e)(2)(A)(iv), as applicable, in calculating the overall project rating under clause (i).

"(C) MEDIUM RATING NOT REQUIRED.—The Secretary shall not require that any single project justification criterion meet or exceed a 'medium' rating in order to advance the project from one phase to another.

"(3) WARRANTS.—The Secretary shall, to the maximum extent practicable, develop and use special warrants for making a project justification determination under subsection (d)(2) or (e)(2), as applicable, for a project proposed to be funded using a grant under this section, if—

"(A) the share of the cost of the project to be provided under this section does not exceed—

"(i) $100,000,000; or

"(ii) 50 percent of the total cost of the project;

"(B) the applicant requests the use of the warrants;

"(C) the applicant certifies that its existing public transportation system is in a state of good repair; and

"(D) the applicant meets any other requirements that the Secretary considers appropriate to carry out this subsection.

"(4) LETTERS OF INTENT AND EARLY SYSTEMS WORK AGREEMENTS.—In order to expedite a project under this subsection, the Secretary shall, to the maximum extent practicable, issue letters of intent and enter into early systems work agreements upon issuance of a record of decision for projects that receive an overall project rating of medium or better.

"(5) POLICY GUIDANCE.—The Secretary shall issue policy guidance regarding the review and evaluation process and criteria—

"(A) not later than 180 days after the date of enactment of the Federal Public Transportation Act of 2012; and

"(B) each time the Secretary makes significant changes to the process and criteria, but not less frequently than once every 2 years.

"(6) RULES.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall issue rules establishing an evaluation and rating process for—

"(A) new fixed guideway capital projects that is based on the results of project justification, policies and land use patterns that promote public transportation, and local financial commitment, as required under this subsection; and

"(B) core capacity improvement projects that is based on the results of the capacity needs of the corridor, project justification, and local financial commitment.

"(7) APPLICABILITY.—This subsection shall not apply to a project for which the Secretary issued a letter of intent, entered into a full funding grant agreement, or entered into a project construction agreement before the date of enactment of the Federal Public Transportation Act of 2012.

"(h) PROGRAMS OF INTERRELATED PROJECTS.—

"(1) PROJECT DEVELOPMENT PHASE.—A federally funded project in a program of interrelated projects shall advance through project development as provided in subsection (d) or (e), as applicable.

"(2) ENGINEERING PHASE.—A federally funded project in a program of interrelated projects may advance into the engineering phase upon completion of activities required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), as demonstrated by a record of decision with respect to the project, a finding that the project has no significant impact, or a determination that the project is categorically excluded, only if the Secretary determines that—

"(A) the project is selected as the locally preferred alternative at the completion of the process required under the National Environmental Policy Act of 1969;

"(B) the project is adopted into the metropolitan transportation plan required under section 5303;

"(C) the program of interrelated projects involves projects that have a logical connectivity to one another;

"(D) the program of interrelated projects, when evaluated as a whole, meets the requirements of subsection (d)(2) or (e)(2), as applicable;

"(E) the program of interrelated projects is supported by a program implementation plan demonstrating that construction will begin on each of the projects in the program of interrelated projects within a reasonable time frame; and

"(F) the program of interrelated projects is supported by an acceptable degree of local financial commitment, as described in subsection (f).

"(3) PROJECT ADVANCEMENT AND RATINGS.—

"(A) PROJECT ADVANCEMENT.—A project receiving a grant under this section that is part of a program of interrelated projects may not advance from the project development phase to the engineering phase, or from the engineering phase to the construction phase, unless the Secretary determines that the program of interrelated projects meets the applicable requirements of this section and there is a reasonable

likelihood that the program will continue to meet such requirements.

"(B) RATINGS.—

"(i) OVERALL RATING.—In making a determination under subparagraph (A), the Secretary shall evaluate and rate a program of interrelated projects on a 5-point scale (high, medium-high, medium, medium-low, or low) based on the criteria described in paragraph (2).

"(ii) INDIVIDUAL RATING FOR EACH CRITERION.—In rating a program of interrelated projects, the Secretary shall provide, in addition to the overall program rating, individual ratings for each of the criteria described in paragraph (2) and shall give comparable, but not necessarily equal, numerical weight to each such criterion in calculating the overall program rating.

"(iii) MEDIUM RATING NOT REQUIRED.—The Secretary shall not require that any single criterion described in paragraph (2) meet or exceed a 'medium' rating in order to advance the program of

interrelated projects from one phase to another.

"(4) ANNUAL REVIEW.—

"(A) REVIEW REQUIRED.—The Secretary shall annually review the program implementation plan required under paragraph (2)(E) to determine whether the program of interrelated projects is adhering to its schedule.

"(B) EXTENSION OF TIME.—If a program of interrelated projects is not adhering to its schedule, the Secretary may, upon the request of the applicant, grant an extension of time if the applicant submits a reasonable plan that includes—

"(i) evidence of continued adequate funding; and

"(ii) an estimated time frame for completing the program of interrelated projects.

"(C) SATISFACTORY PROGRESS REQUIRED.—If the Secretary determines that a program of interrelated projects is not making satisfactory progress, no Federal funds shall be provided for a project within the program of interrelated projects.

"(5) FAILURE TO CARRY OUT PROGRAM OF INTERRELATED PROJECTS.—

"(A) REPAYMENT REQUIRED.—If an applicant does not carry out the program of interrelated projects within a reasonable time, for reasons within the control of the applicant, the applicant shall repay all Federal funds provided for the program, and any reasonable interest and penalty charges that the Secretary may establish.

"(B) CREDITING OF FUNDS RECEIVED.—Any funds received by the Government under this paragraph, other than interest and penalty charges, shall be credited to the appropriation account from which the funds were originally derived.

"(6) NON-FEDERAL FUNDS.—Any non-Federal funds committed to a project in a program of interrelated projects may be used to meet a non-Government share requirement for any other project in the program of interrelated projects, if the Government share of the cost of each project within the program of interrelated projects does not exceed 80 percent.

"(7) PRIORITY.—In making grants under this section, the Secretary may give priority to programs

of interrelated projects for which the non-Government share of the cost of the projects included in the programs of interrelated projects exceeds the non-Government share required under subsection (k).

"(8) NON-GOVERNMENT PROJECTS.—Including a project not financed by the Government in a program of interrelated projects does not impose Government requirements that would not otherwise apply to the project.

"(i) PREVIOUSLY ISSUED LETTER OF INTENT OR FULL FUNDING GRANT AGREEMENT.—Subsections (d) and (e) shall not apply to projects for which the Secretary has issued a letter of intent, entered into a full funding grant agreement, or entered into a project construction grant agreement before the date of enactment of the Federal Public Transportation Act of 2012.

"(j) LETTERS OF INTENT, FULL FUNDING GRANT AGREEMENTS, AND EARLY SYSTEMS WORK AGREEMENTS.—

"(1) LETTERS OF INTENT.—

"(A) AMOUNTS INTENDED TO BE OBLIGATED.—The Secretary may issue a letter of intent to an applicant announcing an intention to obligate, for a new fixed guideway capital project or core capacity improvement project,

an amount from future available budget authority specified in law that is not more than the amount stipulated as the financial participation of the Secretary in the project. When a letter is issued for a capital project under this section, the amount shall be sufficient to complete at least an operable segment.

"(B) TREATMENT.—The issuance of a letter under subparagraph (A) is deemed not to be an obligation under sections 1108(c), 1501, and 1502(a) of title 31, United States Code, or an administrative commitment.

"(2) FULL FUNDING GRANT AGREEMENTS.—

"(A) IN GENERAL.—A new fixed guideway capital project or core capacity improvement project shall be carried out through a full funding grant agreement.

"(B) CRITERIA.—The Secretary shall enter into a full funding grant agreement, based on the evaluations and ratings required under subsection (d), (e), or (h), as applicable, with each grantee receiving assistance for a new fixed guideway capital project or core capacity improvement project that has been rated as high,

medium-high, or medium, in accordance with subsection (g)(2)(A) or (h)(3)(B), as applicable.

"(C) TERMS.—A full funding grant agreement shall—

"(i) establish the terms of participation by the Government in a new fixed guideway capital project or core capacity improvement project;

"(ii) establish the maximum amount of Federal financial assistance for the project;

"(iii) include the period of time for completing the project, even if that period extends beyond the period of an authorization; and

"(iv) make timely and efficient management of the project easier according to the law of the United States.

"(D) SPECIAL FINANCIAL RULES.—

"(i) IN GENERAL.—A full funding grant agreement under this paragraph obligates an amount of available budget authority specified in law and may include a commitment, contingent on amounts to be specified in law in advance for commit-

ments under this paragraph, to obligate an additional amount from future available budget authority specified in law.

"(ii) STATEMENT OF CONTINGENT COMMITMENT.—The agreement shall state that the contingent commitment is not an obligation of the Government.

"(iii) INTEREST AND OTHER FINANCING COSTS.—Interest and other financing costs of efficiently carrying out a part of the project within a reasonable time are a cost of carrying out the project under a full funding grant agreement, except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a way satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.

"(iv) COMPLETION OF OPERABLE SEGMENT.—The amount stipulated in an agreement under this paragraph for a new fixed guideway capital project shall be suf-

ficient to complete at least an operable segment.

"(E) BEFORE AND AFTER STUDY.—

"(i) IN GENERAL.—A full funding grant agreement under this paragraph shall require the applicant to conduct a study that—

"(I) describes and analyzes the impacts of the new fixed guideway capital project or core capacity improvement project on public transportation services and public transportation ridership;

"(II) evaluates the consistency of predicted and actual project characteristics and performance; and

"(III) identifies reasons for differences between predicted and actual outcomes.

"(ii) INFORMATION COLLECTION AND ANALYSIS PLAN.—

"(I) SUBMISSION OF PLAN.—Applicants seeking a full funding grant agreement under this paragraph shall submit a complete plan for the collec-

tion and analysis of information to identify the impacts of the new fixed guideway capital project or core capacity improvement project and the accuracy of the forecasts prepared during the development of the project. Preparation of this plan shall be included in the full funding grant agreement as an eligible activity.

"(II) CONTENTS OF PLAN.—The plan submitted under subclause (I) shall provide for—

"(aa) collection of data on the current public transportation system regarding public transportation service levels and ridership patterns, including origins and destinations, access modes, trip purposes, and rider characteristics;

"(bb) documentation of the predicted scope, service levels, capital costs, operating costs, and ridership of the project;

"(cc) collection of data on the public transportation system 2 years after the opening of a new fixed guideway capital project or core capacity improvement project, including analogous information on public transportation service levels and ridership patterns and information on the as-built scope, capital, and financing costs of the project; and

"(dd) analysis of the consistency of predicted project characteristics with actual outcomes.

"(F) COLLECTION OF DATA ON CURRENT SYSTEM.—To be eligible for a full funding grant agreement under this paragraph, recipients shall have collected data on the current system, according to the plan required under subparagraph (E)(ii), before the beginning of construction of the proposed new fixed guideway capital project or core capacity improvement project. Collection of this data shall be included in the full funding grant agreement as an eligible activity.

"(3) EARLY SYSTEMS WORK AGREEMENTS.—

"(A) CONDITIONS.—The Secretary may enter into an early systems work agreement with an applicant if a record of decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) has been issued on the project and the Secretary finds there is reason to believe—

"(i) a full funding grant agreement for the project will be made; and

"(ii) the terms of the work agreement will promote ultimate completion of the project more rapidly and at less cost.

"(B) CONTENTS.—

"(i) IN GENERAL.—An early systems work agreement under this paragraph obligates budget authority available under this chapter and title 23 and shall provide for reimbursement of preliminary costs of carrying out the project, including land acquisition, timely procurement of system elements for which specifications are decided, and other activities the Secretary decides are appropriate to make efficient, long-term project management easier.

1 "(ii) CONTINGENT COMMITMENT.—An
2 early systems work agreement may include
3 a commitment, contingent on amounts to
4 be specified in law in advance for commit-
5 ments under this paragraph, to obligate an
6 additional amount from future available
7 budget authority specified in law.
8 "(iii) PERIOD COVERED.—An early
9 systems work agreement under this para-
10 graph shall cover the period of time the
11 Secretary considers appropriate. The pe-
12 riod may extend beyond the period of cur-
13 rent authorization.
14 "(iv) INTEREST AND OTHER FINANC-
15 ING COSTS.—Interest and other financing
16 costs of efficiently carrying out the early
17 systems work agreement within a reason-
18 able time are a cost of carrying out the
19 agreement, except that eligible costs may
20 not be more than the cost of the most fa-
21 vorable financing terms reasonably avail-
22 able for the project at the time of bor-
23 rowing. The applicant shall certify, in a
24 way satisfactory to the Secretary, that the
25 applicant has shown reasonable diligence in

seeking the most favorable financing terms.

"(v) FAILURE TO CARRY OUT PROJECT.—If an applicant does not carry out the project for reasons within the control of the applicant, the applicant shall repay all Federal grant funds awarded for the project from all Federal funding sources, for all project activities, facilities, and equipment, plus reasonable interest and penalty charges allowable by law or established by the Secretary in the early systems work agreement.

"(vi) CREDITING OF FUNDS RECEIVED.—Any funds received by the Government under this paragraph, other than interest and penalty charges, shall be credited to the appropriation account from which the funds were originally derived.

"(4) LIMITATION ON AMOUNTS.—

"(A) IN GENERAL.—The Secretary may enter into full funding grant agreements under this subsection for new fixed guideway capital projects and core capacity improvement projects that contain contingent commitments to incur

obligations in such amounts as the Secretary determines are appropriate.

"(B) APPROPRIATION REQUIRED.—An obligation may be made under this subsection only when amounts are appropriated for the obligation.

"(5) NOTIFICATION TO CONGRESS.—At least 30 days before issuing a letter of intent, entering into a full funding grant agreement, or entering into an early systems work agreement under this section, the Secretary shall notify, in writing, the Committee on Banking, Housing, and Urban Affairs and the Committee on Appropriations of the Senate and the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives of the proposed letter or agreement. The Secretary shall include with the notification a copy of the proposed letter or agreement as well as the evaluations and ratings for the project.

"(k) GOVERNMENT SHARE OF NET CAPITAL PROJECT COST.—

"(1) IN GENERAL.—Based on engineering studies, studies of economic feasibility, and information on the expected use of equipment or facilities, the Secretary shall estimate the net capital project cost.

A grant for the project shall not exceed 80 percent of the net capital project cost.

"(2) ADJUSTMENT FOR COMPLETION UNDER BUDGET.—The Secretary may adjust the final net capital project cost of a new fixed guideway capital project or core capacity improvement project evaluated under subsection (d), (e), or (h) to include the cost of eligible activities not included in the originally defined project if the Secretary determines that the originally defined project has been completed at a cost that is significantly below the original estimate.

"(3) MAXIMUM GOVERNMENT SHARE.—The Secretary may provide a higher grant percentage than requested by the grant recipient if—

"(A) the Secretary determines that the net capital project cost of the project is not more than 10 percent higher than the net capital project cost estimated at the time the project was approved for advancement into the engineering phase; and

"(B) the ridership estimated for the project is not less than 90 percent of the ridership estimated for the project at the time the

1 project was approved for advancement into the
2 engineering phase.
3 "(4) REMAINDER OF NET CAPITAL PROJECT
4 COST.—The remainder of the net capital project cost
5 shall be provided from an undistributed cash sur-
6 plus, a replacement or depreciation cash fund or re-
7 serve, or new capital.
8 "(5) LIMITATION ON STATUTORY CONSTRUC-
9 TION.—Nothing in this section shall be construed as
10 authorizing the Secretary to require a non-Federal
11 financial commitment for a project that is more than
12 20 percent of the net capital project cost.
13 "(6) SPECIAL RULE FOR ROLLING STOCK
14 COSTS.—In addition to amounts allowed pursuant to
15 paragraph (1), a planned extension to a fixed guide-
16 way system may include the cost of rolling stock pre-
17 viously purchased if the applicant satisfies the Sec-
18 retary that only amounts other than amounts pro-
19 vided by the Government were used and that the
20 purchase was made for use on the extension. A re-
21 fund or reduction of the remainder may be made
22 only if a refund of a proportional amount of the
23 grant of the Government is made at the same time.
24 "(7) LIMITATION ON APPLICABILITY.—This
25 subsection shall not apply to projects for which the

Secretary entered into a full funding grant agreement before the date of enactment of the Federal Public Transportation Act of 2012.

"(l) UNDERTAKING PROJECTS IN ADVANCE.—

"(1) IN GENERAL.—The Secretary may pay the Government share of the net capital project cost to a State or local governmental authority that carries out any part of a project described in this section without the aid of amounts of the Government and according to all applicable procedures and requirements if—

"(A) the State or local governmental authority applies for the payment;

"(B) the Secretary approves the payment; and

"(C) before the State or local governmental authority carries out the part of the project, the Secretary approves the plans and specifications for the part in the same way as other projects under this section.

"(2) FINANCING COSTS.—

"(A) IN GENERAL.—The cost of carrying out part of a project includes the amount of interest earned and payable on bonds issued by the State or local governmental authority to the

extent proceeds of the bonds are expended in carrying out the part.

"(B) LIMITATION ON AMOUNT OF INTEREST.—The amount of interest under this paragraph may not be more than the most favorable interest terms reasonably available for the project at the time of borrowing.

"(C) CERTIFICATION.—The applicant shall certify, in a manner satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.

"(m) AVAILABILITY OF AMOUNTS.—

"(1) IN GENERAL.—An amount made available or appropriated for a new fixed guideway capital project or core capacity improvement project shall remain available to that project for 5 fiscal years, including the fiscal year in which the amount is made available or appropriated. Any amounts that are unobligated to the project at the end of the 5-fiscal-year period may be used by the Secretary for any purpose under this section.

"(2) USE OF DEOBLIGATED AMOUNTS.—An amount available under this section that is

deobligated may be used for any purpose under this section.

"(n) REPORTS ON NEW FIXED GUIDEWAY AND CORE CAPACITY IMPROVEMENT PROJECTS.—

"(1) ANNUAL REPORT ON FUNDING RECOMMENDATIONS.—Not later than the first Monday in February of each year, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs and the Committee on Appropriations of the Senate and the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives a report that includes—

"(A) a proposal of allocations of amounts to be available to finance grants for projects under this section among applicants for these amounts;

"(B) evaluations and ratings, as required under subsections (d), (e), and (h), for each such project that is in project development, engineering, or has received a full funding grant agreement; and

"(C) recommendations of such projects for funding based on the evaluations and ratings and on existing commitments and anticipated

funding levels for the next 3 fiscal years based on information currently available to the Secretary.

"(2) REPORTS ON BEFORE AND AFTER STUDIES.—Not later than the first Monday in August of each year, the Secretary shall submit to the committees described in paragraph (1) a report containing a summary of the results of any studies conducted under subsection (j)(2)(E).

"(3) ANNUAL GAO REVIEW.—The Comptroller General of the United States shall—

"(A) conduct an annual review of—

"(i) the processes and procedures for evaluating, rating, and recommending new fixed guideway capital projects and core capacity improvement projects; and

"(ii) the Secretary's implementation of such processes and procedures; and

"(B) report to Congress on the results of such review by May 31 of each year.".

(b) PILOT PROGRAM FOR EXPEDITED PROJECT DELIVERY.—

(1) DEFINITIONS.—In this subsection the following definitions shall apply:

(A) ELIGIBLE PROJECT.—The term ''eligible project'' means a new fixed guideway capital project or a core capacity improvement project, as those terms are defined in section 5309 of title 49, United States Code, as amended by this section, that has not entered into a full funding grant agreement with the Federal Transit Administration before the date of enactment of the Federal Public Transportation Act of 2012.

(B) PROGRAM.—The term ''program'' means the pilot program for expedited project delivery established under this subsection.

(C) RECIPIENT.—The term ''recipient'' means a recipient of funding under chapter 53 of title 49, United States Code.

(D) SECRETARY.—The term ''Secretary'' means the Secretary of Transportation.

(2) ESTABLISHMENT.—The Secretary shall establish and implement a pilot program to demonstrate whether innovative project development and delivery methods or innovative financing arrangements can expedite project delivery for certain meritorious new fixed guideway capital projects and core capacity improvement projects.

(3) LIMITATION ON NUMBER OF PROJECTS.—The Secretary shall select 3 eligible projects to participate in the program, of which—

(A) at least 1 shall be an eligible project requesting more than $100,000,000 in Federal financial assistance under section 5309 of title 49, United States Code; and

(B) at least 1 shall be an eligible project requesting less than $100,000,000 in Federal financial assistance under section 5309 of title 49, United States Code.

(4) GOVERNMENT SHARE.—The Government share of the total cost of an eligible project that participates in the program may not exceed 50 percent.

(5) ELIGIBILITY.—A recipient that desires to participate in the program shall submit to the Secretary an application that contains, at a minimum—

(A) identification of an eligible project;

(B) a schedule and finance plan for the construction and operation of the eligible project;

(C) an analysis of the efficiencies of the proposed project development and delivery methods or innovative financing arrangement for the eligible project; and

(D) a certification that the recipient's existing public transportation system is in a state of good repair.

(6) SELECTION CRITERIA.—The Secretary may award a full funding grant agreement under this subsection if the Secretary determines that—

(A) the recipient has completed planning and the activities required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(B) the recipient has the necessary legal, financial, and technical capacity to carry out the eligible project.

(7) BEFORE AND AFTER STUDY AND REPORT.—

(A) STUDY REQUIRED.—A full funding grant agreement under this paragraph shall require a recipient to conduct a study that—

(i) describes and analyzes the impacts of the eligible project on public transportation services and public transportation ridership;

(ii) describes and analyzes the consistency of predicted and actual benefits and costs of the innovative project development

and delivery methods or innovative financing for the eligible project; and

(iii) identifies reasons for any differences between predicted and actual outcomes for the eligible project.

(B) SUBMISSION OF REPORT.—Not later than 9 months after an eligible project selected to participate in the program begins revenue operations, the recipient shall submit to the Secretary a report on the results of the study under subparagraph (A).

**SEC. 20011. FORMULA GRANTS FOR THE ENHANCED MOBILITY OF SENIORS AND INDIVIDUALS WITH DISABILITIES.**

Section 5310 of title 49, United States Code, is amended to read as follows:

**"§ 5310. Formula grants for the enhanced mobility of seniors and individuals with disabilities**

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

''(1) RECIPIENT.—The term 'recipient' means a designated recipient or a State that receives a grant under this section directly.

''(2) SUBRECIPIENT.—The term 'subrecipient' means a State or local governmental authority, non-

profit organization, or operator of public transportation that receives a grant under this section indirectly through a recipient.

"(b) GENERAL AUTHORITY.—

"(1) GRANTS.—The Secretary may make grants under this section to recipients for—

"(A) public transportation capital projects planned, designed, and carried out to meet the special needs of seniors and individuals with disabilities when public transportation is insufficient, inappropriate, or unavailable;

"(B) public transportation projects that exceed the requirements of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.);

"(C) public transportation projects that improve access to fixed route service and decrease reliance by individuals with disabilities on complementary paratransit; and

"(D) alternatives to public transportation that assist seniors and individuals with disabilities with transportation.

"(2) LIMITATIONS FOR CAPITAL PROJECTS.—

"(A) AMOUNT AVAILABLE.—The amount available for capital projects under paragraph

(1)(A) shall be not less than 55 percent of the funds apportioned to the recipient under this section.

"(B) ALLOCATION TO SUBRECIPIENTS.—A recipient of a grant under paragraph (1)(A) may allocate the amounts provided under the grant to—

"(i) a nonprofit organization; or

"(ii) a State or local governmental authority that—

"(I) is approved by a State to coordinate services for seniors and individuals with disabilities; or

"(II) certifies that there are no nonprofit organizations readily available in the area to provide the services described in paragraph (1)(A).

"(3) ADMINISTRATIVE EXPENSES.—

"(A) IN GENERAL.—A recipient may use not more than 10 percent of the amounts apportioned to the recipient under this section to administer, plan, and provide technical assistance for a project funded under this section.

"(B) GOVERNMENT SHARE OF COSTS.—The Government share of the costs of admin-

istering a program carried out using funds under this section shall be 100 percent.

"(4) ELIGIBLE CAPITAL EXPENSES.—The acquisition of public transportation services is an eligible capital expense under this section.

"(5) COORDINATION.—

"(A) DEPARTMENT OF TRANSPORTATION.—To the maximum extent feasible, the Secretary shall coordinate activities under this section with related activities under other Federal departments and agencies.

"(B) OTHER FEDERAL AGENCIES AND NONPROFIT ORGANIZATIONS.—A State or local governmental authority or nonprofit organization that receives assistance from Government sources (other than the Department of Transportation) for nonemergency transportation services shall—

"(i) participate and coordinate with recipients of assistance under this chapter in the design and delivery of transportation services; and

"(ii) participate in the planning for the transportation services described in clause (i).

"(6) PROGRAM OF PROJECTS.—

"(A) IN GENERAL.—Amounts made available to carry out this section may be used for transportation projects to assist in providing transportation services for seniors and individuals with disabilities, if such transportation projects are included in a program of projects.

"(B) SUBMISSION.—A recipient shall annually submit a program of projects to the Secretary.

"(C) ASSURANCE.—The program of projects submitted under subparagraph (B) shall contain an assurance that the program provides for the maximum feasible coordination of transportation services assisted under this section with transportation services assisted by other Government sources.

"(7) MEAL DELIVERY FOR HOMEBOUND INDIVIDUALS.—A public transportation service provider that receives assistance under this section or section 5311(c) may coordinate and assist in regularly providing meal delivery service for homebound individuals, if the delivery service does not conflict with providing public transportation service or reduce service to public transportation passengers.

"(c) APPORTIONMENT AND TRANSFERS.—

"(1) FORMULA.—The Secretary shall apportion amounts made available to carry out this section as follows:

"(A) LARGE URBANIZED AREAS.—Sixty percent of the funds shall be apportioned among designated recipients for urbanized areas with a population of 200,000 or more individuals, as determined by the Bureau of the Census, in the ratio that—

"(i) the number of seniors and individuals with disabilities in each such urbanized area; bears to

"(ii) the number of seniors and individuals with disabilities in all such urbanized areas.

"(B) SMALL URBANIZED AREAS.—Twenty percent of the funds shall be apportioned among the States in the ratio that—

"(i) the number of seniors and individuals with disabilities in urbanized areas with a population of fewer than 200,000 individuals, as determined by the Bureau of the Census, in each State; bears to

"(ii) the number of seniors and individuals with disabilities in urbanized areas with a population of fewer than 200,000 individuals, as determined by the Bureau of the Census, in all States.

"(C) OTHER THAN URBANIZED AREAS.—Twenty percent of the funds shall be apportioned among the States in the ratio that—

"(i) the number of seniors and individuals with disabilities in other than urbanized areas in each State; bears to

"(ii) the number of seniors and individuals with disabilities in other than urbanized areas in all States.

"(2) AREAS SERVED BY PROJECTS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B)—

"(i) funds apportioned under paragraph (1)(A) shall be used for projects serving urbanized areas with a population of 200,000 or more individuals, as determined by the Bureau of the Census;

"(ii) funds apportioned under paragraph (1)(B) shall be used for projects serving urbanized areas with a population

of fewer than 200,000 individuals, as determined by the Bureau of the Census; and

"(iii) funds apportioned under paragraph (1)(C) shall be used for projects serving other than urbanized areas.

"(B) EXCEPTIONS.—A State may use funds apportioned to the State under subparagraph (B) or (C) of paragraph (1)—

"(i) for a project serving an area other than an area specified in subparagraph (A)(ii) or (A)(iii), as the case may be, if the Governor of the State certifies that all of the objectives of this section are being met in the area specified in subparagraph (A)(ii) or (A)(iii); or

"(ii) for a project anywhere in the State, if the State has established a statewide program for meeting the objectives of this section.

"(C) LIMITED TO ELIGIBLE PROJECTS.—Any funds transferred pursuant to subparagraph (B) shall be made available only for eligible projects selected under this section.

"(D) CONSULTATION.—A recipient may transfer an amount under subparagraph (B)

only after consulting with responsible local officials, publicly owned operators of public transportation, and nonprofit providers in the area for which the amount was originally apportioned.

"(d) GOVERNMENT SHARE OF COSTS.—

"(1) CAPITAL PROJECTS.—A grant for a capital project under this section shall be in an amount equal to 80 percent of the net capital costs of the project, as determined by the Secretary.

"(2) OPERATING ASSISTANCE.—A grant made under this section for operating assistance may not exceed an amount equal to 50 percent of the net operating costs of the project, as determined by the Secretary.

"(3) REMAINDER OF NET COSTS.—The remainder of the net costs of a project carried out under this section—

"(A) may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a State or local social service agency or a private social service organization, or new capital; and

"(B) may be derived from amounts appropriated or otherwise made available—

"(i) to a department or agency of the Government (other than the Department of Transportation) that are eligible to be expended for transportation; or

"(ii) to carry out the Federal lands highways program under section 204 of title 23, United States Code.

"(4) USE OF CERTAIN FUNDS.—For purposes of paragraph (3)(B)(i), the prohibition under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) on the use of grant funds for matching requirements shall not apply to Federal or State funds to be used for transportation purposes.

"(e) GRANT REQUIREMENTS.—

"(1) IN GENERAL.—A grant under this section shall be subject to the same requirements as a grant under section 5307, to the extent the Secretary determines appropriate.

"(2) CERTIFICATION REQUIREMENTS.—

"(A) PROJECT SELECTION AND PLAN DEVELOPMENT.—Before receiving a grant under this section, each recipient shall certify that—

"(i) the projects selected by the recipient are included in a locally developed, coordinated public transit-human services transportation plan;

"(ii) the plan described in clause (i) was developed and approved through a process that included participation by seniors, individuals with disabilities, representatives of public, private, and nonprofit transportation and human services providers, and other members of the public; and

"(iii) to the maximum extent feasible, the services funded under this section will be coordinated with transportation services assisted by other Federal departments and agencies, including any transportation activities carried out by a recipient of a grant from the Department of Health and Human Services.

"(B) ALLOCATIONS TO SUBRECIPIENTS.—If a recipient allocates funds received under this section to subrecipients, the recipient shall certify that the funds are allocated on a fair and equitable basis.

"(f) COMPETITIVE PROCESS FOR GRANTS TO SUBRECIPIENTS.—

"(1) AREAWIDE SOLICITATIONS.—A recipient of funds apportioned under subsection (c)(1)(A) may conduct, in cooperation with the appropriate metropolitan planning organization, an areawide solicitation for applications for grants under this section.

"(2) STATEWIDE SOLICITATIONS.—A recipient of funds apportioned under subparagraph (B) or (C) of subsection (c)(1) may conduct a statewide solicitation for applications for grants under this section.

"(3) APPLICATION.—If the recipient elects to engage in a competitive process, a recipient or subrecipient seeking to receive a grant from funds apportioned under subsection (c) shall submit to the recipient making the election an application in such form and in accordance with such requirements as the recipient making the election shall establish.

"(g) TRANSFERS OF FACILITIES AND EQUIPMENT.—A recipient may transfer a facility or equipment acquired using a grant under this section to any other recipient eligible to receive assistance under this chapter, if—

"(1) the recipient in possession of the facility or equipment consents to the transfer; and

"(2) the facility or equipment will continue to be used as required under this section.

"(h) PERFORMANCE MEASURES.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall issue a final rule to establish performance measures for grants under this section.

"(2) MEASURES.—The performance measures established under paragraph (1) shall require the collection of quantitative and qualitative information, as available, concerning—

"(A) modifications to the geographic coverage of transportation service, the quality of transportation service, or service times that increase the availability of transportation services for seniors and individuals with disabilities;

"(B) ridership;

"(C) accessibility improvements; and

"(D) other measures, as the Secretary determines is appropriate.

"(3) TARGETS.—Not later than 3 months after the date on which the Secretary issues a final rule under paragraph (1), and each fiscal year thereafter, each recipient that receives Federal financial assist-

ance under this section shall establish performance targets in relation to the performance measures established by the Secretary.

"(4) REPORTS.—Each recipient of Federal financial assistance under this section shall submit to the Secretary an annual report that describes—

"(A) the progress of the recipient toward meeting the performance targets established under paragraph (3) for that fiscal year; and

"(B) the performance targets established by the recipient for the subsequent fiscal year.".

**SEC. 20012. FORMULA GRANTS FOR OTHER THAN URBANIZED AREAS.**

(a) IN GENERAL.—Section 5311 of title 49, United States Code, is amended to read as follows:

**"§ 5311. Formula grants for other than urbanized areas**

"(a) DEFINITIONS.—As used in this section, the following definitions shall apply:

"(1) RECIPIENT.—The term 'recipient' means a State or Indian tribe that receives a Federal transit program grant directly from the Government.

"(2) SUBRECIPIENT.—The term 'subrecipient' means a State or local governmental authority, a nonprofit organization, or an operator of public

transportation or intercity bus service that receives Federal transit program grant funds indirectly through a recipient.

"(b) GENERAL AUTHORITY.—

"(1) GRANTS AUTHORIZED.—Except as provided by paragraph (2), the Secretary may award grants under this section to recipients located in areas other than urbanized areas for—

"(A) planning, provided that a grant under this section for planning activities shall be in addition to funding awarded to a State under section 5305 for planning activities that are directed specifically at the needs of other than urbanized areas in the State;

"(B) public transportation capital projects;

"(C) operating costs of equipment and facilities for use in public transportation; and

"(D) the acquisition of public transportation services, including service agreements with private providers of public transportation service.

"(2) STATE PROGRAM.—

"(A) IN GENERAL.—A project eligible for a grant under this section shall be included in a State program for public transportation service

projects, including agreements with private providers of public transportation service.

"(B) SUBMISSION TO SECRETARY.—Each State shall submit to the Secretary annually the program described in subparagraph (A).

"(C) APPROVAL.—The Secretary may not approve the program unless the Secretary determines that—

"(i) the program provides a fair distribution of amounts in the State, including Indian reservations; and

"(ii) the program provides the maximum feasible coordination of public transportation service assisted under this section with transportation service assisted by other Federal sources.

"(3) RURAL TRANSPORTATION ASSISTANCE PROGRAM.—

"(A) IN GENERAL.—The Secretary shall carry out a rural transportation assistance program in other than urbanized areas.

"(B) GRANTS AND CONTRACTS.—In carrying out this paragraph, the Secretary may use not more than 2 percent of the amount made available under section 5338(a)(2)(F) to make

grants and contracts for transportation research, technical assistance, training, and related support services in other than urbanized areas.

"(C) PROJECTS OF A NATIONAL SCOPE.—Not more than 15 percent of the amounts available under subparagraph (B) may be used by the Secretary to carry out projects of a national scope, with the remaining balance provided to the States.

"(4) DATA COLLECTION.—Each recipient under this section shall submit an annual report to the Secretary containing information on capital investment, operations, and service provided with funds received under this section, including—

"(A) total annual revenue;

"(B) sources of revenue;

"(C) total annual operating costs;

"(D) total annual capital costs;

"(E) fleet size and type, and related facilities;

"(F) vehicle revenue miles; and

"(G) ridership.

"(c) APPORTIONMENTS.—

"(1) PUBLIC TRANSPORTATION ON INDIAN RESERVATIONS.—Of the amounts made available or appropriated for each fiscal year pursuant to section 5338(a)(2)(F) to carry out this paragraph, the following amounts shall be apportioned each fiscal year for grants to Indian tribes for any purpose eligible under this section, under such terms and conditions as may be established by the Secretary:

"(A) $10,000,000 shall be distributed on a competitive basis by the Secretary.

"(B) $20,000,000 shall be apportioned as formula grants, as provided in subsection (k).

"(2) APPALACHIAN DEVELOPMENT PUBLIC TRANSPORTATION ASSISTANCE PROGRAM.—

"(A) DEFINITIONS.—In this paragraph—

"(i) the term 'Appalachian region' has the same meaning as in section 14102 of title 40; and

"(ii) the term 'eligible recipient' means a State that participates in a program established under subtitle IV of title 40.

"(B) IN GENERAL.—The Secretary shall carry out a public transportation assistance program in the Appalachian region.

"(C) APPORTIONMENT.—Of amounts made available or appropriated for each fiscal year under section 5338(a)(2)(F) to carry out this paragraph, the Secretary shall apportion funds to eligible recipients for any purpose eligible under this section, based on the guidelines established under section 9.5(b) of the Appalachian Regional Commission Code.

"(D) SPECIAL RULE.—An eligible recipient may use amounts that cannot be used for operating expenses under this paragraph for a highway project if—

"(i) that use is approved, in writing, by the eligible recipient after appropriate notice and an opportunity for comment and appeal are provided to affected public transportation providers; and

"(ii) the eligible recipient, in approving the use of amounts under this subparagraph, determines that the local transit needs are being addressed.

"(3) REMAINING AMOUNTS.—

"(A) IN GENERAL.—The amounts made available or appropriated for each fiscal year pursuant to section 5338(a)(2)(F) that are not

apportioned under paragraph (1) or (2) shall be apportioned in accordance with this paragraph.

"(B) APPORTIONMENT BASED ON LAND AREA AND POPULATION IN NONURBANIZED AREAS.—

"(i) IN GENERAL.—83.15 percent of the amount described in subparagraph (A) shall be apportioned to the States in accordance with this subparagraph.

"(ii) LAND AREA.—

"(I) IN GENERAL.—Subject to subclause (II), each State shall receive an amount that is equal to 20 percent of the amount apportioned under clause (i), multiplied by the ratio of the land area in areas other than urbanized areas in that State and divided by the land area in all areas other than urbanized areas in the United States, as shown by the most recent decennial census of population.

"(II) MAXIMUM APPORTIONMENT.—No State shall receive more than 5 percent of the amount apportioned under subclause (I).

"(iii) POPULATION.—Each State shall receive an amount equal to 80 percent of the amount apportioned under clause (i), multiplied by the ratio of the population of areas other than urbanized areas in that State and divided by the population of all areas other than urbanized areas in the United States, as shown by the most recent decennial census of population.

"(C) APPORTIONMENT BASED ON LAND AREA, VEHICLE REVENUE MILES, AND LOW-INCOME INDIVIDUALS IN NONURBANIZED AREAS.—

"(i) IN GENERAL.—16.85 percent of the amount described in subparagraph (A) shall be apportioned to the States in accordance with this subparagraph.

"(ii) LAND AREA.—Subject to clause (v), each State shall receive an amount that is equal to 29.68 percent of the amount apportioned under clause (i), multiplied by the ratio of the land area in areas other than urbanized areas in that State and divided by the land area in all areas other than urbanized areas in the

United States, as shown by the most recent decennial census of population.

"(iii) VEHICLE REVENUE MILES.—Subject to clause (v), each State shall receive an amount that is equal to 29.68 percent of the amount apportioned under clause (i), multiplied by the ratio of vehicle revenue miles in areas other than urbanized areas in that State and divided by the vehicle revenue miles in all areas other than urbanized areas in the United States, as determined by national transit database reporting.

"(iv) LOW-INCOME INDIVIDUALS.—Each State shall receive an amount that is equal to 40.64 percent of the amount apportioned under clause (i), multiplied by the ratio of low-income individuals in areas other than urbanized areas in that State and divided by the number of low-income individuals in all areas other than urbanized areas in the United States, as shown by the Bureau of the Census.

"(v) MAXIMUM APPORTIONMENT.—No State shall receive—

"(I) more than 5 percent of the amount apportioned under clause (ii); or

"(II) more than 5 percent of the amount apportioned under clause (iii).

"(d) USE FOR LOCAL TRANSPORTATION SERVICE.—A State may use an amount apportioned under this section for a project included in a program under subsection (b) of this section and eligible for assistance under this chapter if the project will provide local transportation service, as defined by the Secretary of Transportation, in an area other than an urbanized area.

"(e) USE FOR ADMINISTRATION, PLANNING, AND TECHNICAL ASSISTANCE.—The Secretary may allow a State to use not more than 15 percent of the amount apportioned under this section to administer this section and provide technical assistance to a subrecipient, including project planning, program and management development, coordination of public transportation programs, and research the State considers appropriate to promote effective delivery of public transportation to an area other than an urbanized area.

"(f) INTERCITY BUS TRANSPORTATION.—

"(1) IN GENERAL.—A State shall expend at least 15 percent of the amount made available in

each fiscal year to carry out a program to develop and support intercity bus transportation. Eligible activities under the program include—

"(A) planning and marketing for intercity bus transportation;

"(B) capital grants for intercity bus shelters;

"(C) joint-use stops and depots;

"(D) operating grants through purchase-of-service agreements, user-side subsidies, and demonstration projects; and

"(E) coordinating rural connections between small public transportation operations and intercity bus carriers.

"(2) CERTIFICATION.—A State does not have to comply with paragraph (1) of this subsection in a fiscal year in which the Governor of the State certifies to the Secretary, after consultation with affected intercity bus service providers, that the intercity bus service needs of the State are being met adequately.

"(g) ACCESS TO JOBS PROJECTS.—

"(1) IN GENERAL.—Amounts made available under section 5338(a)(2)(F) may be used to carry

out a program to develop and maintain job access projects. Eligible projects may include—

"(A) projects relating to the development and maintenance of public transportation services designed to transport eligible low-income individuals to and from jobs and activities related to their employment, including—

"(i) public transportation projects to finance planning, capital, and operating costs of providing access to jobs under this chapter;

"(ii) promoting public transportation by low-income workers, including the use of public transportation by workers with nontraditional work schedules;

"(iii) promoting the use of transit vouchers for welfare recipients and eligible low-income individuals; and

"(iv) promoting the use of employer-provided transportation, including the transit pass benefit program under section 132 of the Internal Revenue Code of 1986; and

"(B) transportation projects designed to support the use of public transportation including—

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

"(ii) guaranteed ride home programs;

"(iii) bicycle storage facilities; and

"(iv) projects that otherwise facilitate the provision of public transportation services to employment opportunities.

"(2) PROJECT SELECTION AND PLAN DEVELOPMENT.—Each grant recipient under this subsection shall certify that—

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

"(B) the plan was developed and approved through a process that included participation by low-income individuals, representatives of public, private, and nonprofit transportation and human services providers, and the public;

"(C) to the maximum extent feasible, services funded under this subsection are coordi-

nated with transportation services funded by other Federal departments and agencies; and

"(D) allocations of the grant to subrecipients, if any, are distributed on a fair and equitable basis.

"(3) COMPETITIVE PROCESS FOR GRANTS TO SUBRECIPIENTS.—

"(A) STATEWIDE SOLICITATIONS.—A State may conduct a statewide solicitation for applications for grants to recipients and subrecipients under this subsection.

"(B) APPLICATION.—If the State elects to engage in a competitive process, recipients and subrecipients seeking to receive a grant from apportioned funds shall submit to the State an application in the form and in accordance with such requirements as the State shall establish.

"(h) GOVERNMENT SHARE OF COSTS.—

"(1) CAPITAL PROJECTS.—

"(A) IN GENERAL.—Except as provided by subparagraph (B), a grant awarded under this section for a capital project or project administrative expenses shall be for 80 percent of the net costs of the project, as determined by the Secretary.

"(B) EXCEPTION.—A State described in section 120(b) of title 23 shall receive a Government share of the net costs in accordance with the formula under that section.

"(2) OPERATING ASSISTANCE.—

"(A) IN GENERAL.—Except as provided by subparagraph (B), a grant made under this section for operating assistance may not exceed 50 percent of the net operating costs of the project, as determined by the Secretary.

"(B) EXCEPTION.—A State described in section 120(b) of title 23 shall receive a Government share of the net operating costs equal to 62.5 percent of the Government share provided for under paragraph (1)(B).

"(3) REMAINDER.—The remainder of net project costs—

"(A) may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a State or local social service agency or a private social service organization, or new capital;

"(B) may be derived from amounts appropriated or otherwise made available to a depart-

ment or agency of the Government (other than the Department of Transportation) that are eligible to be expended for transportation; and

"(C) notwithstanding subparagraph (B), may be derived from amounts made available to carry out the Federal lands highway program established by section 204 of title 23.

"(4) USE OF CERTAIN FUNDS.—For purposes of paragraph (3)(B), the prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to Federal or State funds to be used for transportation purposes.

"(5) LIMITATION ON OPERATING ASSISTANCE.—A State carrying out a program of operating assistance under this section may not limit the level or extent of use of the Government grant for the payment of operating expenses.

"(i) TRANSFER OF FACILITIES AND EQUIPMENT.—With the consent of the recipient currently having a facility or equipment acquired with assistance under this section, a State may transfer the facility or equipment to any recipient eligible to receive assistance under this chapter

if the facility or equipment will continue to be used as required under this section.

"(j) RELATIONSHIP TO OTHER LAWS.—

"(1) IN GENERAL.—Section 5333(b) applies to this section if the Secretary of Labor utilizes a special warranty that provides a fair and equitable arrangement to protect the interests of employees.

"(2) RULE OF CONSTRUCTION.—This subsection does not affect or discharge a responsibility of the Secretary of Transportation under a law of the United States.

"(k) FORMULA GRANTS FOR PUBLIC TRANSPORTATION ON INDIAN RESERVATIONS.—

"(1) APPORTIONMENT.—

"(A) IN GENERAL.—Of the amounts described in subsection (c)(1)(B)—

"(i) 50 percent of the total amount shall be apportioned so that each Indian tribe providing public transportation service shall receive an amount equal to the total amount apportioned under this clause multiplied by the ratio of the number of vehicle revenue miles provided by an Indian tribe divided by the total number of

vehicle revenue miles provided by all Indian tribes, as reported to the Secretary;

"(ii) 25 percent of the total amount shall be apportioned equally among each Indian tribe providing at least 200,000 vehicle revenue miles of public transportation service annually, as reported to the Secretary; and

"(iii) 25 percent of the total amount shall be apportioned among each Indian tribe providing public transportation on tribal lands on which more than 1,000 low-income individuals reside (as determined by the Bureau of the Census) so that each Indian tribe shall receive an amount equal to the total amount apportioned under this clause multiplied by the ratio of the number of low-income individuals residing on an Indian tribe's lands divided by the total number of low-income individuals on tribal lands on which more than 1,000 low-income individuals reside.

"(B) LIMITATION.—No recipient shall receive more than $300,000 of the amounts ap-

portioned under subparagraph (A)(iii) in a fiscal year.

"(C) REMAINING AMOUNTS.—Of the amounts made available under subparagraph (A)(iii), any amounts not apportioned under that subparagraph shall be allocated among Indian tribes receiving less than $300,000 in a fiscal year according to the formula specified in that clause.

"(D) LOW-INCOME INDIVIDUALS.—For purposes of subparagraph (A)(iii), the term 'low-income individual' means an individual whose family income is at or below 100 percent of the poverty line, as that term is defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by that section, for a family of the size involved.

"(2) NON-TRIBAL SERVICE PROVIDERS.—A recipient that is an Indian tribe may use funds apportioned under this subsection to finance public transportation services provided by a non-tribal provider of public transportation that connects residents of tribal lands with surrounding communities, improves

access to employment or healthcare, or otherwise addresses the mobility needs of tribal members.''.

(b) PILOT PROGRAM FOR INTERCITY BUS SERVICE.—

(1) DEFINITIONS.—In this subsection, the following definitions shall apply:

(A) ELIGIBLE PROJECT.—The term ''eligible project'' means an intercity bus project eligible under section 5311(f) of title 49, United States Code, as amended by this section, that includes both feeder service and an unsubsidized segment of the intercity bus network to which it connects.

(B) FEEDER SERVICE.—The term ''feeder service'' means the provision of intercity connections to allow for the coordination of rural connections between small public transportation systems and providers of intercity bus service.

(C) INTERCITY BUS SERVICE.—The term ''intercity bus service'' means regularly scheduled bus service provided by private operators for the general public that operates with limited stops over fixed routes connecting two or more urban areas not in close proximity, that has the capacity for transporting baggage carried by

passengers, and that makes meaningful connections with scheduled intercity bus service to more distant points, if such service is available.

(D) SECRETARY.—The term ''Secretary'' means the Secretary of Transportation.

(2) IN-KIND MATCH.—The Secretary shall establish a pilot program under which the Secretary may allow not more than 20 States using funding provided to carry out section 5311(f) of title 49, United States Code, as amended by this section, to support intercity bus service using the capital costs of unsubsidized service provided by a private operator as in-kind match for an eligible project.

(3) STUDY.—The Comptroller General of the United States shall conduct a study not later than 1 year after the date of enactment of this Act to determine the efficacy of the pilot program in improving and expanding intercity bus service and the effect of the pilot program on public transportation providers and the commuting public.

**SEC. 20013. RESEARCH, DEVELOPMENT, DEMONSTRATION, AND DEPLOYMENT PROJECTS.**

Section 5312 of title 49, United States Code, is amended to read as follows:

**"§ 5312. Research, development, demonstration, and deployment projects**

''(a) RESEARCH, DEVELOPMENT, DEMONSTRATION, AND DEPLOYMENT PROJECTS.—

''(1) IN GENERAL.—The Secretary may make grants and enter into contracts, cooperative agreements, and other agreements for research, development, demonstration, and deployment projects, and evaluation of research and technology of national significance to public transportation, that the Secretary determines will improve public transportation.

''(2) AGREEMENTS.—In order to carry out paragraph (1), the Secretary may make grants to and enter into contracts, cooperative agreements, and other agreements with—

''(A) departments, agencies, and instrumentalities of the Government;

''(B) State and local governmental entities;

''(C) providers of public transportation;

''(D) private or non-profit organizations;

''(E) institutions of higher education; and

''(F) technical and community colleges.

''(3) APPLICATION.—

''(A) IN GENERAL.—To receive a grant, contract, cooperative agreement, or other agreement under this section, an entity described in

paragraph (2) shall submit an application to the Secretary.

"(B) FORM AND CONTENTS.—An application under subparagraph (A) shall be in such form and contain such information as the Secretary may require, including—

"(i) a statement of purpose detailing the need being addressed;

"(ii) the short- and long-term goals of the project, including opportunities for future innovation and development, the potential for deployment, and benefits to riders and public transportation; and

"(iii) the short- and long-term funding requirements to complete the project and any future objectives of the project.

"(b) RESEARCH.—

"(1) IN GENERAL.—The Secretary may make a grant to or enter into a contract, cooperative agreement, or other agreement under this section with an entity described in subsection (a)(2) to carry out a public transportation research project that has as its ultimate goal the development and deployment of new and innovative ideas, practices, and approaches.

"(2) PROJECT ELIGIBILITY.—A public transportation research project that receives assistance under paragraph (1) shall focus on—

"(A) providing more effective and efficient public transportation service, including services to—

"(i) seniors;

"(ii) individuals with disabilities; and

"(iii) low-income individuals;

"(B) mobility management and improvements and travel management systems;

"(C) data and communication system advancements;

"(D) system capacity, including—

"(i) train control;

"(ii) capacity improvements; and

"(iii) performance management;

"(E) capital and operating efficiencies;

"(F) planning and forecasting modeling and simulation;

"(G) advanced vehicle design;

"(H) advancements in vehicle technology;

"(I) asset maintenance and repair systems advancement;

"(J) construction and project management;

"(K) alternative fuels;

"(L) the environment and energy efficiency;

"(M) safety improvements; or

"(N) any other area that the Secretary determines is important to advance the interests of public transportation.

"(c) INNOVATION AND DEVELOPMENT.—

"(1) IN GENERAL.—The Secretary may make a grant to or enter into a contract, cooperative agreement, or other agreement under this section with an entity described in subsection (a)(2) to carry out a public transportation innovation and development project that seeks to improve public transportation systems nationwide in order to provide more efficient and effective delivery of public transportation services, including through technology and technological capacity improvements.

"(2) PROJECT ELIGIBILITY.—A public transportation innovation and development project that receives assistance under paragraph (1) shall focus on—

"(A) the development of public transportation research projects that received assistance

under subsection (b) that the Secretary determines were successful;

"(B) planning and forecasting modeling and simulation;

"(C) capital and operating efficiencies;

"(D) advanced vehicle design;

"(E) advancements in vehicle technology;

"(F) the environment and energy efficiency;

"(G) system capacity, including train control and capacity improvements; or

"(H) any other area that the Secretary determines is important to advance the interests of public transportation.

"(d) DEMONSTRATION, DEPLOYMENT, AND EVALUATION.—

"(1) IN GENERAL.—The Secretary may, under terms and conditions that the Secretary prescribes, make a grant to or enter into a contract, cooperative agreement, or other agreement with an entity described in paragraph (2) to promote the early deployment and demonstration of innovation in public transportation that has broad applicability.

"(2) PARTICIPANTS.—An entity described in this paragraph is—

"(A) an entity described in subsection (a)(2); or

"(B) a consortium of entities described in subsection (a)(2), including a provider of public transportation, that will share the costs, risks, and rewards of early deployment and demonstration of innovation.

"(3) PROJECT ELIGIBILITY.—A project that receives assistance under paragraph (1) shall seek to build on successful research, innovation, and development efforts to facilitate—

"(A) the deployment of research and technology development resulting from private efforts or federally funded efforts; and

"(B) the implementation of research and technology development to advance the interests of public transportation.

"(4) EVALUATION.—Not later than 2 years after the date on which a project receives assistance under paragraph (1), the Secretary shall conduct a comprehensive evaluation of the success or failure of the projects funded under this subsection and any plan for broad-based implementation of the innovation promoted by successful projects.

"(e) ANNUAL REPORT ON RESEARCH.—Not later than the first Monday in February of each year, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs and the Committee on Appropriations of the Senate and the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives a report that includes—

"(1) a description of each project that received assistance under this section during the preceding fiscal year;

"(2) an evaluation of each project described in paragraph (1), including any evaluation conducted under subsection (d)(4) for the preceding fiscal year; and

"(3) a proposal for allocations of amounts for assistance under this section for the subsequent fiscal year.

"(f) GOVERNMENT SHARE OF COSTS.—

"(1) IN GENERAL.—The Government share of the cost of a project carried out under this section shall not exceed 80 percent.

"(2) NON-GOVERNMENT SHARE.—The non-Government share of the cost of a project carried out under this section may be derived from in-kind contributions.

"(3) FINANCIAL BENEFIT.—If the Secretary determines that there would be a clear and direct financial benefit to an entity under a grant, contract, cooperative agreement, or other agreement under this section, the Secretary shall establish a Government share of the costs of the project to be carried out under the grant, contract, cooperative agreement, or other agreement that is consistent with the benefit.".

**SEC. 20014. TECHNICAL ASSISTANCE AND STANDARDS DEVELOPMENT.**

Section 5314 of title 49, United States Code, is amended to read as follows:

**"§ 5314. Technical assistance and standards development**

"(a) TECHNICAL ASSISTANCE AND STANDARDS DEVELOPMENT.—

"(1) IN GENERAL.—The Secretary may make grants and enter into contracts, cooperative agreements, and other agreements (including agreements with departments, agencies, and instrumentalities of the Government) to carry out activities that the Secretary determines will assist recipients of assistance under this chapter to—

"(A) more effectively and efficiently provide public transportation service;

"(B) administer funds received under this chapter in compliance with Federal law; and

"(C) improve public transportation.

"(2) ELIGIBLE ACTIVITIES.—The activities carried out under paragraph (1) may include—

"(A) technical assistance; and

"(B) the development of standards and best practices by the public transportation industry.

"(b) TECHNICAL ASSISTANCE CENTERS.—

"(1) DEFINITION.—In this subsection, the term 'eligible entity' means a nonprofit organization, an institution of higher education, or a technical or community college.

"(2) IN GENERAL.—The Secretary may make grants to and enter into contracts, cooperative agreements, and other agreements with eligible entities to administer centers to provide technical assistance, including—

"(A) the development of tools and guidance; and

"(B) the dissemination of best practices.

"(3) COMPETITIVE PROCESS.—The Secretary may make grants and enter into contracts, cooperative agreements, and other agreements under paragraph (2) through a competitive process on a biennial basis for technical assistance in each of the following categories:

"(A) Human services transportation coordination, including—

"(i) transportation for seniors;

"(ii) transportation for individuals with disabilities; and

"(iii) coordination of local resources and programs to assist low-income individuals and veterans in gaining access to training and employment opportunities.

"(B) Transit-oriented development.

"(C) Transportation equity with regard to the impact that transportation planning, investment, and operations have on low-income and minority individuals.

"(D) Financing mechanisms, including—

"(i) public-private partnerships;

"(ii) bonding; and

"(iii) State and local capacity building.

"(E) Any other activity that the Secretary determines is important to advance the interests of public transportation.

"(4) EXPERTISE OF TECHNICAL ASSISTANCE CENTERS.—In selecting an eligible entity to administer a center under this subsection, the Secretary shall consider—

"(A) the demonstrated subject matter expertise of the eligible entity; and

"(B) the capacity of the eligible entity to deliver technical assistance on a regional or nationwide basis.

"(5) PARTNERSHIPS.—An eligible entity may partner with another eligible entity to provide technical assistance under this subsection.

"(c) GOVERNMENT SHARE OF COSTS.—

"(1) IN GENERAL.—The Government share of the cost of an activity under this section may not exceed 80 percent.

"(2) NON-GOVERNMENT SHARE.—The non-Government share of the cost of an activity under this section may be derived from in-kind contributions.".

**SEC. 20015. BUS TESTING FACILITIES.**

Section 5318 of title 49, United States Code, is amended to read as follows:

**"§ 5318. Bus testing facilities**

''(a) FACILITIES.—The Secretary shall certify not more than 4 comprehensive facilities for testing new bus models for maintainability, reliability, safety, performance (including braking performance), structural integrity, fuel economy, emissions, and noise.

''(b) COOPERATIVE AGREEMENT.—The Secretary shall enter into a cooperative agreement with not more than 4 qualified entities to test public transportation vehicles under subsection (a).

''(c) FEES.—An entity that operates and maintains a facility certified under subsection (a) shall establish and collect reasonable fees for the testing of vehicles at the facility. The Secretary must approve the fees.

''(d) AVAILABILITY OF AMOUNTS TO PAY FOR TESTING.—

''(1) IN GENERAL.—The Secretary shall enter into a cooperative agreement with an entity that operates and maintains a facility certified under subsection (a), under which 80 percent of the fee for testing a vehicle at the facility may be available from amounts apportioned to a recipient under section 5336 or from amounts appropriated to carry out this section.

''(2) PROHIBITION.—An entity that operates and maintains a facility described in subsection (a)

shall not have a financial interest in the outcome of the testing carried out at the facility.

"(e) ACQUIRING NEW BUS MODELS.—Amounts appropriated or made available under this chapter may be obligated or expended to acquire a new bus model only if—

"(1) a bus of that model has been tested at a facility described in subsection (a); and

"(2) the bus tested under paragraph (1) met—

"(A) performance standards for maintainability, reliability, performance (including braking performance), structural integrity, fuel economy, emissions, and noise, as established by the Secretary by rule; and

"(B) the minimum safety performance standards established by the Secretary pursuant to section 5329(b).".

**SEC. 20016. PUBLIC TRANSPORTATION WORKFORCE DEVELOPMENT AND HUMAN RESOURCE PROGRAMS.**

Section 5322 of title 49, United States Code, is amended to read as follows:

**"§ 5322. Public transportation workforce development and human resource programs**

''(a) IN GENERAL.—The Secretary may undertake, or make grants or enter into contracts for, activities that address human resource needs as the needs apply to public transportation activities, including activities that—

''(1) educate and train employees;

''(2) develop the public transportation workforce through career outreach and preparation;

''(3) develop a curriculum for workforce development;

''(4) conduct outreach programs to increase minority and female employment in public transportation;

''(5) conduct research on public transportation personnel and training needs;

''(6) provide training and assistance for minority business opportunities;

''(7) advance training relating to maintenance of alternative energy, energy efficiency, or zero emission vehicles and facilities used in public transportation; and

''(8) address a current or projected workforce shortage in an area that requires technical expertise.

''(b) FUNDING.—

"(1) URBANIZED AREA FORMULA GRANTS.—A recipient or subrecipient of funding under section 5307 shall expend not less than 0.5 percent of such funding for activities consistent with subsection (a).

"(2) WAIVER.—The Secretary may waive the requirement under paragraph (1) with respect to a recipient or subrecipient if the Secretary determines that the recipient or subrecipient—

"(A) has an adequate workforce development program; or

"(B) has partnered with a local educational institution in a manner that sufficiently promotes or addresses workforce development and human resource needs.

"(c) INNOVATIVE PUBLIC TRANSPORTATION WORKFORCE DEVELOPMENT PROGRAM.—

"(1) PROGRAM ESTABLISHED.—The Secretary shall establish a competitive grant program to assist the development of innovative activities eligible for assistance under subsection (a).

"(2) SELECTION OF RECIPIENTS.—To the maximum extent feasible, the Secretary shall select recipients that—

"(A) are geographically diverse;

"(B) address the workforce and human resources needs of large public transportation providers;

"(C) address the workforce and human resources needs of small public transportation providers;

"(D) address the workforce and human resources needs of urban public transportation providers;

"(E) address the workforce and human resources needs of rural public transportation providers;

"(F) advance training related to maintenance of alternative energy, energy efficiency, or zero emission vehicles and facilities used in public transportation;

"(G) target areas with high rates of unemployment; and

"(H) address current or projected workforce shortages in areas that require technical expertise.

"(d) GOVERNMENT'S SHARE OF COSTS.—The Government share of the cost of a project carried out using a grant under this section shall be 50 percent.

"(e) REPORT.—Not later than 2 years after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report concerning the measurable outcomes and impacts of the programs funded under this section.".

**SEC. 20017. GENERAL PROVISIONS.**

Section 5323 of title 49, United States Code, is amended to read as follows:

**"§ 5323. General provisions**

"(a) INTERESTS IN PROPERTY.—

"(1) IN GENERAL.—Financial assistance provided under this chapter to a State or a local governmental authority may be used to acquire an interest in, or to buy property of, a private company engaged in public transportation, for a capital project for property acquired from a private company engaged in public transportation after July 9, 1964, or to operate a public transportation facility or equipment in competition with, or in addition to, transportation service provided by an existing public transportation company, only if—

"(A) the Secretary determines that such financial assistance is essential to a program of projects required under sections 5303 and 5304;

"(B) the Secretary determines that the program provides for the participation of private companies engaged in public transportation to the maximum extent feasible; and

"(C) just compensation under State or local law will be paid to the company for its franchise or property.

"(2) LIMITATION.—A governmental authority may not use financial assistance of the United States Government to acquire land, equipment, or a facility used in public transportation from another governmental authority in the same geographic area.

"(b) RELOCATION AND REAL PROPERTY REQUIREMENTS.—The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.) shall apply to financial assistance for capital projects under this chapter.

"(c) CONSIDERATION OF ECONOMIC, SOCIAL, AND ENVIRONMENTAL INTERESTS.—

"(1) COOPERATION AND CONSULTATION.—In carrying out the goal described in section

5301(c)(2), the Secretary shall cooperate and consult with the Secretary of the Interior and the Administrator of the Environmental Protection Agency on each project that may have a substantial impact on the environment.

"(2) COMPLIANCE WITH NEPA.—The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall apply to financial assistance for capital projects under this chapter.

"(d) CORRIDOR PRESERVATION.—

"(1) IN GENERAL.—The Secretary may assist a recipient in acquiring right-of-way before the completion of the environmental reviews for any project that may use the right-of-way if the acquisition is otherwise permitted under Federal law. The Secretary may establish restrictions on such an acquisition as the Secretary determines to be necessary and appropriate.

"(2) ENVIRONMENTAL REVIEWS.—Right-of-way acquired under this subsection may not be developed in anticipation of the project until all required environmental reviews for the project have been completed.

"(e) CONDITION ON CHARTER BUS TRANSPORTATION SERVICE.—

"(1) AGREEMENTS.—Financial assistance under this chapter may be used to buy or operate a bus only if the applicant, governmental authority, or publicly owned operator that receives the assistance agrees that, except as provided in the agreement, the governmental authority or an operator of public transportation for the governmental authority will not provide charter bus transportation service outside the urban area in which it provides regularly scheduled public transportation service. An agreement shall provide for a fair arrangement the Secretary of Transportation considers appropriate to ensure that the assistance will not enable a governmental authority or an operator for a governmental authority to foreclose a private operator from providing intercity charter bus service if the private operator can provide the service.

"(2) VIOLATIONS.—

"(A) INVESTIGATIONS.—On receiving a complaint about a violation of the agreement required under paragraph (1), the Secretary shall investigate and decide whether a violation has occurred.

"(B) ENFORCEMENT OF AGREEMENTS.—If the Secretary decides that a violation has oc-

curred, the Secretary shall correct the violation under terms of the agreement.

"(C) ADDITIONAL REMEDIES.—In addition to any remedy specified in the agreement, the Secretary shall bar a recipient or an operator from receiving Federal transit assistance in an amount the Secretary considers appropriate if the Secretary finds a pattern of violations of the agreement.

"(f) BOND PROCEEDS ELIGIBLE FOR LOCAL SHARE.—

"(1) USE AS LOCAL MATCHING FUNDS.—Notwithstanding any other provision of law, a recipient of assistance under section 5307, 5309, or 5337 may use the proceeds from the issuance of revenue bonds as part of the local matching funds for a capital project.

"(2) MAINTENANCE OF EFFORT.—The Secretary shall approve of the use of the proceeds from the issuance of revenue bonds for the remainder of the net project cost only if the Secretary finds that the aggregate amount of financial support for public transportation in the urbanized area provided by the State and affected local governmental authorities during the next 3 fiscal years, as programmed in the

State transportation improvement program under section 5304, is not less than the aggregate amount provided by the State and affected local governmental authorities in the urbanized area during the preceding 3 fiscal years.

"(3) DEBT SERVICE RESERVE.—The Secretary may reimburse an eligible recipient for deposits of bond proceeds in a debt service reserve that the recipient establishes pursuant to section 5302(3)(J) from amounts made available to the recipient under section 5309.

"(g) SCHOOLBUS TRANSPORTATION.—

"(1) AGREEMENTS.—Financial assistance under this chapter may be used for a capital project, or to operate public transportation equipment or a public transportation facility, only if the applicant agrees not to provide schoolbus transportation that exclusively transports students and school personnel in competition with a private schoolbus operator. This subsection does not apply—

"(A) to an applicant that operates a school system in the area to be served and a separate and exclusive schoolbus program for the school system; and

"(B) unless a private schoolbus operator can provide adequate transportation that complies with applicable safety standards at reasonable rates.

"(2) VIOLATIONS.—If the Secretary finds that an applicant, governmental authority, or publicly owned operator has violated the agreement required under paragraph (1), the Secretary shall bar a recipient or an operator from receiving Federal transit assistance in an amount the Secretary considers appropriate.

"(h) BUYING BUSES UNDER OTHER LAWS.—Subsections (e) and (g) of this section apply to financial assistance to buy a bus under sections 133 and 142 of title 23.

"(i) GRANT AND LOAN PROHIBITIONS.—A grant or loan may not be used to—

"(1) pay ordinary governmental or nonproject operating expenses; or

"(2) support a procurement that uses an exclusionary or discriminatory specification.

"(j) GOVERNMENT SHARE OF COSTS FOR CERTAIN PROJECTS.—A grant for a project to be assisted under this chapter that involves acquiring vehicle-related equipment or facilities required by the Americans with Disabil-

ities Act of 1990 (42 U.S.C. 12101 et seq.) or vehicle-related equipment or facilities (including clean fuel or alternative fuel vehicle-related equipment or facilities) for purposes of complying with or maintaining compliance with the Clean Air Act, is for 90 percent of the net project cost of such equipment or facilities attributable to compliance with those Acts. The Secretary shall have discretion to determine, through practicable administrative procedures, the costs of such equipment or facilities attributable to compliance with those Acts.

''(k) BUY AMERICA.—

''(1) IN GENERAL.—The Secretary may obligate an amount that may be appropriated to carry out this chapter for a project only if the steel, iron, and manufactured goods used in the project are produced in the United States.

''(2) WAIVER.—The Secretary may waive paragraph (1) of this subsection if the Secretary finds that—

''(A) applying paragraph (1) would be inconsistent with the public interest;

''(B) the steel, iron, and goods produced in the United States are not produced in a sufficient and reasonably available amount or are not of a satisfactory quality;

"(C) when procuring rolling stock (including train control, communication, and traction power equipment) under this chapter—

"(i) the cost of components and subcomponents produced in the United States is more than 60 percent of the cost of all components of the rolling stock; and

"(ii) final assembly of the rolling stock has occurred in the United States; or

"(D) including domestic material will increase the cost of the overall project by more than 25 percent.

"(3) WRITTEN WAIVER DETERMINATION AND ANNUAL REPORT.—

"(A) WRITTEN DETERMINATION.—Before issuing a waiver under paragraph (2), the Secretary shall—

"(i) publish in the Federal Register and make publicly available in an easily identifiable location on the website of the Department of Transportation a detailed written explanation of the waiver determination; and

"(ii) provide the public with a reasonable period of time for notice and comment.

"(B) ANNUAL REPORT.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2012, and annually thereafter, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report listing any waiver issued under paragraph (2) during the preceding year.

"(4) LABOR COSTS FOR FINAL ASSEMBLY.—In this subsection, labor costs involved in final assembly are not included in calculating the cost of components.

"(5) WAIVER PROHIBITED.—The Secretary may not make a waiver under paragraph (2) of this subsection for goods produced in a foreign country if the Secretary, in consultation with the United States Trade Representative, decides that the government of that foreign country—

"(A) has an agreement with the United States Government under which the Secretary

has waived the requirement of this subsection; and

"(B) has violated the agreement by discriminating against goods to which this subsection applies that are produced in the United States and to which the agreement applies.

"(6) PENALTY FOR MISLABELING AND MISREPRESENTATION.—A person is ineligible under subpart 9.4 of the Federal Acquisition Regulation, or any successor thereto, to receive a contract or subcontract made with amounts authorized under the Federal Public Transportation Act of 2012 if a court or department, agency, or instrumentality of the Government decides the person intentionally—

"(A) affixed a 'Made in America' label, or a label with an inscription having the same meaning, to goods sold in or shipped to the United States that are used in a project to which this subsection applies but not produced in the United States; or

"(B) represented that goods described in subparagraph (A) of this paragraph were produced in the United States.

"(7) STATE REQUIREMENTS.—The Secretary may not impose any limitation on assistance pro-

vided under this chapter that restricts a State from imposing more stringent requirements than this subsection on the use of articles, materials, and supplies mined, produced, or manufactured in foreign countries in projects carried out with that assistance or restricts a recipient of that assistance from complying with those State-imposed requirements.

"(8) OPPORTUNITY TO CORRECT INADVERTENT ERROR.—The Secretary may allow a manufacturer or supplier of steel, iron, or manufactured goods to correct after bid opening any certification of noncompliance or failure to properly complete the certification (but not including failure to sign the certification) under this subsection if such manufacturer or supplier attests under penalty of perjury that such manufacturer or supplier submitted an incorrect certification as a result of an inadvertent or clerical error. The burden of establishing inadvertent or clerical error is on the manufacturer or supplier.

"(9) ADMINISTRATIVE REVIEW.—A party adversely affected by an agency action under this subsection shall have the right to seek review under section 702 of title 5.

"(10) APPLICATION TO TRANSIT PROGRAMS.—The requirements under this subsection shall apply

to all contracts eligible for assistance under this chapter for a project carried out within the scope of the applicable finding, determination, or decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), regardless of the funding source of such contracts, if at least 1 contract for the project is funded with amounts made available to carry out this chapter.

''(l) PARTICIPATION OF GOVERNMENTAL AGENCIES IN DESIGN AND DELIVERY OF TRANSPORTATION SERVICES.—Governmental agencies and nonprofit organizations that receive assistance from Government sources (other than the Department of Transportation) for nonemergency transportation services shall—

''(1) participate and coordinate with recipients of assistance under this chapter in the design and delivery of transportation services; and

''(2) be included in the planning for those services.

''(m) RELATIONSHIP TO OTHER LAWS.—

''(1) FRAUD AND FALSE STATEMENTS.—Section 1001 of title 18 applies to a certificate, submission, or statement provided under this chapter. The Secretary may terminate financial assistance under this chapter and seek reimbursement directly, or by

offsetting amounts, available under this chapter if the Secretary determines that a recipient of such financial assistance has made a false or fraudulent statement or related act in connection with a Federal public transportation program.

"(2) POLITICAL ACTIVITIES OF NONSUPERVISORY EMPLOYEES.—The provision of assistance under this chapter shall not be construed to require the application of chapter 15 of title 5 to any nonsupervisory employee of a public transportation system (or any other agency or entity performing related functions) to whom such chapter does not otherwise apply.

"(n) PREAWARD AND POSTDELIVERY REVIEW OF ROLLING STOCK PURCHASES.—The Secretary shall prescribe regulations requiring a preaward and postdelivery review of a grant under this chapter to buy rolling stock to ensure compliance with Government motor vehicle safety requirements, subsection (k) of this section, and bid specifications requirements of grant recipients under this chapter. Under this subsection, independent inspections and review are required, and a manufacturer certification is not sufficient. Rolling stock procurements of 20 vehicles or fewer made for the purpose of serving other than urbanized areas and urbanized areas with populations of

200,000 or fewer shall be subject to the same requirements as established for procurements of 10 or fewer buses under the post-delivery purchaser's requirements certification process under section 663.37(c) of title 49, Code of Federal Regulations.

"(o) SUBMISSION OF CERTIFICATIONS.—A certification required under this chapter and any additional certification or assurance required by law or regulation to be submitted to the Secretary may be consolidated into a single document to be submitted annually as part of a grant application under this chapter. The Secretary shall publish annually a list of all certifications required under this chapter with the publication required under section 5336(d)(2).

"(p) GRANT REQUIREMENTS.—The grant requirements under sections 5307, 5309, and 5337 apply to any project under this chapter that receives any assistance or other financing under chapter 6 (other than section 609) of title 23.

"(q) ALTERNATIVE FUELING FACILITIES.—A recipient of assistance under this chapter may allow the incidental use of federally funded alternative fueling facilities and equipment by nontransit public entities and private entities if—

"(1) the incidental use does not interfere with the recipient's public transportation operations;

"(2) all costs related to the incidental use are fully recaptured by the recipient from the nontransit public entity or private entity;

"(3) the recipient uses revenues received from the incidental use in excess of costs for planning, capital, and operating expenses that are incurred in providing public transportation; and

"(4) private entities pay all applicable excise taxes on fuel.

"(r) FIXED GUIDEWAY CATEGORICAL EXCLUSION.—

"(1) STUDY.—Not later than 6 months after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall conduct a study to determine the feasibility of providing a categorical exclusion for streetcar, bus rapid transit, and light rail projects located within an existing transportation right-of-way from the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) in accordance with the Council on Environmental Quality implementing regulations under parts 1500 through 1508 of title 40, Code of Federal Regulations, or any successor thereto.

"(2) FINDINGS AND RULES.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall issue findings and, if appropriate, issue rules to provide categorical exclusions for suitable categories of projects.".

**SEC. 20018. CONTRACT REQUIREMENTS.**

Section 5325 of title 49, United States Code, is amended—

(1) in subsection (e), by striking paragraph (1) and inserting the following:

"(1) CONTRACTS.—A recipient procuring rolling stock with Government financial assistance under this chapter may make a multiyear contract to buy the rolling stock and replacement parts under which the recipient has an option to buy additional rolling stock or replacement parts for—

"(A) not more than 5 years after the date of the original contract for bus procurements; and

"(B) not more than 7 years after the date of the original contract for rail procurements, provided that such option does not allow for significant changes or alterations to the rolling stock.".

(2) in subsection (h), by striking ''Federal Public Transportation Act of 2005'' and inserting ''Federal Public Transportation Act of 2012'';

(3) in subsection (j)(2)(C), by striking '', including the performance reported in the Contractor Performance Assessment Reports required under section 5309(l)(2)''; and

(4) by adding at the end the following:

''(k) VETERANS EMPLOYMENT.—Recipients and subrecipients of Federal financial assistance under this chapter shall ensure that contractors working on a capital project funded using such assistance give a hiring preference to veterans, as defined in section 2108 of title 5, who have the requisite skills and abilities to perform the construction work required under the contract.''.

**SEC. 20019. TRANSIT ASSET MANAGEMENT.**

Section 5326 of title 49, United States Code, is amended to read as follows:

**''§ 5326. Transit asset management**

''(a) DEFINITIONS.—In this section the following definitions shall apply:

''(1) CAPITAL ASSET.—The term 'capital asset' includes equipment, rolling stock, infrastructure, and facilities for use in public transportation and owned

or leased by a recipient or subrecipient of Federal financial assistance under this chapter.

"(2) TRANSIT ASSET MANAGEMENT PLAN.—The term 'transit asset management plan' means a plan developed by a recipient of funding under this chapter that—

"(A) includes, at a minimum, capital asset inventories and condition assessments, decision support tools, and investment prioritization; and

"(B) the recipient certifies complies with the rule issued under this section.

"(3) TRANSIT ASSET MANAGEMENT SYSTEM.—The term 'transit asset management system' means a strategic and systematic process of operating, maintaining, and improving public transportation capital assets effectively throughout the life cycle of such assets.

"(b) TRANSIT ASSET MANAGEMENT SYSTEM.—The Secretary shall establish and implement a national transit asset management system, which shall include—

"(1) a definition of the term 'state of good repair' that includes objective standards for measuring the condition of capital assets of recipients, includ-

ing equipment, rolling stock, infrastructure, and facilities;

"(2) a requirement that recipients and subrecipients of Federal financial assistance under this chapter develop a transit asset management plan;

"(3) a requirement that each recipient of Federal financial assistance under this chapter report on the condition of the system of the recipient and provide a description of any change in condition since the last report;

"(4) an analytical process or decision support tool for use by public transportation systems that—

"(A) allows for the estimation of capital investment needs of such systems over time; and

"(B) assists with asset investment prioritization by such systems; and

"(5) technical assistance to recipients of Federal financial assistance under this chapter.

"(c) PERFORMANCE MEASURES AND TARGETS.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall issue a final rule to establish performance measures based

on the state of good repair standards established under subsection (b)(1).

"(2) TARGETS.—Not later than 3 months after the date on which the Secretary issues a final rule under paragraph (1), and each fiscal year thereafter, each recipient of Federal financial assistance under this chapter shall establish performance targets in relation to the performance measures established by the Secretary.

"(3) REPORTS.—Each recipient of Federal financial assistance under this chapter shall submit to the Secretary an annual report that describes—

"(A) the progress of the recipient during the fiscal year to which the report relates toward meeting the performance targets established under paragraph (2) for that fiscal year; and

"(B) the performance targets established by the recipient for the subsequent fiscal year.

"(d) RULEMAKING.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall issue a final rule to implement the transit asset management system described in subsection (b).".

**SEC. 20020. PROJECT MANAGEMENT OVERSIGHT.**

Section 5327 of title 49, United States Code, is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking ''United States'' and all that follows through ''Secretary of Transportation'' and inserting the following: ''Federal financial assistance for a major capital project for public transportation under this chapter or any other provision of Federal law, a recipient must prepare a project management plan approved by the Secretary and carry out the project in accordance with the project management plan''; and

(B) in paragraph (12), by striking ''each month'' and inserting ''quarterly'';

(2) by striking subsections (c), (d), and (f);

(3) by inserting after subsection (b) the following:

''(c) ACCESS TO SITES AND RECORDS.—Each recipient of Federal financial assistance for public transportation under this chapter or any other provision of Federal law shall provide the Secretary and a contractor the Secretary chooses under section 5338(g) with access to the

construction sites and records of the recipient when reasonably necessary.'';

(4) by redesignating subsection (e) as subsection (d); and

(5) in subsection (d), as so redesignated—

(A) in paragraph (1), by striking ''subsection (c) of this section'' and inserting ''section 5338(g)''; and

(B) in paragraph (2)—

(i) by striking ''preliminary engineering stage'' and inserting ''project development phase''; and

(ii) by striking ''another stage'' and inserting ''another phase''.

**SEC. 20021. PUBLIC TRANSPORTATION SAFETY.**

(a) PUBLIC TRANSPORTATION SAFETY PROGRAM.—Section 5329 of title 49, United States Code, is amended to read as follows:

**''§ 5329. Public transportation safety program**

''(a) DEFINITION.—In this section, the term 'recipient' means a State or local governmental authority, or any other operator of a public transportation system, that receives financial assistance under this chapter.

''(b) NATIONAL PUBLIC TRANSPORTATION SAFETY PLAN.—

"(1) IN GENERAL.—The Secretary shall create and implement a national public transportation safety plan to improve the safety of all public transportation systems that receive funding under this chapter.

"(2) CONTENTS OF PLAN.—The national public transportation safety plan under paragraph (1) shall include—

"(A) safety performance criteria for all modes of public transportation;

"(B) the definition of the term 'state of good repair' established under section 5326(b);

"(C) minimum safety performance standards for public transportation vehicles used in revenue operations that—

"(i) do not apply to rolling stock otherwise regulated by the Secretary or any other Federal agency; and

"(ii) to the extent practicable, take into consideration—

"(I) relevant recommendations of the National Transportation Safety Board; and

"(II) recommendations of, and best practices standards developed by,

the public transportation industry; and

"(D) a public transportation safety certification training program, as described in subsection (c).

"(c) PUBLIC TRANSPORTATION SAFETY CERTIFICATION TRAINING PROGRAM.—

"(1) IN GENERAL.—The Secretary shall establish a public transportation safety certification training program for Federal and State employees, or other designated personnel, who conduct safety audits and examinations of public transportation systems and employees of public transportation agencies directly responsible for safety oversight.

"(2) INTERIM PROVISIONS.—Not later than 90 days after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall establish interim provisions for the certification and training of the personnel described in paragraph (1), which shall be in effect until the effective date of the final rule issued by the Secretary to implement this subsection.

"(d) PUBLIC TRANSPORTATION AGENCY SAFETY PLAN.—

"(1) IN GENERAL.—Effective 1 year after the effective date of a final rule issued by the Secretary to carry out this subsection, each recipient shall certify that the recipient has established a comprehensive agency safety plan that includes, at a minimum—

"(A) a requirement that the board of directors (or equivalent entity) of the recipient approve the agency safety plan and any updates to the agency safety plan;

"(B) methods for identifying and evaluating safety risks throughout all elements of the public transportation system of the recipient;

"(C) strategies to minimize the exposure of the public, personnel, and property to hazards and unsafe conditions;

"(D) a process and timeline for conducting an annual review and update of the safety plan of the recipient;

"(E) performance targets based on the safety performance criteria and state of good repair standards established under subparagraphs (A) and (B), respectively, of subsection (b)(2);

"(F) assignment of an adequately trained safety officer who reports directly to the general manager, president, or equivalent officer of the recipient; and

"(G) a comprehensive staff training program for the operations personnel and personnel directly responsible for safety of the recipient that includes—

"(i) the completion of a safety training program; and

"(ii) continuing safety education and training.

"(2) INTERIM AGENCY SAFETY PLAN.—A system safety plan developed pursuant to part 659 of title 49, Code of Federal Regulations, as in effect on the date of enactment of the Federal Public Transportation Act of 2012, shall remain in effect until such time as this subsection takes effect.

"(e) STATE SAFETY OVERSIGHT PROGRAM.—

"(1) APPLICABILITY.—This subsection applies only to eligible States.

"(2) DEFINITION.—In this subsection, the term 'eligible State' means a State that has—

"(A) a rail fixed guideway public transportation system within the jurisdiction of the

State that is not subject to regulation by the Federal Railroad Administration; or

"(B) a rail fixed guideway public transportation system in the engineering or construction phase of development within the jurisdiction of the State that will not be subject to regulation by the Federal Railroad Administration.

"(3) IN GENERAL.—In order to obligate funds apportioned under section 5338 to carry out this chapter, effective 3 years after the date on which a final rule under this subsection becomes effective, an eligible State shall have in effect a State safety oversight program approved by the Secretary under which the State—

"(A) assumes responsibility for overseeing rail fixed guideway public transportation safety;

"(B) adopts and enforces Federal law on rail fixed guideway public transportation safety;

"(C) establishes a State safety oversight agency;

"(D) determines, in consultation with the Secretary, an appropriate staffing level for the State safety oversight agency that is commensurate with the number, size, and complexity of

the rail fixed guideway public transportation systems in the eligible State;

"(E) requires that employees and other designated personnel of the eligible State safety oversight agency who are responsible for rail fixed guideway public transportation safety oversight are qualified to perform such functions through appropriate training, including successful completion of the public transportation safety certification training program established under subsection (c); and

"(F) prohibits any public transportation agency from providing funds to the State safety oversight agency or an entity designated by the eligible State as the State safety oversight agency under paragraph (4).

"(4) STATE SAFETY OVERSIGHT AGENCY.—

"(A) IN GENERAL.—Each State safety oversight program shall establish a State safety oversight agency that—

"(i) is an independent legal entity responsible for the safety of rail fixed guideway public transportation systems;

"(ii) is financially and legally independent from any public transportation en-

tity that the State safety oversight agency oversees;

"(iii) does not fund, promote, or provide public transportation services;

"(iv) does not employ any individual who is also responsible for the administration of public transportation programs;

"(v) has the authority to review, approve, oversee, and enforce the implementation by the rail fixed guideway public transportation agency of the public transportation agency safety plan required under subsection (d);

"(vi) has investigative and enforcement authority with respect to the safety of rail fixed guideway public transportation systems of the eligible State;

"(vii) audits, at least once triennially, the compliance of the rail fixed guideway public transportation systems in the eligible State subject to this subsection with the public transportation agency safety plan required under subsection (d); and

"(viii) provides, at least once annually, a status report on the safety of the

rail fixed guideway public transportation systems the State safety oversight agency oversees to—

"(I) the Federal Transit Administration;

"(II) the Governor of the eligible State; and

"(III) the board of directors, or equivalent entity, of any rail fixed guideway public transportation system that the State safety oversight agency oversees.

"(B) WAIVER.—At the request of an eligible State, the Secretary may waive clauses (i) and (iii) of subparagraph (A) for eligible States with 1 or more rail fixed guideway systems in revenue operations, design, or construction, that—

"(i) have fewer than 1,000,000 combined actual and projected rail fixed guideway revenue miles per year; or

"(ii) provide fewer than 10,000,000 combined actual and projected unlinked passenger trips per year.

"(5) ENFORCEMENT.—Each State safety oversight agency shall have the authority to request that the Secretary take enforcement actions available under subsection (g) against a rail fixed guideway public transportation system that is not in compliance with Federal safety laws.

"(6) PROGRAMS FOR MULTI-STATE RAIL FIXED GUIDEWAY PUBLIC TRANSPORTATION SYSTEMS.—An eligible State that has within the jurisdiction of the eligible State a rail fixed guideway public transportation system that operates in more than 1 eligible State shall—

"(A) jointly with all other eligible States in which the rail fixed guideway public transportation system operates, ensure uniform safety standards and enforcement procedures that shall be in compliance with this section, and establish and implement a State safety oversight program approved by the Secretary; or

"(B) jointly with all other eligible States in which the rail fixed guideway public transportation system operates, designate an entity having characteristics consistent with the characteristics described in paragraph (3) to carry out

the State safety oversight program approved by the Secretary.

"(7) GRANTS.—

"(A) IN GENERAL.—The Secretary may make a grant to an eligible State to develop or carry out a State safety oversight program, if the eligible State submits—

"(i) a proposal for the establishment of a State safety oversight program to the Secretary for review and written approval before implementing a State safety oversight program; and

"(ii) any amendment to the State safety oversight program of the eligible State to the Secretary for review not later than 60 days before the effective date of the amendment.

"(B) DETERMINATION BY SECRETARY.—

"(i) IN GENERAL.—The Secretary shall transmit written approval to an eligible State that submits a State safety oversight program, if the Secretary determines the State safety oversight program meets the requirements of this subsection and the

State safety oversight program is adequate to promote the purposes of this section.

"(ii) AMENDMENT.—The Secretary shall transmit to an eligible State that submits an amendment under subparagraph (A)(ii) a written determination with respect to the amendment.

"(iii) NO WRITTEN DECISION.—If an eligible State does not receive a written decision from the Secretary with respect to an amendment submitted under subparagraph (A)(ii) before the end of the 60-day period beginning on the date on which the eligible State submits the amendment, the amendment shall be deemed to be approved.

"(iv) DISAPPROVAL.—If the Secretary determines that a State safety oversight program does not meet the requirements of this subsection, the Secretary shall transmit to the eligible State a written explanation and allow the eligible State to modify and resubmit the State safety oversight program for approval.

"(C) GOVERNMENT SHARE.—

"(i) IN GENERAL.—The Government share of the reasonable cost of a State safety oversight program developed or carried out using a grant under this paragraph shall be 80 percent.

"(ii) IN-KIND CONTRIBUTIONS.—Any calculation of the non-Government share of a State safety oversight program shall include in-kind contributions by an eligible State.

"(iii) NON-GOVERNMENT SHARE.—The non-Government share of the cost of a State safety oversight program developed or carried out using a grant under this paragraph may not be met by—

"(I) any Federal funds;

"(II) any funds received from a public transportation agency; or

"(III) any revenues earned by a public transportation agency.

"(iv) SAFETY TRAINING PROGRAM.—The Secretary may reimburse an eligible State or a recipient for the full costs of participation in the public transportation safety certification training program estab-

lished under subsection (c) by an employee of a State safety oversight agency or a recipient who is directly responsible for safety oversight.

"(8) CONTINUAL EVALUATION OF PROGRAM.—The Secretary shall continually evaluate the implementation of a State safety oversight program by a State safety oversight agency, on the basis of—

"(A) reports submitted by the State safety oversight agency under paragraph (4)(A)(viii); and

"(B) audits carried out by the Secretary.

"(9) INADEQUATE PROGRAM.—

"(A) IN GENERAL.—If the Secretary finds that a State safety oversight program approved by the Secretary is not being carried out in accordance with this section or has become inadequate to ensure the enforcement of Federal safety regulations, the Secretary shall—

"(i) transmit to the eligible State a written explanation of the reason the program has become inadequate and inform the State of the intention to withhold funds, including the amount of funds proposed to be withheld under this section, or

withdraw approval of the State safety oversight program; and

"(ii) allow the eligible State a reasonable period of time to modify the State safety oversight program or implementation of the program and submit an updated proposal for the State safety oversight program to the Secretary for approval.

"(B) FAILURE TO CORRECT.—If the Secretary determines that a modification by an eligible State of the State safety oversight program is not sufficient to ensure the enforcement of Federal safety regulations, the Secretary may—

"(i) withhold funds available under this section in an amount determined by the Secretary; or

"(ii) provide written notice of withdrawal of State safety oversight program approval.

"(C) TEMPORARY OVERSIGHT.—In the event the Secretary takes action under subparagraph (B)(ii), the Secretary shall provide oversight of the rail fixed guideway systems in an

eligible State until the State submits a State safety oversight program approved by the Secretary.

"(D) RESTORATION.—

"(i) CORRECTION.—The eligible State shall address any inadequacy to the satisfaction of the Secretary prior to the Secretary restoring funds withheld under this paragraph.

"(ii) AVAILABILITY AND REALLOCATION.—Any funds withheld under this paragraph shall remain available for restoration to the eligible State until the end of the first fiscal year after the fiscal year in which the funds were withheld, after which time the funds shall be available to the Secretary for allocation to other eligible States under this section.

"(10) FEDERAL OVERSIGHT.—The Secretary shall—

"(A) oversee the implementation of each State safety oversight program under this subsection;

"(B) audit the operations of each State safety oversight agency at least once triennially; and

"(C) issue rules to carry out this subsection.

"(f) AUTHORITY OF SECRETARY.—In carrying out this section, the Secretary may—

"(1) conduct inspections, investigations, audits, examinations, and testing of the equipment, facilities, rolling stock, and operations of the public transportation system of a recipient;

"(2) make reports and issue directives with respect to the safety of the public transportation system of a recipient;

"(3) in conjunction with an accident investigation or an investigation into a pattern or practice of conduct that negatively affects public safety, issue a subpoena to, and take the deposition of, any employee of a recipient or a State safety oversight agency, if—

"(A) before the issuance of the subpoena, the Secretary requests a determination by the Attorney General of the United States as to whether the subpoena will interfere with an ongoing criminal investigation; and

"(B) the Attorney General—

"(i) determines that the subpoena will not interfere with an ongoing criminal investigation; or

"(ii) fails to make a determination under clause (i) before the date that is 30 days after the date on which the Secretary makes a request under subparagraph (A);

"(4) require the production of documents by, and prescribe recordkeeping and reporting requirements for, a recipient or a State safety oversight agency;

"(5) investigate public transportation accidents and incidents and provide guidance to recipients regarding prevention of accidents and incidents;

"(6) at reasonable times and in a reasonable manner, enter and inspect equipment, facilities, rolling stock, operations, and relevant records of the public transportation system of a recipient; and

"(7) issue rules to carry out this section.

"(g) ENFORCEMENT ACTIONS.—

"(1) TYPES OF ENFORCEMENT ACTIONS.—The Secretary may take enforcement action against a recipient that does not comply with Federal law with

respect to the safety of the public transportation system, including—

"(A) issuing directives;

"(B) requiring more frequent oversight of the recipient by a State safety oversight agency or the Secretary;

"(C) imposing more frequent reporting requirements;

"(D) requiring that any Federal financial assistance provided under this chapter be spent on correcting safety deficiencies identified by the Secretary or the State safety oversight agency before such funds are spent on other projects;

"(E) subject to paragraph (2), withholding Federal financial assistance, in an amount to be determined by the Secretary, from the recipient, until such time as the recipient comes into compliance with this section; and

"(F) subject to paragraph (3), imposing a civil penalty, in an amount to be determined by the Secretary.

"(2) USE OR WITHHOLDING OF FUNDS.—

"(A) IN GENERAL.—The Secretary may require the use of funds in accordance with para-

graph (1)(D), or withhold funds under paragraph (1)(E), only if the Secretary finds that a recipient is engaged in a pattern or practice of serious safety violations or has otherwise refused to comply with Federal law relating to the safety of the public transportation system.

"(B) NOTICE.—Before withholding funds from a recipient under paragraph (1)(E), the Secretary shall provide to the recipient—

"(i) written notice of a violation and the amount proposed to be withheld; and

"(ii) a reasonable period of time within which the recipient may address the violation or propose and initiate an alternative means of compliance that the Secretary determines is acceptable.

"(C) FAILURE TO ADDRESS.—If the recipient does not address the violation or propose an alternative means of compliance that the Secretary determines is acceptable within the period of time specified in the written notice, the Secretary may withhold funds under paragraph (1)(E).

"(D) RESTORATION.—

"(i) CORRECTION.—The recipient shall address any violation to the satisfaction of the Secretary prior to the Secretary restoring funds withheld under paragraph (1)(E).

"(ii) AVAILABILITY AND REALLOCATION.—Any funds withheld under paragraph (1)(E) shall remain available for restoration to the recipient until the end of the first fiscal year after the fiscal year in which the funds were withheld, after which time the funds shall be available to the Secretary for allocation to other eligible recipients.

"(E) NOTIFICATION.—Not later than 3 days before taking any action under subparagraph (C), the Secretary shall notify the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives of such action.

"(3) CIVIL PENALTIES.—

"(A) IMPOSITION OF CIVIL PENALTIES.—

"(i) IN GENERAL.—The Secretary may impose a civil penalty under paragraph (1)(F) only if—

"(I) the Secretary has exhausted the enforcement actions available under subparagraphs (A) through (E) of paragraph (1); and

"(II) the recipient continues to be in violation of Federal safety law.

"(ii) EXCEPTION.—The Secretary may waive the requirement under clause (i)(I) if the Secretary determines that such a waiver is in the public interest.

"(B) NOTICE.—Before imposing a civil penalty on a recipient under paragraph (1)(F), the Secretary shall provide to the recipient—

"(i) written notice of any violation and the penalty proposed to be imposed; and

"(ii) a reasonable period of time within which the recipient may address the violation or propose and initiate an alternative means of compliance that the Secretary determines is acceptable.

"(C) FAILURE TO ADDRESS.—If the recipient does not address the violation or propose an alternative means of compliance that the Secretary determines is acceptable within the period of time specified in the written notice, the Secretary may impose a civil penalty under paragraph (1)(F).

"(D) NOTIFICATION.—Not later than 3 days before taking any action under subparagraph (C), the Secretary shall notify the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives of such action.

"(E) DEPOSIT OF CIVIL PENALTIES.—Any amounts collected by the Secretary under this paragraph shall be deposited into the Mass Transit Account of the Highway Trust Fund.

"(4) ENFORCEMENT BY THE ATTORNEY GENERAL.—At the request of the Secretary, the Attorney General may bring a civil action—

"(A) for appropriate injunctive relief to ensure compliance with this section;

"(B) to collect a civil penalty imposed under paragraph (1)(F); and

"(C) to enforce a subpoena, request for admissions, request for production of documents or other tangible things, or request for testimony by deposition issued by the Secretary under this section.

"(h) COST-BENEFIT ANALYSIS.—

"(1) ANALYSIS REQUIRED.—In carrying out this section, the Secretary shall take into consideration the costs and benefits of each action the Secretary proposes to take under this section.

"(2) WAIVER.—The Secretary may waive the requirement under this subsection if the Secretary determines that such a waiver is in the public interest.

"(i) CONSULTATION BY THE SECRETARY OF HOMELAND SECURITY.—The Secretary of Homeland Security shall consult with the Secretary of Transportation before the Secretary of Homeland Security issues a rule or order that the Secretary of Transportation determines affects the safety of public transportation design, construction, or operations.

"(j) PREEMPTION OF STATE LAW.—

"(1) NATIONAL UNIFORMITY OF REGULATION.—Laws, regulations, and orders related to pub-

lic transportation safety shall be nationally uniform to the extent practicable.

"(2) IN GENERAL.—A State may adopt or continue in force a law, regulation, or order related to the safety of public transportation until the Secretary issues a rule or order covering the subject matter of the State requirement.

"(3) MORE STRINGENT LAW.—A State may adopt or continue in force a law, regulation, or order related to the safety of public transportation that is consistent with, in addition to, or more stringent than a regulation or order of the Secretary if the Secretary determines that the law, regulation, or order—

"(A) has a safety benefit;

"(B) is not incompatible with a law, regulation, or order, or the terms and conditions of a financial assistance agreement of the United States Government; and

"(C) does not unreasonably burden interstate commerce.

"(4) ACTIONS UNDER STATE LAW.—

"(A) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to preempt an action under State law seeking damages for

personal injury, death, or property damage alleging that a party has failed to comply with—

"(i) a Federal standard of care established by a regulation or order issued by the Secretary under this section;

"(ii) its own program, rule, or standard that it created pursuant to a rule or order issued by the Secretary; or

"(iii) a State law, regulation, or order that is not incompatible with paragraph (2).

"(B) EFFECTIVE DATE.—This paragraph shall apply to any cause of action under State law arising from an event or activity occurring on or after the date of enactment of the Federal Public Transportation Act of 2012.

"(5) JURISDICTION.—Nothing in this section shall be construed to create a cause of action under Federal law on behalf of an injured party or confer Federal question jurisdiction for a State law cause of action.

"(k) ANNUAL REPORT.—The Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation

and Infrastructure of the House of Representatives an annual report that—

"(1) analyzes public transportation safety trends among the States and documents the most effective safety programs implemented using grants under this section; and

"(2) describes the effect on public transportation safety of activities carried out using grants under this section.".

(b) BUS SAFETY STUDY.—

(1) DEFINITION.—In this subsection, the term "highway route" means a route where 50 percent or more of the route is on roads having a speed limit of more than 45 miles per hour.

(2) STUDY.—Not later than 180 days after the date of enactment of this Act, the Secretary of Transportation shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that—

(A) examines the safety of public transportation buses that travel on highway routes;

(B) examines laws and regulations that apply to commercial over-the-road buses; and

(C) makes recommendations as to whether additional safety measures should be required for public transportation buses that travel on highway routes.

**SEC. 20022. ALCOHOL AND CONTROLLED SUBSTANCES TESTING.**

Section 5331(b)(2) of title 49, United States Code, is amended—

(1) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively; and

(2) by inserting before subparagraph (B), as so redesignated, the following:

''(A) shall establish and implement an enforcement program that includes the imposition of penalties for failure to comply with this section;''.

**SEC. 20023. NONDISCRIMINATION.**

(a) AMENDMENTS.—Section 5332 of title 49, United States Code, is amended—

(1) in subsection (b)—

(A) by striking ''creed'' and inserting ''religion''; and

(B) by inserting ''disability,'' after ''sex,''; and

(2) in subsection (d)(3), by striking ''and'' and inserting ''or''.

(b) EVALUATION AND REPORT.—

(1) EVALUATION.—The Comptroller General of the United States shall evaluate the progress and effectiveness of the Federal Transit Administration in assisting recipients of assistance under chapter 53 of title 49, United States Code, to comply with section 5332(b) of title 49, including—

(A) by reviewing discrimination complaints, reports, and other relevant information collected or prepared by the Federal Transit Administration or recipients of assistance from the Federal Transit Administration pursuant to any applicable civil rights statute, regulation, or other requirement; and

(B) by reviewing the process that the Federal Transit Administration uses to resolve discrimination complaints filed by members of the public.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report concerning the evaluation under paragraph (1) that includes—

(A) a description of the ability of the Federal Transit Administration to address discrimination and foster equal opportunities in federally funded public transportation projects, programs, and activities;

(B) recommendations for improvements if the Comptroller General determines that improvements are necessary; and

(C) information upon which the evaluation under paragraph (1) is based.

**SEC. 20024. LABOR STANDARDS.**

Section 5333(b) of title 49, United States Code, is amended—

(1) in paragraph (1), by striking ''sections 5307–5312, 5316, 5318, 5323(a)(1), 5323(b), 5323(d), 5328, 5337, and 5338(b)'' each place that term appears and inserting ''sections 5307, 5308, 5309, 5311, and 5337''; and

(2) in paragraph (5), by inserting ''of Labor'' after ''Secretary''.

**SEC. 20025. ADMINISTRATIVE PROVISIONS.**

Section 5334 of title 49, United States Code, is amended—

(1) in subsection (a)(1), by striking ''under sections 5307 and 5309–5311 of this title'' and insert-

ing ''that receives Federal financial assistance under this chapter'';

(2) in subsection (b)(1)—

(A) by inserting after ''emergency,'' the following: ''or for purposes of establishing and enforcing a program to improve the safety of public transportation systems in the United States,''; and

(B) by striking ''chapter, nor may the Secretary'' and inserting ''chapter. The Secretary may not'';

(3) in subsection (c)(4), by striking ''section (except subsection (i)) and sections 5318(e), 5323(a)(2), 5325(a), 5325(b), and 5325(f)'' and inserting ''subsection'';

(4) in subsection (h)(3), by striking ''another'' and inserting ''any other'';

(5) in subsection (i)(1), by striking ''title 23 shall'' and inserting ''title 23 may'';

(6) by striking subsection (j); and

(7) by redesignating subsections (k) and (l) as subsections (j) and (k), respectively.

**SEC. 20026. NATIONAL TRANSIT DATABASE.**

Section 5335 of title 49, United States Code, is amended by adding at the end the following:

"(c) DATA REQUIRED TO BE REPORTED.—The recipient of a grant under this chapter shall report to the Secretary, for inclusion in the National Transit Database, any information relating to—

"(1) the causes of a reportable incident, as defined by the Secretary; and

"(2) a transit asset inventory or condition assessment conducted by the recipient.".

**SEC. 20027. APPORTIONMENT OF APPROPRIATIONS FOR FORMULA GRANTS.**

Section 5336 of title 49, United States Code, is amended to read as follows:

**"§ 5336. Apportionment of appropriations for formula grants**

"(a) BASED ON URBANIZED AREA POPULATION.—Of the amount apportioned under subsection (h)(4) to carry out section 5307—

"(1) 9.32 percent shall be apportioned each fiscal year only in urbanized areas with a population of less than 200,000 so that each of those areas is entitled to receive an amount equal to—

"(A) 50 percent of the total amount apportioned multiplied by a ratio equal to the population of the area divided by the total population of all urbanized areas with populations of

less than 200,000 as shown in the most recent decennial census; and

"(B) 50 percent of the total amount apportioned multiplied by a ratio for the area based on population weighted by a factor, established by the Secretary, of the number of inhabitants in each square mile; and

"(2) 90.68 percent shall be apportioned each fiscal year only in urbanized areas with populations of at least 200,000 as provided in subsections (b) and (c) of this section.

"(b) BASED ON FIXED GUIDEWAY VEHICLE REVENUE MILES, DIRECTIONAL ROUTE MILES, AND PASSENGER MILES.—(1) In this subsection, 'fixed guideway vehicle revenue miles' and 'fixed guideway directional route miles' include passenger ferry operations directly or under contract by the designated recipient.

"(2) Of the amount apportioned under subsection (a)(2) of this section, 33.29 percent shall be apportioned as follows:

"(A) 95.61 percent of the total amount apportioned under this subsection shall be apportioned so that each urbanized area with a population of at least 200,000 is entitled to receive an amount equal to—

"(i) 60 percent of the 95.61 percent apportioned under this subparagraph multiplied by a ratio equal to the number of fixed guideway vehicle revenue miles attributable to the area, as established by the Secretary, divided by the total number of all fixed guideway vehicle revenue miles attributable to all areas; and

"(ii) 40 percent of the 95.61 percent apportioned under this subparagraph multiplied by a ratio equal to the number of fixed guideway directional route miles attributable to the area, established by the Secretary, divided by the total number of all fixed guideway directional route miles attributable to all areas.

An urbanized area with a population of at least 750,000 in which commuter rail transportation is provided shall receive at least .75 percent of the total amount apportioned under this subparagraph.

"(B) 4.39 percent of the total amount apportioned under this subsection shall be apportioned so that each urbanized area with a population of at least 200,000 is entitled to receive an amount equal to—

"(i) the number of fixed guideway vehicle passenger miles traveled multiplied by the num-

ber of fixed guideway vehicle passenger miles traveled for each dollar of operating cost in an area; divided by

"(ii) the total number of fixed guideway vehicle passenger miles traveled multiplied by the total number of fixed guideway vehicle passenger miles traveled for each dollar of operating cost in all areas.

An urbanized area with a population of at least 750,000 in which commuter rail transportation is provided shall receive at least .75 percent of the total amount apportioned under this subparagraph.

"(C) Under subparagraph (A) of this paragraph, fixed guideway vehicle revenue or directional route miles, and passengers served on those miles, in an urbanized area with a population of less than 200,000, where the miles and passengers served otherwise would be attributable to an urbanized area with a population of at least 1,000,000 in an adjacent State, are attributable to the governmental authority in the State in which the urbanized area with a population of less than 200,000 is located. The authority is deemed an urbanized area with a population of at least 200,000 if the authority makes a contract for the service.

"(D) A recipient's apportionment under subparagraph (A)(i) of this paragraph may not be reduced if the recipient, after satisfying the Secretary that energy or operating efficiencies would be achieved, reduces vehicle revenue miles but provides the same frequency of revenue service to the same number of riders.

"(c) BASED ON BUS VEHICLE REVENUE MILES AND PASSENGER MILES.—Of the amount apportioned under subsection (a)(2) of this section, 66.71 percent shall be apportioned as follows:

"(1) 90.8 percent of the total amount apportioned under this subsection shall be apportioned as follows:

"(A) 73.39 percent of the 90.8 percent apportioned under this paragraph shall be apportioned so that each urbanized area with a population of at least 1,000,000 is entitled to receive an amount equal to—

"(i) 50 percent of the 73.39 percent apportioned under this subparagraph multiplied by a ratio equal to the total bus vehicle revenue miles operated in or directly serving the urbanized area divided by the

total bus vehicle revenue miles attributable to all areas;

"(ii) 25 percent of the 73.39 percent apportioned under this subparagraph multiplied by a ratio equal to the population of the area divided by the total population of all areas, as shown in the most recent decennial census; and

"(iii) 25 percent of the 73.39 percent apportioned under this subparagraph multiplied by a ratio for the area based on population weighted by a factor, established by the Secretary, of the number of inhabitants in each square mile.

"(B) 26.61 percent of the 90.8 percent apportioned under this paragraph shall be apportioned so that each urbanized area with a population of at least 200,000 but not more than 999,999 is entitled to receive an amount equal to—

"(i) 50 percent of the 26.61 percent apportioned under this subparagraph multiplied by a ratio equal to the total bus vehicle revenue miles operated in or directly serving the urbanized area divided by the

total bus vehicle revenue miles attributable to all areas;

"(ii) 25 percent of the 26.61 percent apportioned under this subparagraph multiplied by a ratio equal to the population of the area divided by the total population of all areas, as shown by the most recent decennial census; and

"(iii) 25 percent of the 26.61 percent apportioned under this subparagraph multiplied by a ratio for the area based on population weighted by a factor, established by the Secretary, of the number of inhabitants in each square mile.

"(2) 9.2 percent of the total amount apportioned under this subsection shall be apportioned so that each urbanized area with a population of at least 200,000 is entitled to receive an amount equal to—

"(A) the number of bus passenger miles traveled multiplied by the number of bus passenger miles traveled for each dollar of operating cost in an area; divided by

"(B) the total number of bus passenger miles traveled multiplied by the total number of

bus passenger miles traveled for each dollar of operating cost in all areas.

"(d) DATE OF APPORTIONMENT.—The Secretary shall—

"(1) apportion amounts appropriated under section 5338(a)(2)(C) of this title to carry out section 5307 of this title not later than the 10th day after the date the amounts are appropriated or October 1 of the fiscal year for which the amounts are appropriated, whichever is later; and

"(2) publish apportionments of the amounts, including amounts attributable to each urbanized area with a population of more than 50,000 and amounts attributable to each State of a multistate urbanized area, on the apportionment date.

"(e) AMOUNTS NOT APPORTIONED TO DESIGNATED RECIPIENTS.—The Governor of a State may expend in an urbanized area with a population of less than 200,000 an amount apportioned under this section that is not apportioned to a designated recipient, as defined in section 5302(4).

"(f) TRANSFERS OF APPORTIONMENTS.—(1) The Governor of a State may transfer any part of the State's apportionment under subsection (a)(1) of this section to supplement amounts apportioned to the State under sec-

tion 5311(c)(3). The Governor may make a transfer only after consulting with responsible local officials and publicly owned operators of public transportation in each area for which the amount originally was apportioned under this section.

"(2) The Governor of a State may transfer any part of the State's apportionment under section 5311(c)(3) to supplement amounts apportioned to the State under subsection (a)(1) of this section.

"(3) The Governor of a State may use throughout the State amounts of a State's apportionment remaining available for obligation at the beginning of the 90-day period before the period of the availability of the amounts expires.

"(4) A designated recipient for an urbanized area with a population of at least 200,000 may transfer a part of its apportionment under this section to the Governor of a State. The Governor shall distribute the transferred amounts to urbanized areas under this section.

"(5) Capital and operating assistance limitations applicable to the original apportionment apply to amounts transferred under this subsection.

"(g) PERIOD OF AVAILABILITY TO RECIPIENTS.—An amount apportioned under this section may be obligated by the recipient for 5 years after the fiscal year in which

the amount is apportioned. Not later than 30 days after the end of the 5-year period, an amount that is not obligated at the end of that period shall be added to the amount that may be apportioned under this section in the next fiscal year.

"(h) APPORTIONMENTS.—Of the amounts made available for each fiscal year under section 5338(a)(2)(C)—

"(1) $35,000,000 shall be set aside to carry out section 5307(i);

"(2) 3.07 percent shall be apportioned to urbanized areas in accordance with subsection (j);

"(3) of amounts not apportioned under paragraphs (1) and (2), 1 percent shall be apportioned to urbanized areas with populations of less than 200,000 in accordance with subsection (i); and

"(4) any amount not apportioned under paragraphs (1), (2), and (3) shall be apportioned to urbanized areas in accordance with subsections (a) through (c).

"(i) SMALL TRANSIT INTENSIVE CITIES FORMULA.—

"(1) DEFINITIONS.—In this subsection, the following definitions apply:

"(A) ELIGIBLE AREA.—The term 'eligible area' means an urbanized area with a population of less than 200,000 that meets or exceeds in one or more performance categories the industry average for all urbanized areas with a population of at least 200,000 but not more than 999,999, as determined by the Secretary in accordance with subsection (c)(2).

"(B) PERFORMANCE CATEGORY.—The term 'performance category' means each of the following:

"(i) Passenger miles traveled per vehicle revenue mile.

"(ii) Passenger miles traveled per vehicle revenue hour.

"(iii) Vehicle revenue miles per capita.

"(iv) Vehicle revenue hours per capita.

"(v) Passenger miles traveled per capita.

"(vi) Passengers per capita.

"(2) APPORTIONMENT.—

"(A) APPORTIONMENT FORMULA.—The amount to be apportioned under subsection (h)(3) shall be apportioned among eligible areas in the ratio that—

"(i) the number of performance categories for which each eligible area meets or exceeds the industry average in urbanized areas with a population of at least 200,000 but not more than 999,999; bears to

"(ii) the aggregate number of performance categories for which all eligible areas meet or exceed the industry average in urbanized areas with a population of at least 200,000 but not more than 999,999.

"(B) DATA USED IN FORMULA.—The Secretary shall calculate apportionments under this subsection for a fiscal year using data from the national transit database used to calculate apportionments for that fiscal year under this section.

"(j) APPORTIONMENT FORMULA.—The amounts apportioned under subsection (h)(2) shall be apportioned among urbanized areas as follows:

"(1) 75 percent of the funds shall be apportioned among designated recipients for urbanized areas with a population of 200,000 or more in the ratio that—

"(A) the number of eligible low-income individuals in each such urbanized area; bears to

"(B) the number of eligible low-income individuals in all such urbanized areas.

"(2) 25 percent of the funds shall be apportioned among designated recipients for urbanized areas with a population of less than 200,000 in the ratio that—

"(A) the number of eligible low-income individuals in each such urbanized area; bears to

"(B) the number of eligible low-income individuals in all such urbanized areas.".

**SEC. 20028. STATE OF GOOD REPAIR GRANTS.**

Section 5337 of title 49, United States Code, is amended to read as follows:

**"§ 5337. State of good repair grants**

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

"(1) FIXED GUIDEWAY.—The term 'fixed guideway' means a public transportation facility—

"(A) using and occupying a separate right-of-way for the exclusive use of public transportation;

"(B) using rail;

"(C) using a fixed catenary system;

"(D) for a passenger ferry system; or

"(E) for a bus rapid transit system.

"(2) STATE.—The term 'State' means the 50 States, the District of Columbia, and Puerto Rico.

"(3) STATE OF GOOD REPAIR.—The term 'state of good repair' has the meaning given that term by the Secretary, by rule, under section 5326(b).

"(4) TRANSIT ASSET MANAGEMENT PLAN.—The term 'transit asset management plan' means a plan developed by a recipient of funding under this chapter that—

"(A) includes, at a minimum, capital asset inventories and condition assessments, decision support tools, and investment prioritization; and

"(B) the recipient certifies that the recipient complies with the rule issued under section 5326(d).

"(b) GENERAL AUTHORITY.—

"(1) ELIGIBLE PROJECTS.—The Secretary may make grants under this section to assist State and local governmental authorities in financing capital projects to maintain public transportation systems in a state of good repair, including projects to replace and rehabilitate—

"(A) rolling stock;

"(B) track;

"(C) line equipment and structures;

"(D) signals and communications;

"(E) power equipment and substations;

"(F) passenger stations and terminals;

"(G) security equipment and systems;

"(H) maintenance facilities and equipment;

"(I) operational support equipment, including computer hardware and software;

"(J) development and implementation of a transit asset management plan; and

"(K) other replacement and rehabilitation projects the Secretary determines appropriate.

"(2) INCLUSION IN PLAN.—A recipient shall include a project carried out under paragraph (1) in the transit asset management plan of the recipient upon completion of the plan.

"(c) HIGH INTENSITY FIXED GUIDEWAY STATE OF GOOD REPAIR FORMULA.—

"(1) IN GENERAL.—Of the amount authorized or made available under section 5338(a)(2)(M), $1,874,763,500 shall be apportioned to recipients in accordance with this subsection.

"(2) AREA SHARE.—

"(A) IN GENERAL.—50 percent of the amount described in paragraph (1) shall be apportioned for fixed guideway systems in accordance with this paragraph.

"(B) SHARE.—A recipient shall receive an amount equal to the amount described in subparagraph (A), multiplied by the amount the recipient would have received under this section, as in effect for fiscal year 2011, if the amount had been calculated in accordance with section 5336(b)(1) and using the definition of the term 'fixed guideway' under subsection (a) of this section, as such sections are in effect on the day after the date of enactment of the Federal Public Transportation Act of 2012, and divided by the total amount apportioned for all areas under this section for fiscal year 2011.

"(C) RECIPIENT.—For purposes of this paragraph, the term 'recipient' means an entity that received funding under this section, as in effect for fiscal year 2011.

"(3) VEHICLE REVENUE MILES AND DIRECTIONAL ROUTE MILES.—

"(A) IN GENERAL.—50 percent of the amount described in paragraph (1) shall be ap-

portioned to recipients in accordance with this paragraph.

"(B) VEHICLE REVENUE MILES.—A recipient in an urbanized area shall receive an amount equal to 60 percent of the amount described in subparagraph (A), multiplied by the number of fixed guideway vehicle revenue miles attributable to the urbanized area, as established by the Secretary, divided by the total number of all fixed guideway vehicle revenue miles attributable to all urbanized areas.

"(C) DIRECTIONAL ROUTE MILES.—A recipient in an urbanized area shall receive an amount equal to 40 percent of the amount described in subparagraph (A), multiplied by the number of fixed guideway directional route miles attributable to the urbanized area, as established by the Secretary, divided by the total number of all fixed guideway directional route miles attributable to all urbanized areas.

"(4) LIMITATION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the share of the total amount apportioned under this section that is apportioned to an area under this subsection

shall not decrease by more than 0.25 percentage points compared to the share apportioned to the area under this subsection in the previous fiscal year.

"(B) SPECIAL RULE FOR FISCAL YEAR 2012.—In fiscal year 2012, the share of the total amount apportioned under this section that is apportioned to an area under this subsection shall not decrease by more than 0.25 percentage points compared to the share that would have been apportioned to the area under this section, as in effect for fiscal year 2011, if the share had been calculated using the definition of the term 'fixed guideway' under subsection (a) of this section, as in effect on the day after the date of enactment of the Federal Public Transportation Act of 2012.

"(5) USE OF FUNDS.—Amounts made available under this subsection shall be available for the exclusive use of fixed guideway projects.

"(6) RECEIVING APPORTIONMENT.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), for an area with a fixed guideway system, the amounts provided under this section shall be apportioned to the des-

ignated recipient for the urbanized area in which the system operates.

"(B) EXCEPTION.—An area described in the amendment made by section 3028(a) of the Transportation Equity Act for the 21st Century (Public Law 105–178; 112 Stat. 366) shall receive an individual apportionment under this subsection.

"(7) APPORTIONMENT REQUIREMENTS.—For purposes of determining the number of fixed guideway vehicle revenue miles or fixed guideway directional route miles attributable to an urbanized area for a fiscal year under this subsection, only segments of fixed guideway systems placed in revenue service not later than 7 years before the first day of the fiscal year shall be deemed to be attributable to an urbanized area.

"(d) FIXED GUIDEWAY STATE OF GOOD REPAIR GRANT PROGRAM.—

"(1) IN GENERAL.—The Secretary may make grants under this section to assist State and local governmental authorities in financing fixed guideway capital projects to maintain public transportation systems in a state of good repair.

"(2) COMPETITIVE PROCESS.—The Secretary shall solicit grant applications and make grants for eligible projects on a competitive basis.

"(3) PRIORITY CONSIDERATION.—In making grants under this subsection, the Secretary shall give priority to grant applications received from recipients receiving an amount under this section that is not less than 2 percent less than the amount the recipient would have received under this section, as in effect for fiscal year 2011, if the amount had been calculated using the definition of the term 'fixed guideway' under subsection (a) of this section, as in effect on the day after the date of enactment of the Federal Public Transportation Act of 2012.

"(e) HIGH INTENSITY MOTORBUS STATE OF GOOD REPAIR.—

"(1) DEFINITION.—For purposes of this subsection, the term 'high intensity motorbus' means public transportation that is provided on a facility with access for other high-occupancy vehicles.

"(2) APPORTIONMENT.—Of the amount authorized or made available under section 5338(a)(2)(M), $112,500,000 shall be apportioned to urbanized areas for high intensity motorbus state of good repair in accordance with this subsection.

"(3) VEHICLE REVENUE MILES AND DIRECTIONAL ROUTE MILES.—

"(A) IN GENERAL.—$60,000,000 of the amount described in paragraph (2) shall be apportioned to each area in accordance with this paragraph.

"(B) VEHICLE REVENUE MILES.—Each area shall receive an amount equal to 60 percent of the amount described in subparagraph (A), multiplied by the number of high intensity motorbus vehicle revenue miles attributable to the area, as established by the Secretary, divided by the total number of all high intensity motorbus vehicle revenue miles attributable to all areas.

"(C) DIRECTIONAL ROUTE MILES.—Each area shall receive an amount equal to 40 percent of the amount described in subparagraph (A), multiplied by the number of high intensity motorbus directional route miles attributable to the area, as established by the Secretary, divided by the total number of all high intensity motorbus directional route miles attributable to all areas.

"(4) SPECIAL RULE FOR HIGH INTENSITY MOTORBUS.—

"(A) IN GENERAL.—$52,500,000 of the amount described in paragraph (2) shall be apportioned—

"(i) in accordance with this paragraph; and

"(ii) among urbanized areas within a State in the same proportion as funds are apportioned within a State under section 5336, except subsection (b), and shall be added to such amounts.

"(B) TERRITORIES.—Of the amount described in subparagraph (A), $500,000 shall be distributed among the territories, as determined by the Secretary.

"(C) STATES.—Of the amount described in subparagraph (A), each State shall receive $1,000,000.

"(5) USE OF FUNDS.—A recipient may transfer any part of the apportionment under this subsection for use under subsection (c).

"(6) APPORTIONMENT REQUIREMENTS.—For purposes of determining the number of high intensity motorbus vehicle revenue miles or high intensity

motorbus directional route miles attributable to an urbanized area for a fiscal year under this subsection, only segments of high intensity motorbus systems placed in revenue service not later than 7 years before the first day of the fiscal year shall be deemed to be attributable to an urbanized area.

"(f) BUS AND BUS FACILITIES STATE OF GOOD REPAIR GRANT PROGRAM.—

"(1) IN GENERAL.—The Secretary may make grants under this subsection to assist State and local governmental authorities in financing bus and bus facility capital projects to maintain public transportation systems in a state of good repair.

"(2) COMPETITIVE PROCESS.—The Secretary shall solicit grant applications and make grants for capital projects on a competitive basis.

"(3) DISTRIBUTION.—The Secretary shall ensure that not less than 40 percent of the funds allocated on a competitive basis are distributed to rural areas.

"(4) PRIORITY CONSIDERATION.—In making grants under this subsection, the Secretary shall give priority to recipients providing bus-only or high-intensity motorbus service (as defined in subsection (e)(1)) in a State whose recipients' total apportion-

ment from section 5338(a) in fiscal year 2012 minus the recipients' total apportionment from section 5338(a) in fiscal year 2011 does not exceed 90 percent of the average annual amount the recipients in the State received under section 5309(m)(2)(c), as in effect on October 1, 2011, in fiscal years 2006 through 2011.''.

**SEC. 20029. AUTHORIZATIONS.**

Section 5338 of title 49, United States Code, is amended to read as follows:

**''§ 5338. Authorizations**

''(a) FORMULA GRANTS.—

''(1) IN GENERAL.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5305, 5307, 5308, 5310, 5311, 5312, 5313, 5314, 5315, 5322, 5335, and 5340, subsections (c) and (e) of section 5337, and section 20005(b) of the Federal Public Transportation Act of 2012, $8,360,565,000 for each of fiscal years 2012 and 2013.

''(2) ALLOCATION OF FUNDS.—Of the amounts made available under paragraph (1)—

''(A) $124,850,000 for each of fiscal years 2012 and 2013 shall be available to carry out section 5305;

"(B) $20,000,000 for each of fiscal years 2012 and 2013 shall be available to carry out section 20005(b) of the Federal Public Transportation Act of 2012;

"(C) $4,756,161,500 for each of fiscal years 2012 and 2013 shall be allocated in accordance with section 5336 to provide financial assistance for urbanized areas under section 5307;

"(D) $65,150,000 for each of fiscal years 2012 and 2013 shall be available to carry out section 5308, of which not less than $8,500,000 shall be used to carry out activities under section 5312;

"(E) $248,600,000 for each of fiscal years 2012 and 2013 shall be available to provide financial assistance for services for the enhanced mobility of seniors and individuals with disabilities under section 5310;

"(F) $591,190,000 for each of fiscal years 2012 and 2013 shall be available to provide financial assistance for other than urbanized areas under section 5311, of which not less than $30,000,000 shall be available to carry out

section 5311(c)(1) and $20,000,000 shall be available to carry out section 5311(c)(2);

"(G) $34,000,000 for each of fiscal years 2012 and 2013 shall be available to carry out research, development, demonstration, and deployment projects under section 5312;

"(H) $6,500,000 for each of fiscal years 2012 and 2013 shall be available to carry out a transit cooperative research program under section 5313;

"(I) $4,500,000 for each of fiscal years 2012 and 2013 shall be available for technical assistance and standards development under section 5314;

"(J) $5,000,000 for each of fiscal years 2012 and 2013 shall be available for the National Transit Institute under section 5315;

"(K) $2,000,000 for each of fiscal years 2012 and 2013 shall be available for workforce development and human resource grants under section 5322;

"(L) $3,850,000 for each of fiscal years 2012 and 2013 shall be available to carry out section 5335;

"(M) $1,987,263,500 for each of fiscal years 2012 and 2013 shall be available to carry out subsections (c) and (e) of section 5337; and

"(N) $511,500,000 for each of fiscal years 2012 and 2013 shall be allocated in accordance with section 5340 to provide financial assistance for urbanized areas under section 5307 and other than urbanized areas under section 5311.

"(b) EMERGENCY RELIEF PROGRAM.—There are authorized to be appropriated such sums as are necessary to carry out section 5306.

"(c) CAPITAL INVESTMENT GRANTS.—There are authorized to be appropriated to carry out section 5309, $1,955,000,000 for each of fiscal years 2012 and 2013, of which not less than $75,000,000 shall be available to carry out section 5337(f).

"(d) PAUL S. SARBANES TRANSIT IN THE PARKS.—There are authorized to be appropriated to carry out section 5320, $26,900,000 for each of fiscal years 2012 and 2013.

"(e) FIXED GUIDEWAY STATE OF GOOD REPAIR GRANT PROGRAM.—There are authorized to be appropriated to carry out section 5337(d), $7,463,000 for each of fiscal years 2012 and 2013.

"(f) ADMINISTRATION.—

"(1) IN GENERAL.—There are authorized to be appropriated to carry out section 5334, $108,350,000 for each of fiscal years 2012 and 2013.

"(2) SECTION 5329.—Of the amounts authorized to be appropriated under paragraph (1), not less than $10,000,000 shall be available to carry out section 5329.

"(3) SECTION 5326.—Of the amounts made available under paragraph (2), not less than $1,000,000 shall be available to carry out section 5326.

"(g) OVERSIGHT.—

"(1) IN GENERAL.—Of the amounts made available to carry out this chapter for a fiscal year, the Secretary may use not more than the following amounts for the activities described in paragraph (2):

"(A) 0.5 percent of amounts made available to carry out section 5305.

"(B) 0.75 percent of amounts made available to carry out section 5307.

"(C) 1 percent of amounts made available to carry out section 5309.

"(D) 1 percent of amounts made available to carry out section 601 of the Passenger Rail Investment and Improvement Act of 2008 (Public Law 110–432; 126 Stat. 4968).

"(E) 0.5 percent of amounts made available to carry out section 5310.

"(F) 0.5 percent of amounts made available to carry out section 5311.

"(G) 0.5 percent of amounts made available to carry out section 5320.

"(H) 0.75 percent of amounts made available to carry out section 5337(c).

"(2) ACTIVITIES.—The activities described in this paragraph are as follows:

"(A) Activities to oversee the construction of a major capital project.

"(B) Activities to review and audit the safety and security, procurement, management, and financial compliance of a recipient or subrecipient of funds under this chapter.

"(C) Activities to provide technical assistance generally, and to provide technical assistance to correct deficiencies identified in compliance reviews and audits carried out under this section.

"(3) GOVERNMENT SHARE OF COSTS.—The Government shall pay the entire cost of carrying out a contract under this subsection.

"(4) AVAILABILITY OF CERTAIN FUNDS.—Funds made available under paragraph (1)(C) shall be made available to the Secretary before allocating the funds appropriated to carry out any project under a full funding grant agreement.

"(h) GRANTS AS CONTRACTUAL OBLIGATIONS.—

"(1) GRANTS FINANCED FROM HIGHWAY TRUST FUND.—A grant or contract that is approved by the Secretary and financed with amounts made available from the Mass Transit Account of the Highway Trust Fund pursuant to this section is a contractual obligation of the Government to pay the Government share of the cost of the project.

"(2) GRANTS FINANCED FROM GENERAL FUND.—A grant or contract that is approved by the Secretary and financed with amounts appropriated in advance from the General Fund of the Treasury pursuant to this section is a contractual obligation of the Government to pay the Government share of the cost of the project only to the extent that amounts are appropriated for such purpose by an Act of Congress.

"(i) AVAILABILITY OF AMOUNTS.—Amounts made available by or appropriated under this section shall remain available until expended.".

**SEC. 20030. APPORTIONMENTS BASED ON GROWING STATES AND HIGH DENSITY STATES FORMULA FACTORS.**

Section 5340 of title 49, United States Code, is amended to read as follows:

**"§ 5340. Apportionments based on growing States and high density States formula factors**

"(a) DEFINITION.—In this section, the term 'State' shall mean each of the 50 States of the United States.

"(b) ALLOCATION.—Of the amounts made available for each fiscal year under section 5338(a)(2)(N), the Secretary shall apportion—

"(1) 50 percent to States and urbanized areas in accordance with subsection (c); and

"(2) 50 percent to States and urbanized areas in accordance with subsection (d).

"(c) GROWING STATE APPORTIONMENTS.—

"(1) APPORTIONMENT AMONG STATES.—The amounts apportioned under subsection (b)(1) shall provide each State with an amount equal to the total amount apportioned multiplied by a ratio equal to the population of that State forecast for the year

that is 15 years after the most recent decennial census, divided by the total population of all States forecast for the year that is 15 years after the most recent decennial census. Such forecast shall be based on the population trend for each State between the most recent decennial census and the most recent estimate of population made by the Secretary of Commerce.

"(2) APPORTIONMENTS BETWEEN URBANIZED AREAS AND OTHER THAN URBANIZED AREAS IN EACH STATE.—

"(A) IN GENERAL.—The Secretary shall apportion amounts to each State under paragraph (1) so that urbanized areas in that State receive an amount equal to the amount apportioned to that State multiplied by a ratio equal to the sum of the forecast population of all urbanized areas in that State divided by the total forecast population of that State. In making the apportionment under this subparagraph, the Secretary shall utilize any available forecasts made by the State. If no forecasts are available, the Secretary shall utilize data on urbanized areas and total population from the most recent decennial census.

"(B) REMAINING AMOUNTS.—Amounts remaining for each State after apportionment under subparagraph (A) shall be apportioned to that State and added to the amount made available for grants under section 5311.

"(3) APPORTIONMENTS AMONG URBANIZED AREAS IN EACH STATE.—The Secretary shall apportion amounts made available to urbanized areas in each State under paragraph (2)(A) so that each urbanized area receives an amount equal to the amount apportioned under paragraph (2)(A) multiplied by a ratio equal to the population of each urbanized area divided by the sum of populations of all urbanized areas in the State. Amounts apportioned to each urbanized area shall be added to amounts apportioned to that urbanized area under section 5336, and made available for grants under section 5307.

"(d) HIGH DENSITY STATE APPORTIONMENTS.—Amounts to be apportioned under subsection (b)(2) shall be apportioned as follows:

"(1) ELIGIBLE STATES.—The Secretary shall designate as eligible for an apportionment under this subsection all States with a population density in excess of 370 persons per square mile.

"(2) STATE URBANIZED LAND FACTOR.—For each State qualifying for an apportionment under paragraph (1), the Secretary shall calculate an amount equal to—

"(A) the total land area of the State (in square miles); multiplied by

"(B) 370; multiplied by

"(C)(i) the population of the State in urbanized areas; divided by

"(ii) the total population of the State.

"(3) STATE APPORTIONMENT FACTOR.—For each State qualifying for an apportionment under paragraph (1), the Secretary shall calculate an amount equal to the difference between the total population of the State less the amount calculated in paragraph (2).

"(4) STATE APPORTIONMENT.—Each State qualifying for an apportionment under paragraph (1) shall receive an amount equal to the amount to be apportioned under this subsection multiplied by the amount calculated for the State under paragraph (3) divided by the sum of the amounts calculated under paragraph (3) for all States qualifying for an apportionment under paragraph (1).

"(5) APPORTIONMENTS AMONG URBANIZED AREAS IN EACH STATE.—The Secretary shall apportion amounts made available to each State under paragraph (4) so that each urbanized area receives an amount equal to the amount apportioned under paragraph (4) multiplied by a ratio equal to the population of each urbanized area divided by the sum of populations of all urbanized areas in the State. Amounts apportioned to each urbanized area shall be added to amounts apportioned to that urbanized area under section 5336, and made available for grants under section 5307.".

**SEC. 20031. TECHNICAL AND CONFORMING AMENDMENTS.**

(a) SECTION 5305.—Section 5305 of title 49, United States Code, is amended—

(1) in subsection (c), by striking "sections 5303, 5304, and 5306" and inserting "sections 5303 and 5304";

(2) in subsection (d), by striking "sections 5303 and 5306" each place that term appears and inserting "section 5303";

(3) in subsection (e)(1)(A), by striking "sections 5304, 5306, 5315, and 5322" and inserting "section 5304";

(4) in subsection (f)—

(A) in the heading, by striking ''GOVERNMENT'S'' and inserting ''GOVERNMENT''; and

(B) by striking ''Government's'' and inserting ''Government''; and

(5) in subsection (g), by striking ''section 5338(c) for fiscal years 2005 through 2011 and for the period beginning on October 1, 2011, and ending on March 31, 2012'' and inserting ''section 5338(a)(2)(A) for a fiscal year''.

(b) SECTION 5313.—Section 5313(a) of title 49, United States Code, is amended—

(1) in the first sentence, by striking ''subsections (a)(5)(C)(iii) and (d)(1) of section 5338'' and inserting section ''5338(a)(2)(H)''; and

(2) in the second sentence, by striking ''of Transportation''.

(c) SECTION 5319.—Section 5319 of title 49, United States Code, is amended, in the second sentence—

(1) by striking ''sections 5307(e), 5309(h), and 5311(g) of this title'' and inserting ''sections 5307(e), 5309(k), and 5311(h)''; and

(2) by striking ''of the United States'' and inserting ''made by the''.

(d) SECTION 5325.—Section 5325(b)(2)(A) of title 49, United States Code, is amended by striking ''title 48,

Code of Federal Regulations (commonly known as the Federal Acquisition Regulation)'' and inserting ''the Federal Acquisition Regulation, or any successor thereto''.

(e) SECTION 5330.—Effective 3 years after the effective date of the final rules issued by the Secretary of Transportation under section 5329(e) of title 49, United States Code, as amended by this division, section 5330 of title 49, United States Code, is repealed.

(f) SECTION 5331.—Section 5331 of title 49, United States Code, is amended by striking ''Secretary of Transportation'' each place that term appears and inserting ''Secretary''.

(g) SECTION 5332.—Section 5332(c)(1) of title 49, United States Code, is amended by striking ''of Transportation''.

(h) SECTION 5333.—Section 5333(a) of title 49, United States Code, is amended by striking ''sections 3141–3144'' and inserting ''sections 3141 through 3144''.

(i) SECTION 5334.—Section 5334 of title 49, United States Code, is amended—

(1) in subsection (c)—

(A) by striking ''Secretary of Transportation'' each place that term appears and inserting ''Secretary''; and

(B) in paragraph (1), by striking ''Committees on Transportation and Infrastructure and Appropriations of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs and Appropriations of the Senate'' and inserting ''Committee on Banking, Housing, and Urban Affairs and the Committee on Appropriations of the Senate and the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives'';

(2) in subsection (d), by striking ''of Transportation'';

(3) in subsection (e), by striking ''of Transportation'';

(4) in subsection (f), by striking ''of Transportation'';

(5) in subsection (g), in the matter preceding paragraph (1)—

(A) by striking ''of Transportation''; and

(B) by striking ''subsection (a)(3) or (4) of this section'' and inserting ''paragraph (3) or (4) of subsection (a)'';

(6) in subsection (h)—

(A) in paragraph (1), in the matter preceding subparagraph (A), by striking ''of Transportation''; and

(B) in paragraph (2), by striking ''of this section'';

(7) in subsection (i)(1), by striking ''of Transportation''; and

(8) in subsection (j), as so redesignated by section 20025 of this division, by striking ''Committees on Banking, Housing, and Urban Affairs and Appropriations of the Senate and Committees on Transportation and Infrastructure and Appropriations of the House of Representatives'' and inserting ''Committee on Banking, Housing, and Urban Affairs and the Committee on Appropriations of the Senate and the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives''.

(j) SECTION 5335.—Section 5335(a) of title 49, United States Code, is amended by striking ''of Transportation''.

(k) TABLE OF SECTIONS.—The table of sections for chapter 53 of title 49, United States Code, is amended to read as follows:

''Sec.
''5301. Policies, purposes, and goals.
''5302. Definitions.

"5303. Metropolitan transportation planning.
"5304. Statewide and nonmetropolitan transportation planning.
"5305. Planning programs.
"5306. Public transportation emergency relief program.
"5307. Urbanized area formula grants.
"5308. Clean fuel grant program.
"5309. Fixed guideway capital investment grants.
"5310. Formula grants for the enhanced mobility of seniors and individuals with disabilities.
"5311. Formula grants for other than urbanized areas.
"5312. Research, development, demonstration, and deployment projects.
"5313. Transit cooperative research program.
"5314. Technical assistance and standards development.
"5315. National Transit Institute.
"[5316. Repealed.]
"[5317. Repealed.]
"5318. Bus testing facilities.
"5319. Bicycle facilities.
"5320. Alternative transportation in parks and public lands.
"[5321. Repealed.]
"5322. Public transportation workforce development and human resource 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.

# DIVISION C—TRANSPORTATION SAFETY AND SURFACE TRANSPORTATION POLICY

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

**SEC. 31001. SHORT TITLE.**

This title may be cited as the ''Motor Vehicle and Highway Safety Improvement Act of 2012'' or ''Mariah's Act''.

**SEC. 31002. DEFINITION.**

In this title, the term ''Secretary'' means the Secretary of Transportation.

## Subtitle A—Highway Safety

**SEC. 31101. AUTHORIZATION OF APPROPRIATIONS.**

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

(1) HIGHWAY SAFETY PROGRAMS.—For carrying out section 402 of title 23, United States Code—

(A) $243,000,000 for fiscal year 2012; and

(B) $243,000,000 for fiscal year 2013.

(2) HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.—For carrying out section 403 of title 23, United States Code—

(A) $130,000,000 for fiscal year 2012; and

(B) $139,000,000 for fiscal year 2013.

(3) COMBINED OCCUPANT PROTECTION GRANTS.—For carrying out section 405 of title 23, United States Code—

(A) $44,000,000 for fiscal year 2012; and

(B) $44,000,000 for fiscal year 2013.

(4) STATE TRAFFIC SAFETY INFORMATION SYSTEM IMPROVEMENTS.—For carrying out section 408 of title 23, United States Code—

(A) $44,000,000 for fiscal year 2012; and

(B) $44,000,000 for fiscal year 2013.

(5) IMPAIRED DRIVING COUNTERMEASURES.—For carrying out section 410 of title 23, United States Code—

(A) $139,000,000 for fiscal year 2012; and

(B) $139,000,000 for fiscal year 2013.

(6) DISTRACTED DRIVING GRANTS.—For carrying out section 411 of title 23, United States Code—

(A) $39,000,000 for fiscal year 2012; and

(B) $39,000,000 for fiscal year 2013.

(7) NATIONAL DRIVER REGISTER.—For the National Highway Traffic Safety Administration to carry out chapter 303 of title 49, United States Code—

(A) $5,000,000 for fiscal year 2012; and

(B) $5,000,000 for fiscal year 2013.

(8) HIGH VISIBILITY ENFORCEMENT PROGRAM.—For carrying out section 2009 of SAFETEA–LU (23 U.S.C. 402 note)—

(A) $37,000,000 for fiscal year 2012; and

(B) $37,000,000 for fiscal year 2013.

(9) MOTORCYCLIST SAFETY.—For carrying out section 2010 of SAFETEA–LU (23 U.S.C. 402 note)—

(A) $6,000,000 for fiscal year 2012; and

(B) $6,000,000 for fiscal year 2013.

(10) ADMINISTRATIVE EXPENSES.—For administrative and related operating expenses of the National Highway Traffic Safety Administration in carrying out chapter 4 of title 23, United States Code, and this subtitle—

(A) $25,581,280 for fiscal year 2012; and

(B) $25,862,674 for fiscal year 2013.

(11) DRIVER ALCOHOL DETECTION SYSTEM FOR SAFETY RESEARCH.—For carrying out section 413 of title 23, United States Code—

(A) $12,000,000 for fiscal year 2012; and

(B) $12,000,000 for fiscal year 2013.

(12) STATE GRADUATED DRIVER LICENSING LAWS.—For carrying out section 414 of title 23, United States Code—

(A) $22,000,000 for fiscal year 2012; and

(B) $22,000,000 for fiscal year 2013.

(b) PROHIBITION ON OTHER USES.—Except as otherwise provided in chapter 4 of title 23, United States Code, in this subtitle, and in the amendments made by this subtitle, the amounts made available from the Highway Trust Fund (other than the Mass Transit Account) for a program under such chapter—

(1) shall only be used to carry out such program; and

(2) may not be used by States or local governments for construction purposes.

(c) APPLICABILITY OF TITLE 23.—Except as otherwise provided in chapter 4 of title 23, United States Code, and in this subtitle, amounts made available under subsection (a) for fiscal years 2012 and 2013 shall be available for obligation in the same manner as if such funds

were apportioned under chapter 1 of title 23, United States Code.

(d) REGULATORY AUTHORITY.—Grants awarded under this subtitle shall be in accordance with regulations issued by the Secretary.

(e) STATE MATCHING REQUIREMENTS.—If a grant awarded under this subtitle requires a State to share in the cost, the aggregate of all expenditures for highway safety activities made during any fiscal year by the State and its political subdivisions (exclusive of Federal funds) for carrying out the grant (other than planning and administration) shall be available for the purpose of crediting the State during such fiscal year for the non-Federal share of the cost of any project under this subtitle (other than planning or administration) without regard to whether such expenditures were actually made in connection with such project.

(f) MAINTENANCE OF EFFORT.—

(1) REQUIREMENT.—No grant may be made to a State under section 405, 408, or 410 of title 23, United States Code, in any fiscal year unless the State enters into such agreements with the Secretary as the Secretary may require to ensure that the State will maintain its aggregate expenditures from all State and local sources for programs de-

scribed in such sections at or above the average level of such expenditures in its 2 fiscal years preceding the date of enactment of this Act.

(2) WAIVER.—Upon the request of a State, the Secretary may waive or modify the requirements under paragraph (1) for not more than 1 fiscal year if the Secretary determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances.

(g) TRANSFERS.—In each fiscal year, the Secretary may transfer any amounts remaining available under paragraphs (3), (4), (5), (6), (9), (11), and (12) of subsection (a) to the amounts made available under paragraph (1) or any other of such paragraphs in order to ensure, to the maximum extent possible, that all funds are obligated.

(h) GRANT APPLICATION AND DEADLINE.—To receive a grant under this subtitle, a State shall submit an application, and the Secretary shall establish a single deadline for such applications to enable the award of grants early in the next fiscal year.

(i) ALLOCATION TO SUPPORT STATE DISTRACTED DRIVING LAWS.—Of the amounts available under subsection (a)(6) for distracted driving grants, the Secretary may expend, in each fiscal year, up to $5,000,000 for the

development and placement of broadcast media to support the enforcement of State distracted driving laws.

**SEC. 31102. HIGHWAY SAFETY PROGRAMS.**

(a) PROGRAMS INCLUDED.—Section 402(a) of title 23, United States Code, is amended to read as follows:

"(a) PROGRAM REQUIRED.—

"(1) IN GENERAL.—Each State shall have a highway safety program, approved by the Secretary, that is designed to reduce traffic accidents and the resulting deaths, injuries, and property damage.

"(2) UNIFORM GUIDELINES.—Programs required under paragraph (1) shall comply with uniform guidelines, promulgated by the Secretary and expressed in terms of performance criteria, that—

"(A) include programs—

"(i) to reduce injuries and deaths resulting from motor vehicles being driven in excess of posted speed limits;

"(ii) to encourage the proper use of occupant protection devices (including the use of safety belts and child restraint systems) by occupants of motor vehicles;

"(iii) to reduce injuries and deaths resulting from persons driving motor vehicles

while impaired by alcohol or a controlled substance;

"(iv) to prevent accidents and reduce injuries and deaths resulting from accidents involving motor vehicles and motorcycles;

"(v) to reduce injuries and deaths resulting from accidents involving school buses;

"(vi) to reduce accidents resulting from unsafe driving behavior (including aggressive or fatigued driving and distracted driving arising from the use of electronic devices in vehicles); and

"(vii) to improve law enforcement services in motor vehicle accident prevention, traffic supervision, and post-accident procedures;

"(B) improve driver performance, including—

"(i) driver education;

"(ii) driver testing to determine proficiency to operate motor vehicles; and

"(iii) driver examinations (physical, mental, and driver licensing);

"(C) improve pedestrian performance and bicycle safety;

"(D) include provisions for—

"(i) an effective record system of accidents (including resulting injuries and deaths);

"(ii) accident investigations to determine the probable causes of accidents, injuries, and deaths;

"(iii) vehicle registration, operation, and inspection; and

"(iv) emergency services; and

"(E) to the extent determined appropriate by the Secretary, are applicable to federally administered areas where a Federal department or agency controls the highways or supervises traffic operations.".

(b) ADMINISTRATION OF STATE PROGRAMS.—Section 402(b)(1) of title 23, United States Code, is amended—

(1) in subparagraph (D), by striking "and" at the end;

(2) by redesignating subparagraph (E) as subparagraph (F);

(3) by inserting after subparagraph (D) the following:

"(E) beginning on October 1, 2012, provide for a robust, data-driven traffic safety enforcement program to prevent traffic violations, crashes, and crash fatalities and injuries in areas most at risk for such incidents, to the satisfaction of the Secretary;"; and

(4) in subparagraph (F), as redesignated—

(A) in clause (i), by inserting "and high-visibility law enforcement mobilizations coordinated by the Secretary" after "mobilizations";

(B) in clause (iii), by striking "and" at the end;

(C) in clause (iv), by striking the period at the end and inserting "; and"; and

(D) by adding at the end the following:

"(v) ensuring that the State will coordinate its highway safety plan, data collection, and information systems with the State strategic highway safety plan (as defined in section 148(a)).".

(c) APPROVED HIGHWAY SAFETY PROGRAMS.—Section 402(c) of title 23, United States Code, is amended—

(1) by striking ''(c) Funds authorized'' and inserting the following:

''(c) USE OF FUNDS.—

''(1) IN GENERAL.—Funds authorized'';

(2) by striking ''Such funds'' and inserting the following:

''(2) APPORTIONMENT.—Except for amounts identified in subsection (l) and section 403(e), funds described in paragraph (1)'';

(3) by striking ''The Secretary shall not'' and all that follows through ''subsection, a highway safety program'' and inserting ''A highway safety program'';

(4) by inserting ''A State may use the funds apportioned under this section, in cooperation with neighboring States, for highway safety programs or related projects that may confer benefits on such neighboring States.'' after ''in every State.'';

(5) by striking ''50 per centum'' and inserting ''20 percent''; and

(6) by striking ''The Secretary shall promptly'' and all that follows and inserting the following:

''(3) REAPPORTIONMENT.—The Secretary shall promptly apportion the funds withheld from a State's apportionment to the State if the Secretary

approves the State's highway safety program or determines that the State has begun implementing an approved program, as appropriate, not later than July 31st of the fiscal year for which the funds were withheld. If the Secretary determines that the State did not correct its failure within such period, the Secretary shall reapportion the withheld funds to the other States in accordance with the formula specified in paragraph (2) not later than the last day of the fiscal year.''.

(d) USE OF HIGHWAY SAFETY PROGRAM FUNDS.—Section 402(g) of title 23, United States Code, is amended to read as follows:

''(g) SAVINGS PROVISION.—

''(1) IN GENERAL.—Except as provided under paragraph (2), nothing in this section may be construed to authorize the appropriation or expenditure of funds for—

''(A) highway construction, maintenance, or design (other than design of safety features of highways to be incorporated into guidelines); or

''(B) any purpose for which funds are authorized by section 403.

"(2) DEMONSTRATION PROJECTS.—A State may use funds made available to carry out this section to assist in demonstration projects carried out by the Secretary under section 403.".

(e) IN GENERAL.—Section 402 of title 23, United States Code, is amended—

(1) by striking subsections (k) and (m);

(2) by redesignating subsections (i) and (j) as subsections (h) and (i), respectively; and

(3) by redesignating subsection (l) as subsection (j).

(f) HIGHWAY SAFETY PLAN AND REPORTING REQUIREMENTS.—Section 402 of title 23, United States Code, as amended by this section, is further amended by adding at the end the following:

"(k) HIGHWAY SAFETY PLAN AND REPORTING REQUIREMENTS.—

"(1) IN GENERAL.—The Secretary shall require each State to develop and submit to the Secretary a highway safety plan that complies with the requirements under this subsection not later than July 1, 2012, and annually thereafter.

"(2) CONTENTS.—State highway safety plans submitted under paragraph (1) shall include—

"(A) performance measures required by the Secretary or otherwise necessary to support additional State safety goals, including—

"(i) documentation of current safety levels for each performance measure;

"(ii) quantifiable annual performance targets for each performance measure; and

"(iii) a justification for each performance target;

"(B) a strategy for programming funds apportioned to the State under this section on projects and activities that will allow the State to meet the performance targets described in subparagraph (A);

"(C) data and data analysis supporting the effectiveness of proposed countermeasures;

"(D) a description of any Federal, State, local, or private funds that the State plans to use, in addition to funds apportioned to the State under this section, to carry out the strategy described in subparagraph (B);

"(E) beginning with the plan submitted by July 1, 2013, a report on the State's success in meeting State safety goals set forth in the previous year's highway safety plan; and

"(F) an application for any additional grants available to the State under this chapter.

"(3) PERFORMANCE MEASURES.—For the first highway safety plan submitted under this subsection, the performance measures required by the Secretary under paragraph (2)(A) shall be limited to those developed by the National Highway Traffic Safety Administration and the Governor's Highway Safety Association and described in the report, 'Traffic Safety Performance Measures for States and Federal Agencies' (DOT HS 811 025). For subsequent highway safety plans, the Secretary shall consult with the Governor's Highway Safety Association and safety experts if the Secretary makes revisions to the set of required performance measures.

"(4) REVIEW OF HIGHWAY SAFETY PLANS.—

"(A) IN GENERAL.—Not later than 60 days after the date on which a State's highway safety plan is received by the Secretary, the Secretary shall review and approve or disapprove the plan.

"(B) APPROVALS AND DISAPPROVALS.—

"(i) APPROVALS.—The Secretary shall approve a State's highway safety plan if the Secretary determines that—

"(I) the plan is evidence-based and supported by data;

"(II) the performance targets are adequate; and

"(III) the plan, once implemented, will allow the State to meet such targets.

"(ii) DISAPPROVALS.—The Secretary shall disapprove a State's highway safety plan if the Secretary determines that the plan does not—

"(I) set appropriate performance targets; or

"(II) provide for evidence-based programming of funding in a manner sufficient to allow the State to meet such targets.

"(C) ACTIONS UPON DISAPPROVAL.—If the Secretary disapproves a State's highway safety plan, the Secretary shall—

"(i) inform the State of the reasons for such disapproval; and

"(ii) require the State to resubmit the plan with any modifications that the Secretary determines to be necessary.

"(D) REVIEW OF RESUBMITTED PLANS.—If the Secretary requires a State to resubmit a highway safety plan, with modifications, the Secretary shall review and approve or disapprove the modified plan not later than 30 days after the date on which the Secretary receives such plan.

"(E) REPROGRAMMING AUTHORITY.—If the Secretary determines that the modifications contained in a State's resubmitted highway safety plan do not provide for the programming of funding in a manner sufficient to meet the State's performance goals, the Secretary, in consultation with the State, shall take such action as may be necessary to bring the State's plan into compliance with the performance targets.

"(F) PUBLIC NOTICE.—A State shall make the State's highway safety plan, and decisions of the Secretary concerning approval or disapproval of a revised plan, available to the public.".

(g) COOPERATIVE RESEARCH AND EVALUATION.—Section 402 of title 23, United States Code, as amended

by this section, is further amended by adding at the end the following:

"(l) COOPERATIVE RESEARCH AND EVALUATION.—

"(1) ESTABLISHMENT AND FUNDING.—Notwithstanding the apportionment formula set forth in subsection (c)(2), $2,500,000 of the total amount available for apportionment to the States for highway safety programs under subsection (c) in each fiscal year shall be available for expenditure by the Secretary, acting through the Administrator of the National Highway Traffic Safety Administration, for a cooperative research and evaluation program to research and evaluate priority highway safety countermeasures.

"(2) ADMINISTRATION.—The program established under paragraph (1)—

"(A) shall be administered by the Administrator of the National Highway Traffic Safety Administration; and

"(B) shall be jointly managed by the Governors Highway Safety Association and the National Highway Traffic Safety Administration.".

(h) TEEN TRAFFIC SAFETY PROGRAM.—Section 402 of title 23, United States Code, as amended by this sec-

tion, is further amended by adding at the end the following:

"(m) TEEN TRAFFIC SAFETY PROGRAM.—

"(1) PROGRAM AUTHORIZED.—Subject to the requirements of a State's highway safety plan, as approved by the Secretary under subsection (k), a State may use a portion of the amounts received under this section to implement a statewide teen traffic safety program to improve traffic safety for teen drivers.

"(2) STRATEGIES.—The program implemented under paragraph (1)—

"(A) shall include peer-to-peer education and prevention strategies in schools and communities designed to—

"(i) increase safety belt use;

"(ii) reduce speeding;

"(iii) reduce impaired and distracted driving;

"(iv) reduce underage drinking; and

"(v) reduce other behaviors by teen drivers that lead to injuries and fatalities; and

"(B) may include—

"(i) working with student-led groups and school advisors to plan and implement teen traffic safety programs;

"(ii) providing subgrants to schools throughout the State to support the establishment and expansion of student groups focused on teen traffic safety;

"(iii) providing support, training, and technical assistance to establish and expand school and community safety programs for teen drivers;

"(iv) creating statewide or regional websites to publicize and circulate information on teen safety programs;

"(v) conducting outreach and providing educational resources for parents;

"(vi) establishing State or regional advisory councils comprised of teen drivers to provide input and recommendations to the governor and the governor's safety representative on issues related to the safety of teen drivers;

"(vii) collaborating with law enforcement;

"(viii) organizing and hosting State and regional conferences for teen drivers;

"(ix) establishing partnerships and promoting coordination among community stakeholders, including public, not-for-profit, and for profit entities; and

"(x) funding a coordinator position for the teen safety program in the State or region.".

**SEC. 31103. HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.**

Section 403 of title 23, United States Code, is amended to read as follows:

**"§ 403. Highway safety research and development**

"(a) DEFINED TERM.—In this section, the term 'Federal laboratory' includes—

"(1) a government-owned, government-operated laboratory; and

"(2) a government-owned, contractor-operated laboratory.

"(b) GENERAL AUTHORITY.—

"(1) RESEARCH AND DEVELOPMENT ACTIVITIES.—The Secretary may conduct research and development activities, including demonstration projects and the collection and analysis of highway

and motor vehicle safety data and related information needed to carry out this section, with respect to—

"(A) all aspects of highway and traffic safety systems and conditions relating to—

"(i) vehicle, highway, driver, passenger, motorcyclist, bicyclist, and pedestrian characteristics;

"(ii) accident causation and investigations;

"(iii) communications;

"(iv) emergency medical services; and

"(v) transportation of the injured;

"(B) human behavioral factors and their effect on highway and traffic safety, including—

"(i) driver education;

"(ii) impaired driving;

"(iii) distracted driving; and

"(iv) new technologies installed in, or brought into, vehicles;

"(C) an evaluation of the effectiveness of countermeasures to increase highway and traffic safety, including occupant protection and

alcohol- and drug-impaired driving technologies and initiatives;

"(D) the development of technologies to detect drug impaired drivers; and

"(E) the effect of State laws on any aspects, activities, or programs described in subparagraphs (A) through (D).

"(2) COOPERATION, GRANTS, AND CONTRACTS.—The Secretary may carry out this section—

"(A) independently;

"(B) in cooperation with other Federal departments, agencies, and instrumentalities and Federal laboratories;

"(C) by entering into contracts, cooperative agreements, and other transactions with the National Academy of Sciences, any Federal laboratory, State or local agency, authority, association, institution, foreign country, or person (as defined in chapter 1 of title 1); or

"(D) by making grants to the National Academy of Sciences, any Federal laboratory, State or local agency, authority, association, institution, or person (as defined in chapter 1 of title 1).

"(c) COLLABORATIVE RESEARCH AND DEVELOPMENT.—

"(1) IN GENERAL.—To encourage innovative solutions to highway safety problems, stimulate voluntary improvements in highway safety, and stimulate the marketing of new highway safety related technology by private industry, the Secretary is authorized to carry out, on a cost-shared basis, collaborative research and development with—

"(A) non-Federal entities, including State and local governments, foreign countries, colleges, universities, corporations, partnerships, sole proprietorships, organizations serving the interests of children, people with disabilities, low-income populations, and older adults, and trade associations that are incorporated or established under the laws of any State or the United States; and

"(B) Federal laboratories.

"(2) AGREEMENTS.—In carrying out this subsection, the Secretary may enter into cooperative research and development agreements (as defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a)) in which the Secretary provides not more than 50 percent of

the cost of any research or development project under this subsection.

"(3) USE OF TECHNOLOGY.—The research, development, or use of any technology pursuant to an agreement under this subsection, including the terms under which technology may be licensed and the resulting royalties may be distributed, shall be subject to the provisions of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.).

"(d) TITLE TO EQUIPMENT.—In furtherance of the purposes set forth in section 402, the Secretary may vest title to equipment purchased for demonstration projects with funds authorized under this section to State or local agencies on such terms and conditions as the Secretary determines to be appropriate.

"(e) TRAINING.—Notwithstanding the apportionment formula set forth in section 402(c)(2), 1 percent of the total amount available for apportionment to the States for highway safety programs under section 402(c) in each fiscal year shall be available, through the end of the succeeding fiscal year, to the Secretary, acting through the Administrator of the National Highway Traffic Safety Administration—

"(1) to provide training, conducted or developed by Federal or non-Federal entity or personnel, to Federal, State, and local highway safety personnel; and

"(2) to pay for any travel, administrative, and other expenses related to such training.

"(f) DRIVER LICENSING AND FITNESS TO DRIVE CLEARINGHOUSE.—From amounts made available under this section, the Secretary, acting through the Administrator of the National Highway Traffic Safety Administration, is authorized to expend $1,280,000 between the date of enactment of the Motor Vehicle and Highway Safety Improvement Act of 2012 and September 30, 2013, to establish an electronic clearinghouse and technical assistance service to collect and disseminate research and analysis of medical and technical information and best practices concerning drivers with medical issues that may be used by State driver licensing agencies in making licensing qualification decisions.

"(g) INTERNATIONAL HIGHWAY SAFETY INFORMATION AND COOPERATION.—

"(1) ESTABLISHMENT.—The Secretary, acting through the Administrator of the National Highway Traffic Safety Administration, may establish an

international highway safety information and cooperation program to—

"(A) inform the United States highway safety community of laws, projects, programs, data, and technology in foreign countries that could be used to enhance highway safety in the United States;

"(B) permit the exchange of information with foreign countries about laws, projects, programs, data, and technology that could be used to enhance highway safety; and

"(C) allow the Secretary, represented by the Administrator, to participate and cooperate in international activities to enhance highway safety.

"(2) COOPERATION.—The Secretary may carry out this subsection in cooperation with any appropriate Federal agency, State or local agency or authority, foreign government, or multinational institution.

"(h) PROHIBITION ON CERTAIN DISCLOSURES.—Any report of the National Highway Traffic Safety Administration, or of any officer, employee, or contractor of the National Highway Traffic Safety Administration, relating to any highway traffic accident or the investigation of such

accident conducted pursuant to this chapter or chapter 301 shall be made available to the public in a manner that does not identify individuals.

"(i) MODEL SPECIFICATIONS FOR DEVICES.—The Secretary, acting through the Administrator of the National Highway Traffic Safety Administration, may—

"(1) develop model specifications and testing procedures for devices, including devices designed to measure the concentration of alcohol in the body;

"(2) conduct periodic tests of such devices;

"(3) publish a Conforming Products List of such devices that have met the model specifications; and

"(4) may require that any necessary tests of such devices are conducted by a Federal laboratory and paid for by the device manufacturers.".

**SEC. 31104. NATIONAL DRIVER REGISTER.**

Section 30302(b) of title 49, United States Code, is amended by adding at the end the following: "The Secretary shall make continual improvements to modernize the Register's data processing system.".

**SEC. 31105. COMBINED OCCUPANT PROTECTION GRANTS.**

(a) IN GENERAL.—Section 405 of title 23, United States Code, is amended to read as follows:

**"§ 405. Combined occupant protection grants**

"(a) GENERAL AUTHORITY.—Subject to the requirements of this section, the Secretary of Transportation shall award grants to States that adopt and implement effective occupant protection programs to reduce highway deaths and injuries resulting from individuals riding unrestrained or improperly restrained in motor vehicles.

"(b) FEDERAL SHARE.—The Federal share of the costs of activities funded using amounts from grants awarded under this section may not exceed 80 percent for each fiscal year for which a State receives a grant.

"(c) ELIGIBILITY.—

"(1) HIGH SEAT BELT USE RATE.—A State with an observed seat belt use rate of 90 percent or higher, based on the most recent data from a survey that conforms with national criteria established by the National Highway Traffic Safety Administration, shall be eligible for a grant in a fiscal year if the State—

"(A) submits an occupant protection plan during the first fiscal year;

"(B) participates in the Click It or Ticket national mobilization;

"(C) has an active network of child restraint inspection stations; and

"(D) has a plan to recruit, train, and maintain a sufficient number of child passenger safety technicians.

"(2) LOWER SEAT BELT USE RATE.—A State with an observed seat belt use rate below 90 percent, based on the most recent data from a survey that conforms with national criteria established by the National Highway Traffic Safety Administration, shall be eligible for a grant in a fiscal year if—

"(A) the State meets all of the requirements under subparagraphs (A) through (D) of paragraph (1); and

"(B) the Secretary determines that the State meets at least 3 of the following criteria:

"(i) The State conducts sustained (ongoing and periodic) seat belt enforcement at a defined level of participation during the year.

"(ii) The State has enacted and enforces a primary enforcement seat belt use law.

"(iii) The State has implemented countermeasure programs for high-risk populations, such as drivers on rural road-

ways, unrestrained nighttime drivers, or teenage drivers.

"(iv) The State has enacted and enforces occupant protection laws requiring front and rear occupant protection use by all occupants in an age-appropriate restraint.

"(v) The State has implemented a comprehensive occupant protection program in which the State has—

"(I) conducted a program assessment;

"(II) developed a statewide strategic plan;

"(III) designated an occupant protection coordinator; and

"(IV) established a statewide occupant protection task force.

"(vi) The State—

"(I) completed an assessment of its occupant protection program during the 3-year period preceding the grant year; or

1 "(II) will conduct such an assess-
2 ment during the first year of the
3 grant.
4 "(d) USE OF GRANT AMOUNTS.—Grant funds re-
5 ceived pursuant to this section may be used to—
6 "(1) carry out a program to support high-visi-
7 bility enforcement mobilizations, including paid
8 media that emphasizes publicity for the program,
9 and law enforcement;
10 "(2) carry out a program to train occupant pro-
11 tection safety professionals, police officers, fire and
12 emergency medical personnel, educators, and parents
13 concerning all aspects of the use of child restraints
14 and occupant protection;
15 "(3) carry out a program to educate the public
16 concerning the proper use and installation of child
17 restraints, including related equipment and informa-
18 tion systems;
19 "(4) carry out a program to provide community
20 child passenger safety services, including programs
21 about proper seating positions for children and how
22 to reduce the improper use of child restraints;
23 "(5) purchase and distribute child restraints to
24 low-income families if not more than 5 percent of

the funds received in a fiscal year are used for this purpose;

"(6) establish and maintain information systems containing data concerning occupant protection, including the collection and administration of child passenger safety and occupant protection surveys; and

"(7) carry out a program to educate the public concerning the dangers of leaving children unattended in vehicles.

"(e) GRANT AMOUNT.—The allocation of grant funds under this section to a State for a fiscal year shall be in proportion to the State's apportionment under section 402 for fiscal year 2009.

"(f) REPORT.—A State that receives a grant under this section shall submit a report to the Secretary that documents the manner in which the grant amounts were obligated and expended and identifies the specific programs carried out with the grant funds. The report shall be in a form prescribed by the Secretary and may be combined with other State grant reporting requirements under chapter 4 of title 23, United States Code.

"(g) DEFINITIONS.—In this section:

"(1) CHILD RESTRAINT.—The term 'child restraint' means any device (including child safety

seat, booster seat, harness, and excepting seat belts) designed for use in a motor vehicle to restrain, seat, or position children who weigh 65 pounds (30 kilograms) or less, and certified to the Federal motor vehicle safety standard prescribed by the National Highway Traffic Safety Administration for child restraints.

"(2) SEAT BELT.—The term 'seat belt' means—

"(A) with respect to open-body motor vehicles, including convertibles, an occupant restraint system consisting of a lap belt or a lap belt and a detachable shoulder belt; and

"(B) with respect to other motor vehicles, an occupant restraint system consisting of integrated lap and shoulder belts.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 4 of title 23, United States Code, is amended by striking the item relating to section 405 and inserting the following:

"405. Combined occupant protection grants.".

**SEC. 31106. STATE TRAFFIC SAFETY INFORMATION SYSTEM IMPROVEMENTS.**

Section 408 of title 23, United States Code, is amended to read as follows:

**"§ 408. State traffic safety information system improvements**

''(a) GENERAL AUTHORITY.—Subject to the requirements of this section, the Secretary of Transportation shall award grants to States to support the development and implementation of effective State programs that—

''(1) improve the timeliness, accuracy, completeness, uniformity, integration, and accessibility of the State safety data that is needed to identify priorities for Federal, State, and local highway and traffic safety programs;

''(2) evaluate the effectiveness of efforts to make such improvements;

''(3) link the State data systems, including traffic records, with other data systems within the State, such as systems that contain medical, roadway, and economic data;

''(4) improve the compatibility and interoperability of the data systems of the State with national data systems and data systems of other States; and

''(5) enhance the ability of the Secretary to observe and analyze national trends in crash occurrences, rates, outcomes, and circumstances.

''(b) FEDERAL SHARE.—The Federal share of the cost of adopting and implementing in a fiscal year a State

program described in this section may not exceed 80 percent.

"(c) ELIGIBILITY.—A State is not eligible for a grant under this section in a fiscal year unless the State demonstrates, to the satisfaction of the Secretary, that the State—

"(1) has a functioning traffic records coordinating committee (referred to in this subsection as 'TRCC') that meets at least 3 times a year;

"(2) has designated a TRCC coordinator;

"(3) has established a State traffic record strategic plan that has been approved by the TRCC and describes specific quantifiable and measurable improvements anticipated in the State's core safety databases, including crash, citation or adjudication, driver, emergency medical services or injury surveillance system, roadway, and vehicle databases;

"(4) has demonstrated quantitative progress in relation to the significant data program attribute of—

"(A) accuracy;

"(B) completeness;

"(C) timeliness;

"(D) uniformity;

"(E) accessibility; or

"(F) integration of a core highway safety database; and

"(5) has certified to the Secretary that an assessment of the State's highway safety data and traffic records system was conducted or updated during the preceding 5 years.

"(d) USE OF GRANT AMOUNTS.—Grant funds received by a State under this section shall be used for making data program improvements to core highway safety databases related to quantifiable, measurable progress in any of the 6 significant data program attributes set forth in subsection (c)(4).

"(e) GRANT AMOUNT.—The allocation of grant funds under this section to a State for a fiscal year shall be in proportion to the State's apportionment under section 402 for fiscal year 2009.".

**SEC. 31107. IMPAIRED DRIVING COUNTERMEASURES.**

(a) IN GENERAL.—Section 410 of title 23, United States Code, is amended to read as follows:

**"§ 410. Impaired driving countermeasures**

"(a) GRANTS AUTHORIZED.—Subject to the requirements of this section, the Secretary of Transportation shall award grants to States that adopt and implement—

"(1) effective programs to reduce driving under the influence of alcohol, drugs, or the combination of alcohol and drugs; or

"(2) alcohol-ignition interlock laws.

"(b) FEDERAL SHARE.—The Federal share of the costs of activities funded using amounts from grants under this section may not exceed 80 percent in any fiscal year in which the State receives a grant.

"(c) ELIGIBILITY.—

"(1) LOW-RANGE STATES.—Low-range States shall be eligible for a grant under this section.

"(2) MID-RANGE STATES.—A mid-range State shall be eligible for a grant under this section if—

"(A) a statewide impaired driving task force in the State developed a statewide plan during the most recent 3 calendar years to address the problem of impaired driving; or

"(B) the State will convene a statewide impaired driving task force to develop such a plan during the first year of the grant.

"(3) HIGH-RANGE STATES.—A high-range State shall be eligible for a grant under this section if the State—

"(A)(i) conducted an assessment of the State's impaired driving program during the most recent 3 calendar years; or

"(ii) will conduct such an assessment during the first year of the grant;

"(B) convenes, during the first year of the grant, a statewide impaired driving task force to develop a statewide plan that—

"(i) addresses any recommendations from the assessment conducted under subparagraph (A);

"(ii) includes a detailed plan for spending any grant funds provided under this section; and

"(iii) describes how such spending supports the statewide program;

"(C)(i) submits the statewide plan to the National Highway Traffic Safety Administration during the first year of the grant for the agency's review and approval;

"(ii) annually updates the statewide plan in each subsequent year of the grant; and

"(iii) submits each updated statewide plan for the agency's review and comment; and

"(D) appoints a full or part-time impaired driving coordinator—

"(i) to coordinate the State's activities to address enforcement and adjudication of laws to address driving while impaired by alcohol; and

"(ii) to oversee the implementation of the statewide plan.

"(d) USE OF GRANT AMOUNTS.—

"(1) REQUIRED PROGRAMS.—High-range States shall use grant funds for—

"(A) high visibility enforcement efforts; and

"(B) any of the activities described in paragraph (2) if—

"(i) the activity is described in the statewide plan; and

"(ii) the Secretary approves the use of funding for such activity.

"(2) AUTHORIZED PROGRAMS.—Medium-range and low-range States may use grant funds for—

"(A) any of the purposes described in paragraph (1);

"(B) paid and earned media in support of high visibility enforcement efforts;

"(C) hiring a full-time or part-time impaired driving coordinator of the State's activities to address the enforcement and adjudication of laws regarding driving while impaired by alcohol;

"(D) court support of high visibility enforcement efforts;

"(E) alcohol ignition interlock programs;

"(F) improving blood-alcohol concentration testing and reporting;

"(G) establishing driving while intoxicated courts;

"(H) conducting—

"(i) standardized field sobriety training;

"(ii) advanced roadside impaired driving evaluation training; and

"(iii) drug recognition expert training for law enforcement;

"(I) training and education of criminal justice professionals (including law enforcement, prosecutors, judges and probation officers) to assist such professionals in handling impaired driving cases;

"(J) traffic safety resource prosecutors;

"(K) judicial outreach liaisons;

"(L) equipment and related expenditures used in connection with impaired driving enforcement in accordance with criteria established by the National Highway Traffic Safety Administration;

"(M) training on the use of alcohol screening and brief intervention;

"(N) developing impaired driving information systems; and

"(O) costs associated with a '24-7 sobriety program'.

"(3) OTHER PROGRAMS.—Low-range States may use grant funds for any expenditure designed to reduce impaired driving based on problem identification. Medium and high-range States may use funds for such expenditures upon approval by the Secretary.

"(e) GRANT AMOUNT.—Subject to subsection (f), the allocation of grant funds to a State under this section for a fiscal year shall be in proportion to the State's apportionment under section 402(c) for fiscal year 2009.

"(f) GRANTS TO STATES THAT ADOPT AND ENFORCE MANDATORY ALCOHOL-IGNITION INTERLOCK LAWS.—

"(1) IN GENERAL.—The Secretary shall make a separate grant under this section to each State that adopts and is enforcing a mandatory alcohol-ignition interlock law for all individuals convicted of driving under the influence of alcohol or of driving while intoxicated.

"(2) USE OF FUNDS.—Such grants may be used by recipient States only for costs associated with the State's alcohol-ignition interlock program, including screening, assessment, and program and offender oversight.

"(3) ALLOCATION.—Funds made available under this subsection shall be allocated among States described in paragraph (1) on the basis of the apportionment formula under section 402(c).

"(4) FUNDING.—Not more than 15 percent of the amounts made available to carry out this section in a fiscal year shall be made available by the Secretary for making grants under this subsection.

"(g) DEFINITIONS.—In this section:

"(1) 24-7 SOBRIETY PROGRAM.—The term '24-7 sobriety program' means a State law or program that authorizes a State court or a State agency, as a condition of sentence, probation, parole, or work permit, to—

"(A) require an individual who plead guilty or was convicted of driving under the influence of alcohol or drugs to totally abstain from alcohol or drugs for a period of time; and

"(B) require the individual to be subject to testing for alcohol or drugs—

"(i) at least twice a day;

"(ii) by continuous transdermal alcohol monitoring via an electronic monitoring device; or

"(iii) by an alternate method with the concurrence of the Secretary.

"(2) AVERAGE IMPAIRED DRIVING FATALITY RATE.—The term 'average impaired driving fatality rate' means the number of fatalities in motor vehicle crashes involving a driver with a blood alcohol concentration of at least 0.08 for every 100,000,000 vehicle miles traveled, based on the most recently reported 3 calendar years of final data from the Fatality Analysis Reporting System, as calculated in accordance with regulations prescribed by the Administrator of the National Highway Traffic Safety Administration.

"(3) HIGH-RANGE STATE.—The term 'high-range State' means a State that has an average impaired driving fatality rate of 0.60 or higher.

"(4) LOW-RANGE STATE.—The term 'low-range State' means a State that has an average impaired driving fatality rate of 0.30 or lower.

"(5) MID-RANGE STATE.—The term 'mid-range State' means a State that has an average impaired driving fatality rate that is higher than 0.30 and lower than 0.60.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 4 of title 23, United States Code, is amended by striking the item relating to section 410 and inserting the following:

"410. Impaired driving countermeasures.".

**SEC. 31108. DISTRACTED DRIVING GRANTS.**

(a) IN GENERAL.—Section 411 of title 23, United States Code, is amended to read as follows:

**"§ 411. Distracted driving grants**

"(a) IN GENERAL.—The Secretary shall award a grant under this section to any State that enacts and enforces a statute that meets the requirements set forth in subsections (b) and (c).

"(b) PROHIBITION ON TEXTING WHILE DRIVING.—A State statute meets the requirements set forth in this subsection if the statute—

"(1) prohibits drivers from texting through a personal wireless communications device while driving;

"(2) makes violation of the statute a primary offense;

"(3) establishes—

"(A) a minimum fine for a first violation of the statute; and

"(B) increased fines for repeat violations; and

"(4) provides increased civil and criminal penalties than would otherwise apply if a vehicle accident is caused by a driver who is using such a device in violation of the statute.

"(c) PROHIBITION ON YOUTH CELL PHONE USE WHILE DRIVING.—A State statute meets the requirements set forth in this subsection if the statute—

"(1) prohibits a driver who is younger than 18 years of age from using a personal wireless communications device while driving;

"(2) makes violation of the statute a primary offense;

"(3) requires distracted driving issues to be tested as part of the State driver's license examination;

"(4) establishes—

"(A) a minimum fine for a first violation of the statute; and

"(B) increased fines for repeat violations; and

"(5) provides increased civil and criminal penalties than would otherwise apply if a vehicle accident is caused by a driver who is using such a device in violation of the statute.

"(d) PERMITTED EXCEPTIONS.—A statute that meets the requirements set forth in subsections (b) and (c) may provide exceptions for—

"(1) a driver who uses a personal wireless communications device to contact emergency services;

"(2) emergency services personnel who use a personal wireless communications device while—

"(A) operating an emergency services vehicle; and

"(B) engaged in the performance of their duties as emergency services personnel; and

"(3) an individual employed as a commercial motor vehicle driver or a school bus driver who uses a personal wireless communications device within the scope of such individual's employment if such use is

permitted under the regulations promulgated pursuant to section 31152 of title 49.

"(e) USE OF GRANT FUNDS.—Of the grant funds received by a State under this section—

"(1) at least 50 percent shall be used—

"(A) to educate the public through advertising containing information about the dangers of texting or using a cell phone while driving;

"(B) for traffic signs that notify drivers about the distracted driving law of the State; or

"(C) for law enforcement costs related to the enforcement of the distracted driving law; and

"(2) up to 50 percent may be used for other projects that—

"(A) improve traffic safety; and

"(B) are consistent with the criteria set forth in section 402(a).

"(f) ADDITIONAL GRANTS.—In fiscal year 2012, the Secretary may use up to 25 percent of the funding available for grants under this section to award grants to States that—

"(1) enacted statutes before July 1, 2011, which meet the requirements under paragraphs (1) and (2) of subsection (b); and

"(2) are otherwise ineligible for a grant under this section.

"(g) DISTRACTED DRIVING STUDY.—

"(1) IN GENERAL.—The Secretary shall conduct a study of all forms of distracted driving.

"(2) COMPONENTS.—The study conducted under paragraph (1) shall—

"(A) examine the effect of distractions other than the use of personal wireless communications on motor vehicle safety;

"(B) identify metrics to determine the nature and scope of the distracted driving problem;

"(C) identify the most effective methods to enhance education and awareness; and

"(D) identify the most effective method of reducing deaths and injuries caused by all forms of distracted driving.

"(3) REPORT.—Not later than 1 year after the date of enactment of the Motor Vehicle and Highway Safety Improvement Act of 2012, the Secretary shall submit a report containing the results of the study conducted under this subsection to—

"(A) the Committee on Commerce, Science, and Transportation of the Senate; and

"(B) the Committee on Transportation and Infrastructure of the House of Representatives.

"(h) DEFINITIONS.—In this section:

"(1) DRIVING.—The term 'driving'—

"(A) means operating a motor vehicle on a public road, including operation while temporarily stationary because of traffic, a traffic light or stop sign, or otherwise; and

"(B) does not include operating a motor vehicle when the vehicle has pulled over to the side of, or off, an active roadway and has stopped in a location where it can safely remain stationary.

"(2) PERSONAL WIRELESS COMMUNICATIONS DEVICE.—The term 'personal wireless communications device'—

"(A) means a device through which personal wireless services (as defined in section 332(c)(7)(C)(i) of the Communications Act of 1934 (47 U.S.C. 332(c)(7)(C)(i))) are transmitted; and

"(B) does not include a global navigation satellite system receiver used for positioning, emergency notification, or navigation purposes.

"(3) PRIMARY OFFENSE.—The term 'primary offense' means an offense for which a law enforcement officer may stop a vehicle solely for the purpose of issuing a citation in the absence of evidence of another offense.

"(4) PUBLIC ROAD.—The term 'public road' has the meaning given that term in section 402(c).

"(5) TEXTING.—The term 'texting' means reading from or manually entering data into a personal wireless communications device, including doing so for the purpose of SMS texting, e-mailing, instant messaging, or engaging in any other form of electronic data retrieval or electronic data communication.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 4 of title 23, United States Code, is amended by striking the item relating to section 411 and inserting the following:

"411. Distracted driving grants.".

**SEC. 31109. HIGH VISIBILITY ENFORCEMENT PROGRAM.**

Section 2009 of SAFETEA–LU (23 U.S.C. 402 note) is amended—

(1) in subsection (a)—

(A) by striking "at least 2" and inserting "at least 3"; and

(B) by striking ''years 2006 through 2012.'' and inserting ''fiscal years 2012 and 2013. The Administrator may also initiate and support additional campaigns in each of fiscal years 2012 and 2013 for the purposes specified in subsection (b).'';

(2) in subsection (b) by striking ''either or both'' and inserting ''outcomes related to at least 1'';

(3) in subsection (c), by inserting ''and Internet-based outreach'' after ''print media advertising'';

(4) in subsection (e), by striking ''subsections (a), (c), and (f)'' and inserting ''subsection (c)'';

(5) by striking subsection (f); and

(6) by redesignating subsection (g) as subsection (f).

**SEC. 31110. MOTORCYCLIST SAFETY.**

Section 2010 of SAFETEA–LU (23 U.S.C. 402 note) is amended—

(1) by striking subsections (b) and (g);

(2) by redesignating subsections (c), (d), (e), and (f) as subsections (b), (c), (d), and (e), respectively; and

(3) in subsection (c)(1), as redesignated, by striking ''to the satisfaction of the Secretary—'' and

all that follows and inserting ", to the satisfaction of the Secretary, at least 2 of the 6 criteria listed in paragraph (2).".

**SEC. 31111. DRIVER ALCOHOL DETECTION SYSTEM FOR SAFETY RESEARCH.**

(a) IN GENERAL.—Chapter 4 of title 23, United States Code, is amended by adding at the end the following:

**"§ 413. In-vehicle alcohol detection device research**

"(a) IN GENERAL.—The Administrator of the National Highway Traffic Safety Administration shall carry out a collaborative research effort under chapter 301 of title 49, United States Code, to continue to explore the feasibility and the potential benefits of, and the public policy challenges associated with, more widespread deployment of in-vehicle technology to prevent alcohol-impaired driving.

"(b) REPORTS.—The Administrator shall submit a report annually to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure—

"(1) describing progress in carrying out the collaborative research effort; and

"(2) including an accounting for the use of Federal funds obligated or expended in carrying out that effort.

"(c) DEFINITIONS.—In this title:

"(1) ALCOHOL-IMPAIRED DRIVING.—The term 'alcohol-impaired driving' means operation of a motor vehicle (as defined in section 30102(a)(6) of title 49, United States Code) by an individual whose blood alcohol content is at or above the legal limit.

"(2) LEGAL LIMIT.—The term 'legal limit' means a blood alcohol concentration of 0.08 percent or greater (as specified by chapter 163 of title 23, United States Code) or such other percentage limitation as may be established by applicable Federal, State, or local law.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 4 of title 23, United States Code, is amended by inserting after the item relating to section 412 the following:

"413. In-vehicle alcohol detection device research.".

**SEC. 31112. STATE GRADUATED DRIVER LICENSING LAWS.**

(a) IN GENERAL.—Chapter 4 of title 23, United States Code, as amended by this title, is further amended by adding at the end the following:

**"§ 414. State Graduated Driver Licensing Incentive Grant**

"(a) GRANTS AUTHORIZED.—Subject to the requirements of this section, the Secretary shall award grants to States that adopt and implement graduated driver licensing laws in accordance with the requirements set forth in subsection (b).

"(b) MINIMUM REQUIREMENTS.—

"(1) IN GENERAL.—A State meets the requirements set forth in this subsection if the State has a graduated driver licensing law that requires novice drivers younger than 21 years of age to comply with the 2-stage licensing process described in paragraph (2) before receiving an unrestricted driver's license.

"(2) LICENSING PROCESS.—A State is in compliance with the 2-stage licensing process described in this paragraph if the State's driver's license laws include—

"(A) a learner's permit stage that—

"(i) is at least 6 months in duration;

"(ii) prohibits the driver from using a cellular telephone or any communications device in a nonemergency situation; and

"(iii) remains in effect until the driver—

"(I) reaches 16 years of age and enters the intermediate stage; or

"(II) reaches 18 years of age;

"(B) an intermediate stage that—

"(i) commences immediately after the expiration of the learner's permit stage;

"(ii) is at least 6 months in duration;

"(iii) prohibits the driver from using a cellular telephone or any communications device in a nonemergency situation;

"(iv) restricts driving at night;

"(v) prohibits the driver from operating a motor vehicle with more than 1 nonfamilial passenger younger than 21 years of age unless a licensed driver who is at least 21 years of age is in the motor vehicle; and

"(vi) remains in effect until the driver reaches 18 years of age; and

"(C) any other requirement prescribed by the Secretary of Transportation, including—

"(i) in the learner's permit stage—

"(I) at least 40 hours of behind-the-wheel training with a licensed driver who is at least 21 years of age;

"(II) a driver training course; and

"(III) a requirement that the driver be accompanied and supervised by a licensed driver, who is at least 21 years of age, at all times while such driver is operating a motor vehicle; and

"(ii) in the learner's permit or intermediate stage, a requirement, in addition to any other penalties imposed by State law, that the grant of an unrestricted driver's license be automatically delayed for any individual who, during the learner's permit or intermediate stage, is convicted of a driving-related offense, including—

"(I) driving while intoxicated;

"(II) misrepresentation of his or her true age;

"(III) reckless driving;

"(IV) driving without wearing a seat belt;

"(V) speeding; or

"(VI) any other driving-related offense, as determined by the Secretary.

"(c) RULEMAKING.—

"(1) IN GENERAL.—The Secretary shall promulgate regulations necessary to implement the requirements under subsection (b), in accordance with the notice and comment provisions under section 553 of title 5, United States Code.

"(2) EXCEPTION.—A State that otherwise meets the minimum requirements set forth in subsection (b) shall be deemed by the Secretary to be in compliance with the requirement set forth in subsection (b) if the State enacted a law before January 1, 2011, establishing a class of license that permits licensees or applicants younger than 18 years of age to drive a motor vehicle—

"(A) in connection with work performed on, or for the operation of, a farm owned by family members who are directly related to the applicant or licensee; or

"(B) if demonstrable hardship would result from the denial of a license to the licensees or applicants.

"(d) ALLOCATION.—Grant funds allocated to a State under this section for a fiscal year shall be in proportion to a State's apportionment under section 402 for such fiscal year.

"(e) USE OF FUNDS.—Grant funds received by a State under this section may be used for—

"(1) enforcing a 2-stage licensing process that complies with subsection (b)(2);

"(2) training for law enforcement personnel and other relevant State agency personnel relating to the enforcement described in paragraph (1);

"(3) publishing relevant educational materials that pertain directly or indirectly to the State graduated driver licensing law;

"(4) carrying out other administrative activities that the Secretary considers relevant to the State's 2-stage licensing process; and

"(5) carrying out a teen traffic safety program described in section 402(m).".

**SEC. 31113. AGENCY ACCOUNTABILITY.**

Section 412 of title 23, United States Code, is amended—

(1) by amending subsection (a) to read as follows:

"(a) TRIENNIAL STATE MANAGEMENT REVIEWS.—

"(1) IN GENERAL.—Except as provided under paragraph (2), the Secretary shall conduct a review of each State highway safety program at least once every 3 years.

"(2) EXCEPTIONS.—The Secretary may conduct reviews of the highway safety programs of the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands as often as the Secretary determines to be appropriate.

"(3) COMPONENTS.—Reviews under this subsection shall include—

"(A) a management evaluation of all grant programs funded under this chapter;

"(B) an assessment of State data collection and evaluation relating to performance measures established by the Secretary;

"(C) a comparison of State efforts under subparagraphs (A) and (B) to best practices and programs that have been evaluated for effectiveness; and

"(D) the development of recommendations on how each State could—

"(i) improve the management and oversight of its grant activities; and

"(ii) provide a management and oversight plan for such grant programs."; and

(2) by striking subsection (f).

**SEC. 31114. EMERGENCY MEDICAL SERVICES.**

Section 10202 of Public Law 109–59 (42 U.S.C. 300d–4), is amended by adding at the end the following:

"(b) NATIONAL EMERGENCY MEDICAL SERVICES ADVISORY COUNCIL.—

"(1) ESTABLISHMENT.—The Secretary of Transportation, in coordination with the Secretary of Health and Human Services and the Secretary of Homeland Security, shall establish a National Emergency Medical Services Advisory Council (referred to in this subsection as the 'Advisory Council').

"(2) MEMBERSHIP.—The Advisory Council shall be composed of 25 members, who—

"(A) shall be appointed by the Secretary of Transportation; and

"(B) shall collectively be representative of all sectors of the emergency medical services community.

"(3) PURPOSES.—The purposes of the Advisory Council are to advise and consult with—

"(A) the Federal Interagency Committee on Emergency Medical Services on matters relating to emergency medical services issues; and

"(B) the Secretary of Transportation on matters relating to emergency medical services issues affecting the Department of Transportation.

"(4) ADMINISTRATION.—The Administrator of the National Highway Traffic Safety Administration shall provide administrative support to the Advisory Council, including scheduling meetings, setting agendas, keeping minutes and records, and producing reports.

"(5) LEADERSHIP.—The members of the Advisory Council shall annually select a chairperson of the Council.

"(6) MEETINGS.—The Advisory Council shall meet as frequently as is determined necessary by the chairperson of the Council.

"(7) ANNUAL REPORTS.—The Advisory Council shall prepare an annual report to the Secretary of Transportation regarding the Council's actions and recommendations.".

# Subtitle B—Enhanced Safety Authorities

**SEC. 31201. DEFINITION OF MOTOR VEHICLE EQUIPMENT.**

Section 30102(a)(7)(C) of title 49, United States Code, is amended to read as follows:

"(C) any device or an article or apparel, including a motorcycle helmet and excluding medicine or eyeglasses prescribed by a licensed practitioner, that—

"(i) is not a system, part, or component of a motor vehicle; and

"(ii) is manufactured, sold, delivered, or offered to be sold for use on public streets, roads, and highways with the apparent purpose of safeguarding motor vehicles and highway users against risk of accident, injury, or death.".

**SEC. 31202. PERMIT REMINDER SYSTEM FOR NON-USE OF SAFETY BELTS.**

(a) IN GENERAL.—Chapter 301 of title 49, United States Code, is amended—

(1) in section 30122, by striking subsection (d); and

(2) by amending section 30124 to read as follows:

**"§ 30124. Nonuse of safety belts**

"A motor vehicle safety standard prescribed under this chapter may not require a manufacturer to comply with the standard by using a safety belt interlock designed to prevent starting or operating a motor vehicle if an occupant is not using a safety belt.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 301 of title 49, United States Code, is amended by striking the item relating to section 30124 and inserting the following:

"Sec. 30124. Nonuse of safety belts.".

**SEC. 31203. CIVIL PENALTIES.**

(a) IN GENERAL.—Section 30165 of title 49, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking "30123(d)" and inserting "30123(a)"; and

(ii) by striking "$15,000,000" and inserting "$250,000,000"; and

(B) in paragraph (3), by striking "$15,000,000" and inserting "$250,000,000"; and

(2) by amending subsection (c) to read as follows:

"(c) RELEVANT FACTORS IN DETERMINING AMOUNT OF PENALTY OR COMPROMISE.—In determining the amount of a civil penalty or compromise under this section, the Secretary of Transportation shall consider the nature, circumstances, extent, and gravity of the violation. Such determination shall include, as appropriate—

"(1) the nature of the defect or noncompliance;

"(2) knowledge by the person charged of its obligation to recall or notify the public;

"(3) the severity of the risk of injury;

"(4) the occurrence or absence of injury;

"(5) the number of motor vehicles or items of motor vehicle equipment distributed with the defect or noncompliance;

"(6) the existence of an imminent hazard;

"(7) actions taken by the person charged to identify, investigate, or mitigate the condition;

"(8) the appropriateness of such penalty in relation to the size of the business of the person charged, including the potential for undue adverse economic impacts;

"(9) whether the person has previously been assessed civil penalties under this section during the most recent 5 years; and

"(10) other appropriate factors.".

(b) CIVIL PENALTY CRITERIA.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall issue a final rule, in accordance with the procedures of section 553 of title 5, United States Code, which provides an interpretation of the penalty factors described in section 30165(c) of title 49, United States Code.

(c) CONSTRUCTION.—Nothing in this section may be construed as preventing the imposition of penalties under section 30165 of title 49, United States Code, before the issuance of a final rule under subsection (b).

**SEC. 31204. MOTOR VEHICLE SAFETY RESEARCH AND DEVELOPMENT.**

(a) IN GENERAL.—Chapter 301 of title 49, United States Code, is amended by adding at the end the following:

"SUBCHAPTER V—MOTOR VEHICLE SAFETY RESEARCH AND DEVELOPMENT

**"§ 30181. Policy**

"The Secretary of Transportation shall conduct research, development, and testing on any area or aspect of motor vehicle safety necessary to carry out this chapter.

**"§ 30182. Powers and duties**

"(a) IN GENERAL.—The Secretary of Transportation shall—

"(1) conduct motor vehicle safety research, development, and testing programs and activities, including new and emerging technologies that impact or may impact motor vehicle safety;

"(2) collect and analyze all types of motor vehicle and highway safety data and related information to determine the relationship between motor vehicle or motor vehicle equipment performance characteristics and—

"(A) accidents involving motor vehicles; and

"(B) deaths or personal injuries resulting from those accidents;

"(3) promote, support, and advance the education and training of motor vehicle safety staff of the National Highway Traffic Safety Administration, including using program funds for—

"(A) planning, implementing, conducting, and presenting results of program activities; and

"(B) travel and related expenses;

"(4) obtain experimental and other motor vehicles and motor vehicle equipment for research or testing;

"(5)(A) use any test motor vehicles and motor vehicle equipment suitable for continued use, as determined by the Secretary to assist in carrying out this chapter or any other chapter of this title; or

"(B) sell or otherwise dispose of test motor vehicles and motor vehicle equipment and use the resulting proceeds to carry out this chapter;

"(6) award grants to States and local governments, interstate authorities, and nonprofit institutions; and

"(7) enter into cooperative agreements, collaborative research, or contracts with Federal agencies, interstate authorities, State and local governments, other public entities, private organizations and persons, nonprofit institutions, colleges and universities, consumer advocacy groups, corporations, partnerships, sole proprietorships, trade associations, Federal laboratories (including government-owned, government-operated laboratories and government-owned, contractor-operated laboratories), and foreign governments and research organizations.

"(b) USE OF PUBLIC AGENCIES.—In carrying out this subchapter, the Secretary shall avoid duplication by using the services, research, and testing facilities of public agencies, as appropriate.

"(c) FACILITIES.—The Secretary may plan, design, and build a new facility or modify an existing facility to conduct research, development, and testing in traffic safety, highway safety, and motor vehicle safety.

"(d) AVAILABILITY OF INFORMATION, PATENTS, AND DEVELOPMENTS.—When the United States Government makes more than a minimal contribution to a research or development activity under this chapter, the Secretary shall include in the arrangement for the activity a provision to ensure that all information, patents, and developments related to the activity are available to the public without charge. The owner of a background patent may not be deprived of a right under the patent.

**"§ 30183. Prohibition on certain disclosures.**

"Any report of the National Highway Traffic Safety Administration, or of any officer, employee, or contractor of the National Highway Traffic Safety Administration, relating to any highway traffic accident or the investigation of such accident conducted pursuant to this chapter or section 403 of title 23, shall be made available to the public in a manner that does not identify individuals.".

(b) CONFORMING AMENDMENTS.—

(1) AMENDMENT OF CHAPTER ANALYSIS.—The chapter analysis for chapter 301 of title 49, United

States Code, is amended by adding at the end the following:

"SUBCHAPTER V—MOTOR VEHICLE SAFETY RESEARCH AND DEVELOPMENT

"30181. Policy.
"30182. Powers and duties.
"30183. Prohibition on certain disclosures.".

(2) DELETION OF REDUNDANT MATERIAL.—Chapter 301 of title 49, United States Code, is amended—

(A) in the chapter analysis, by striking the item relating to section 30168; and

(B) by striking section 30168.

**SEC. 31205. ODOMETER REQUIREMENTS.**

(a) DEFINITION.—Section 32702(5) of title 49, United States Code, is amended by inserting "or system of components" after "instrument".

(b) ELECTRONIC DISCLOSURES OF ODOMETER INFORMATION.—Section 32705 of title 49, United States Code, is amended by adding at the end the following:

"(g) ELECTRONIC DISCLOSURES.—Not later than 18 months after the date of enactment of the Motor Vehicle and Highway Safety Improvement Act of 2012, in carrying out this section, the Secretary shall prescribe regulations permitting any written disclosures or notices and related matters to be provided electronically.".

**SEC. 31206. INCREASED PENALTIES AND DAMAGES FOR ODOMETER FRAUD.**

Chapter 327 of title 49, United States Code, is amended—

(1) in section 32709(a)(1)—

(A) by striking ''$2,000'' and inserting ''$10,000''; and

(B) by striking ''$100,000'' and inserting ''$1,000,000''; and

(2) in section 32710(a), by striking ''$1,500'' and inserting ''$10,000''.

**SEC. 31207. EXTEND PROHIBITIONS ON IMPORTING NON-COMPLIANT VEHICLES AND EQUIPMENT TO DEFECTIVE VEHICLES AND EQUIPMENT.**

Section 30112 of title 49, United States Code, is amended—

(1) in subsection (a), by adding at the end the following:

''(3) Except as provided in this section, section 30114, subsections (i) and (j) of section 30120, and subchapter III, a person may not sell, offer for sale, introduce or deliver for introduction in interstate commerce, or import into the United States any motor vehicle or motor vehicle equipment if the vehicle or equipment contains a defect related to motor vehicle safety about which notice was given under section 30118(c) or an order was issued

under section 30118(b). Nothing in this paragraph may be construed to prohibit the importation of a new motor vehicle that receives a required recall remedy before being sold to a consumer in the United States.''; and

(2) in subsection (b)(2)—

(A) in subparagraph (A), by striking ''or'' at the end;

(B) in subparagraph (B), by adding ''or'' at the end; and

(C) by adding at the end the following:

''(C) having no reason to know, despite exercising reasonable care, that a motor vehicle or motor vehicle equipment contains a defect related to motor vehicle safety about which notice was given under section 30118(c) or an order was issued under section 30118(b);''.

**SEC. 31208. FINANCIAL RESPONSIBILITY REQUIREMENTS FOR IMPORTERS.**

Chapter 301 of title 49, United States Code, is amended—

(1) in the chapter analysis, by striking the item relating to subchapter III and inserting the following:

''SUBCHAPTER III—IMPORTING MOTOR VEHICLES AND EQUIPMENT'';

(2) in the heading for subchapter III, by striking ''NONCOMPLYING''; and

(3) in section 30147, by amending subsection (b) to read as follows:

"(b) FINANCIAL RESPONSIBILITY REQUIREMENT.—

"(1) RULEMAKING.—The Secretary of Transportation may issue regulations requiring each person that imports a motor vehicle or motor vehicle equipment into the customs territory of the United States, including a registered importer (or any successor in interest), provide and maintain evidence, satisfactory to the Secretary, of sufficient financial responsibility to meet its obligations under section 30117(b), sections 30118 through 30121, and section 30166(f). In making a determination of sufficient financial responsibility under this Rule, the Secretary, to avoid duplicative requirements, shall first, to the extent practicable, rely on existing reporting and recordkeeping requirements and other information available to the Secretary, and shall coordinate with other Federal agencies, including the Securities and Exchange Commission, to access information collected and made publicly available under existing reporting and recordkeeping requirements.

"(2) REFUSAL OF ADMISSION.—If the Secretary of Transportation believes that a person de-

scribed in paragraph (1) has not provided and maintained evidence of sufficient financial responsibility to meet the obligations referred to in paragraph (1), the Secretary of Homeland Security shall first offer the person an opportunity to remedy the deficiency within 30 days, and if not remedied thereafter may refuse the admission into the customs territory of the United States of any motor vehicle or motor vehicle equipment imported by the person.

"(3) EXCEPTION.—This subsection shall not apply to original manufacturers (or wholly owned subsidiaries) of motor vehicles that, prior to the date of enactment of the Motor Vehicle and Highway Safety Improvement Act of 2012—

"(A) have imported motor vehicles into the United States that are certified to comply with all applicable Federal motor vehicle safety standards;

"(B) have submitted to the Secretary appropriate manufacturer identification information under part 566 of title 49, Code of Federal Regulations; and

"(C) if applicable, have identified a current agent for service of process in accordance with

part 551 of title 49, Code of Federal Regulations.''.

**SEC. 31209. CONDITIONS ON IMPORTATION OF VEHICLES AND EQUIPMENT.**

Chapter 301 of title 49, United States Code, is amended—

(1) in the chapter analysis, by striking the item relating to section 30164 and inserting the following:

''30164. Service of process; conditions on importation of vehicles and equipment.'';

and

(2) in section 30164—

(A) in the section heading, by adding ''**; CONDITIONS ON IMPORTATION OF VEHICLES AND EQUIPMENT**'' at the end; and

(B) by adding at the end the following:

''(c) IDENTIFYING INFORMATION.—A manufacturer (including an importer) offering a motor vehicle or motor vehicle equipment for import shall provide such information as the Secretary may, by rule, request including—

''(1) the product by name and the manufacturer's address; and

''(2) each retailer or distributor to which the manufacturer directly supplied motor vehicles or

motor vehicle equipment over which the Secretary has jurisdiction under this chapter.

"(d) RULEMAKING.—In issuing a rulemaking, the Secretary shall seek to reduce duplicative requirements by coordinating with Department of Homeland Security. The Secretary may issue regulations that—

"(1) condition the import of a motor vehicle or motor vehicle equipment on the manufacturer's compliance with—

"(A) the requirements under this section;

"(B) any rules issued with respect to such requirements; or

"(C) any other requirements under this chapter or rules issued with respect to such requirements;

"(2) provide an opportunity for the manufacturer to present information before the Secretary's determination as to whether the manufacturer's imports should be restricted; and

"(3) establish a process by which a manufacturer may petition for reinstatement of its ability to import motor vehicles or motor vehicle equipment.

"(e) EXCEPTION.—The requirements of subsections (c) and (d) shall not apply to original manufacturers (or wholly owned subsidiaries) of motor vehicles that, prior to

the date of enactment of the Motor Vehicle and Highway Safety Improvement Act of 2012—

"(1) have imported motor vehicles into the United States that are certified to comply with all applicable Federal motor vehicle safety standards,

"(2) have submitted to the Secretary appropriate manufacturer identification information under part 566 of title 49, Code of Federal Regulations; and

"(3) if applicable, have identified a current agent for service of process in accordance with part 551 of title 49, Code of Federal Regulations.".

**SEC. 31210. PORT INSPECTIONS; SAMPLES FOR EXAMINATION OR TESTING.**

Section 30166(c) of title 49, United States Code, is amended—

(1) in paragraph (2), by striking "and" at the end;

(2) in paragraph (3)—

(A) in subparagraph (A), by inserting "(including at United States ports of entry)" after "held for introduction in interstate commerce"; and

(B) in subparagraph (D), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

''(4) shall enter into a memorandum of understanding with the Secretary of Homeland Security for inspections and sampling of motor vehicle equipment being offered for import to determine compliance with this chapter or a regulation or order issued under this chapter.''.

# Subtitle C—Transparency and Accountability

## SEC. 31301. IMPROVED NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION VEHICLE SAFETY DATABASE.

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall improve public accessibility to information on the National Highway Traffic Safety Administration's publicly accessible vehicle safety databases by—

(1) improving organization and functionality, including modern web design features, and allowing for data to be searched, aggregated, and downloaded;

(2) providing greater consistency in presentation of vehicle safety issues; and

(3) improving searchability about specific vehicles and issues through standardization of commonly used search terms.

(b) VEHICLE RECALL INFORMATION.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall require that motor vehicle safety recall information—

(A) is available to the public on the Internet;

(B) is searchable by vehicle make and model and vehicle identification number;

(C) is in a format that preserves consumer privacy; and

(D) includes information about each recall that has not been completed for each vehicle.

(2) RULEMAKING.—The Secretary may initiate a rulemaking proceeding to require each manufacturer to provide the information described in paragraph (1), with respect to that manufacturer's motor vehicles, at no cost on a publicly accessible Internet website.

(3) DATABASE AWARENESS PROMOTION ACTIVITIES.—The Secretary, in consultation with the heads of other relevant agencies, shall promote consumer awareness of the information made available to the public pursuant to this subsection.

**SEC. 31302. NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION HOTLINE FOR MANUFACTURER, DEALER, AND MECHANIC PERSONNEL.**

The Secretary shall—

(1) establish a means by which mechanics, passenger motor vehicle dealership personnel, and passenger motor vehicle manufacturer personnel may directly and confidentially contact the National Highway Traffic Safety Administration to report potential passenger motor vehicle safety defects; and

(2) publicize the means for contacting the National Highway Traffic Safety Administration in a manner that targets mechanics, passenger motor vehicle dealership personnel, and manufacturer personnel.

**SEC. 31303. CONSUMER NOTICE OF SOFTWARE UPDATES AND OTHER COMMUNICATIONS WITH DEALERS.**

(a) INTERNET ACCESSIBILITY.—Section 30166(f) of title 49, United States Code, is amended—

(1) by striking ''A manufacturer shall give the Secretary of Transportation'' and inserting the following:

''(1) IN GENERAL.—A manufacturer shall give the Secretary of Transportation, and make available on a publicly accessible Internet website,''; and

(2) by adding at the end the following:

''(2) NOTICES.—Communications required to be submitted to the Secretary and made available on a publicly accessible Internet website under this subsection shall include all notices to dealerships of software upgrades and modifications recommended by a manufacturer for all previously sold vehicles. Notice is required even if the software upgrade or modification is not related to a safety defect or noncompliance with a motor vehicle safety standard. The notice shall include a plain language description of the purpose of the update and that description shall be prominently placed at the beginning of the notice.

''(3) INDEX.—Communications required to be submitted to the Secretary under this subsection shall be accompanied by an index to each communication, which—

"(A) identifies the make, model, and model year of the affected vehicles;

"(B) includes a concise summary of the subject matter of the communication; and

"(C) shall be made available by the Secretary to the public on the Internet in a searchable format.".

**SEC. 31304. PUBLIC AVAILABILITY OF EARLY WARNING DATA.**

Section 30166(m) of title 49, United States Code, is amended in paragraph (4), by amending subparagraph (C) to read as follows:

"(C) DISCLOSURE.—

"(i) IN GENERAL.—The information provided to the Secretary pursuant to this subsection shall be disclosed publicly unless exempt from disclosure under section 552(b) of title 5.

"(ii) PRESUMPTION.—In administering this subparagraph, the Secretary shall presume in favor of maximum public availability of information.".

**SEC. 31305. CORPORATE RESPONSIBILITY FOR NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION REPORTS.**

(a) IN GENERAL.—Section 30166 of title 49, United States Code, is amended by adding at the end the following:

"(o) CORPORATE RESPONSIBILITY FOR REPORTS.—

"(1) IN GENERAL.—The Secretary shall require a senior official responsible for safety in each company submitting information to the Secretary in response to a request for information in a safety defect or compliance investigation under this chapter to certify that—

"(A) the signing official has reviewed the submission; and

"(B) based on the official's knowledge, the submission does not—

"(i) contain any untrue statement of a material fact; or

"(ii) omit to state a material fact necessary in order to make the statements made not misleading, in light of the circumstances under which such statements were made.

"(2) NOTICE.—The certification requirements of this section shall be clearly stated on any request for information under paragraph (1).".

(b) CIVIL PENALTY.—Section 30165(a) of title 49, United States Code, is amended—

(1) in paragraph (3), by striking "A person" and inserting "Except as provided in paragraph (4), a person"; and

(2) by adding at the end the following:

"(4) FALSE, MISLEADING, OR INCOMPLETE REPORTS.—A person who knowingly and willfully submits materially false, misleading, or incomplete information to the Secretary, after certifying the same information as accurate and complete under the certification process established pursuant to section 30166(o), shall be subject to a civil penalty of not more than $5,000 per day. The maximum penalty under this paragraph for a related series of daily violations is $5,000,000.".

**SEC. 31306. PASSENGER MOTOR VEHICLE INFORMATION PROGRAM.**

(a) DEFINITION.—Section 32301 of title 49, United States Code, is amended—

(1) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively;

(2) by inserting before paragraph (2), as redesignated, the following:

''(1) 'crash avoidance' means preventing or mitigating a crash;''; and

(3) in paragraph (2), as redesignated, by striking the period at the end and inserting ''; and''.

(b) INFORMATION INCLUDED.—Section 32302(a) of title 49, United States Code, is amended—

(1) in paragraph (2), by inserting '', crash avoidance, and any other areas the Secretary determines will improve the safety of passenger motor vehicles'' after ''crashworthiness''; and

(2) by striking paragraph (4).

**SEC. 31307. PROMOTION OF VEHICLE DEFECT REPORTING.**

Section 32302 of title 49, United States Code, is amended by adding at the end the following:

''(d) MOTOR VEHICLE DEFECT REPORTING INFORMATION.—

''(1) RULEMAKING REQUIRED.—Not later than 1 year after the date of the enactment of the Motor Vehicle and Highway Safety Improvement Act of 2012, the Secretary shall prescribe regulations that require passenger motor vehicle manufacturers—

''(A) to affix, in the glove compartment or in another readily accessible location on the ve-

hicle, a sticker, decal, or other device that provides, in simple and understandable language, information about how to submit a safety-related motor vehicle defect complaint to the National Highway Traffic Safety Administration;

"(B) to prominently print the information described in subparagraph (A) on a separate page within the owner's manual; and

"(C) to not place such information on the label required under section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232).

"(2) APPLICATION.—The requirements under paragraph (1) shall apply to passenger motor vehicles manufactured in any model year beginning more than 1 year after the date on which a final rule is published under paragraph (1).".

**SEC. 31308. WHISTLEBLOWER PROTECTIONS FOR MOTOR VEHICLE MANUFACTURERS, PART SUPPLIERS, AND DEALERSHIP EMPLOYEES.**

(a) IN GENERAL.—Subchapter IV of chapter 301 of title 49, United States Code, is amended by adding at the end the following:

**"§ 30171. Protection of employees providing motor vehicle safety information**

''(a) DISCRIMINATION AGAINST EMPLOYEES OF MANUFACTURERS, PART SUPPLIERS, AND DEALERSHIPS.—No motor vehicle manufacturer, part supplier, or dealership may discharge an employee or otherwise discriminate against an employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee)—

''(1) provided, caused to be provided, or is about to provide (with any knowledge of the employer) or cause to be provided to the employer or the Secretary of Transportation information relating to any motor vehicle defect, noncompliance, or any violation or alleged violation of any notification or reporting requirement of this chapter;

''(2) has filed, caused to be filed, or is about to file (with any knowledge of the employer) or cause to be filed a proceeding relating to any violation or alleged violation of any motor vehicle defect, noncompliance, or any violation or alleged violation of any notification or reporting requirement of this chapter;

''(3) testified or is about to testify in such a proceeding;

"(4) assisted or participated or is about to assist or participate in such a proceeding; or

"(5) objected to, or refused to participate in, any activity that the employee reasonably believed to be in violation of any provision of any Act enforced by the Secretary of Transportation, or any order, rule, regulation, standard, or ban under any such Act.

"(b) COMPLAINT PROCEDURE.—

"(1) FILING AND NOTIFICATION.—A person who believes that he or she has been discharged or otherwise discriminated against by any person in violation of subsection (a) may, not later than 180 days after the date on which such violation occurs, file (or have any person file on his or her behalf) a complaint with the Secretary of Labor (hereinafter in this section referred to as the 'Secretary') alleging such discharge or discrimination. Upon receipt of such a complaint, the Secretary shall notify, in writing, the person named in the complaint of the filing of the complaint, of the allegations contained in the complaint, of the substance of evidence supporting the complaint, and of the opportunities that will be afforded to such person under paragraph (2).

"(2) INVESTIGATION; PRELIMINARY ORDER.—

"(A) IN GENERAL.—Not later than 60 days after the date of receipt of a complaint filed under paragraph (1) and after affording the person named in the complaint an opportunity to submit to the Secretary a written response to the complaint and an opportunity to meet with a representative of the Secretary to present statements from witnesses, the Secretary shall conduct an investigation and determine whether there is reasonable cause to believe that the complaint has merit and notify, in writing, the complainant and the person alleged to have committed a violation of subsection (a) of the Secretary's findings. If the Secretary concludes that there is a reasonable cause to believe that a violation of subsection (a) has occurred, the Secretary shall accompany the Secretary's findings with a preliminary order providing the relief prescribed by paragraph (3)(B). Not later than 30 days after the date of notification of findings under this paragraph, either the person alleged to have committed the violation or the complainant may file objections to the findings or preliminary order, or both, and request a hearing on the record. The filing

of such objections shall not operate to stay any reinstatement remedy contained in the preliminary order. Such hearings shall be conducted expeditiously. If a hearing is not requested in such 30-day period, the preliminary order shall be deemed a final order that is not subject to judicial review.

"(B) REQUIREMENTS.—

"(i) REQUIRED SHOWING BY COMPLAINANT.—The Secretary shall dismiss a complaint filed under this subsection and shall not conduct an investigation otherwise required under subparagraph (A) unless the complainant makes a prima facie showing that any behavior described in paragraphs (1) through (5) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

"(ii) SHOWING BY EMPLOYER.—Notwithstanding a finding by the Secretary that the complainant has made the showing required under clause (i), no investigation otherwise required under subparagraph (A) shall be conducted if the em-

ployer demonstrates, by clear and convincing evidence, that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

"(iii) CRITERIA FOR DETERMINATION BY SECRETARY.—The Secretary may determine that a violation of subsection (a) has occurred only if the complainant demonstrates that any behavior described in paragraphs (1) through (5) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

"(iv) PROHIBITION.—Relief may not be ordered under subparagraph (A) if the employer demonstrates, by clear and convincing evidence, that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

"(3) FINAL ORDER.—

"(A) DEADLINE FOR ISSUANCE; SETTLEMENT AGREEMENTS.—Not later than 120 days after the date of conclusion of a hearing under paragraph (2), the Secretary shall issue a final order providing the relief prescribed by this

paragraph or denying the complaint. At any time before issuance of a final order, a proceeding under this subsection may be terminated on the basis of a settlement agreement entered into by the Secretary, the complainant, and the person alleged to have committed the violation.

''(B) REMEDY.—If, in response to a complaint filed under paragraph (1), the Secretary determines that a violation of subsection (a) has occurred, the Secretary shall order the person who committed such violation—

''(i) to take affirmative action to abate the violation;

''(ii) to reinstate the complainant to his or her former position together with the compensation (including back pay) and restore the terms, conditions, and privileges associated with his or her employment; and

''(iii) to provide compensatory damages to the complainant.

''(C) ATTORNEYS' FEES.—If such an order is issued under this paragraph, the Secretary, at the request of the complainant, shall assess

against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorneys' and expert witness fees) reasonably incurred, as determined by the Secretary, by the complainant for, or in connection with, bringing the complaint upon which the order was issued.

"(D) FRIVOLOUS COMPLAINTS.—If the Secretary determines that a complaint under paragraph (1) is frivolous or has been brought in bad faith, the Secretary may award to the prevailing employer a reasonable attorney's fee not exceeding $1,000.

"(E) DE NOVO REVIEW.—With respect to a complaint under paragraph (1), if the Secretary of Labor has not issued a final decision within 210 days after the filing of the complaint and if the delay is not due to the bad faith of the employee, the employee may bring an original action at law or equity for de novo review in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy, and which action shall, at the request of either party to the action, be

tried by the court with a jury. The action shall be governed by the same legal burdens of proof specified in paragraph (2)(B) for review by the Secretary of Labor.

"(4) REVIEW.—

"(A) APPEAL TO COURT OF APPEALS.—Any person adversely affected or aggrieved by an order issued under paragraph (3) may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred or the circuit in which the complainant resided on the date of such violation. The petition for review shall be filed not later than 60 days after the date of the issuance of the final order of the Secretary. Review shall conform to chapter 7 of title 5. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the order.

"(B) LIMITATION ON COLLATERAL ATTACK.—An order of the Secretary with respect to which review could have been obtained under subparagraph (A) shall not be subject to judi-

cial review in any criminal or other civil proceeding.

"(5) ENFORCEMENT OF ORDER BY SECRETARY.—Whenever any person fails to comply with an order issued under paragraph (3), the Secretary may file a civil action in the United States district court for the district in which the violation was found to occur to enforce such order. In actions brought under this paragraph, the district courts shall have jurisdiction to grant all appropriate relief, including injunctive relief and compensatory damages.

"(6) ENFORCEMENT OF ORDER BY PARTIES.—

"(A) COMMENCEMENT OF ACTION.—A person on whose behalf an order was issued under paragraph (3) may commence a civil action against the person to whom such order was issued to require compliance with such order. The appropriate United States district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such order.

"(B) ATTORNEY FEES.—The court, in issuing any final order under this paragraph, may award costs of litigation (including reason-

able attorney and expert witness fees) to any party whenever the court determines such award is appropriate.

''(c) MANDAMUS.—Any nondiscretionary duty imposed under this section shall be enforceable in a mandamus proceeding brought under section 1361 of title 28.

''(d) NONAPPLICABILITY TO DELIBERATE VIOLATIONS.—Subsection (a) shall not apply with respect to an employee of a motor vehicle manufacturer, part supplier, or dealership who, acting without direction from such motor vehicle manufacturer, part supplier, or dealership (or such person's agent), deliberately causes a violation of any requirement relating to motor vehicle safety under this chapter.''.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 301 of title 49, United States Code, is amended by inserting after the item relating to section 30170 the following:

''30171. Protection of employees providing motor vehicle safety information.''.

**SEC. 31309. ANTI-REVOLVING DOOR.**

(a) AMENDMENT.—Subchapter I of chapter 301 of title 49, United States Code, is amended by adding at the end the following:

**"§ 30107. Restriction on covered motor vehicle safety officials**

''(a) IN GENERAL.—During the 2-year period after the termination of his or her service or employment, a covered vehicle safety official may not knowingly make, with the intent to influence, any communication to or appearance before any officer or employee of the National Highway Traffic Safety Administration on behalf of any manufacturer subject to regulation under this chapter in connection with any matter involving motor vehicle safety on which such person seeks official action by any officer or employee of the National Highway Traffic Safety Administration.

''(b) MANUFACTURERS.—It is unlawful for any manufacturer or other person subject to regulation under this chapter to employ or contract for the services of an individual to whom subsection (a) applies during the 2-year period commencing on the individual's termination of employment with the National Highway Traffic Safety Administration in a capacity in which the individual is prohibited from serving during that period.

''(c) SPECIAL RULE FOR DETAILEES.—For purposes of this section, a person who is detailed from 1 department, agency, or other entity to another department, agency, or other entity shall, during the period such per-

son is detailed, be deemed to be an officer or employee of both departments, agencies, or such entities.

''(d) SAVINGS PROVISION.—Nothing in this section may be construed to expand, contract, or otherwise affect the application of any waiver or criminal penalties under section 207 of title 18.

''(e) EXCEPTION FOR TESTIMONY.—Nothing in this section may be construed to prevent an individual from giving testimony under oath, or from making statements required to be made under penalty of perjury.

''(f) DEFINED TERM.—In this section, the term 'covered vehicle safety official' means any officer or employee of the National Highway Traffic Safety Administration—

''(1) who, during the final 12 months of his or her service or employment with the agency, serves or served in a technical or legal capacity, and whose job responsibilities include or included vehicle safety defect investigation, vehicle safety compliance, vehicle safety rulemaking, or vehicle safety research; and

''(2) who serves in a supervisory or management capacity over an officer or employee described in paragraph (1).

''(g) EFFECTIVE DATE.—This section shall apply to covered vehicle safety officials who terminate service or employment with the National Highway Traffic Safety

Administration after the date of enactment of the Motor Vehicle and Highway Safety Improvement Act of 2012.''.

(b) CIVIL PENALTY.—Section 30165(a) of title 49, United States Code, as amended by this subtitle, is further amended by adding at the end the following:

''(5) IMPROPER INFLUENCE.—An individual who violates section 30107(a) is liable to the United States Government for a civil penalty, as determined under section 216(b) of title 18, for an offense under section 207 of that title. A manufacturer or other person subject to regulation under this chapter who violates section 30107(b) is liable to the United States Government for a civil penalty equal to the sum of—

''(A) an amount equal to not less than $100,000; and

''(B) an amount equal to 90 percent of the annual compensation or fee paid or payable to the individual with respect to whom the violation occurred.''.

(c) STUDY OF DEPARTMENT OF TRANSPORTATION POLICIES ON OFFICIAL COMMUNICATION WITH FORMER MOTOR VEHICLE SAFETY ISSUE EMPLOYEES.—Not later than 1 year after the date of the enactment of this Act,

the Inspector General of the Department of Transportation shall—

(1) review the Department of Transportation's policies and procedures applicable to official communication with former employees concerning motor vehicle safety compliance matters for which they had responsibility during the last 12 months of their tenure at the Department, including any limitations on the ability of such employees to submit comments, or otherwise communicate directly with the Department, on motor vehicle safety issues; and

(2) submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives that contains the Inspector General's findings, conclusions, and recommendations for strengthening those policies and procedures to minimize the risk of undue influence without compromising the ability of the Department to employ and retain highly qualified individuals for such responsibilities.

(d) POST-EMPLOYMENT POLICY STUDY.—

(1) IN GENERAL.—The Inspector General of the Department of Transportation shall conduct a study of the Department's policies relating to post-

employment restrictions on employees who perform functions related to transportation safety.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Inspector General shall submit a report containing the results of the study conducted under paragraph (1) to—

(A) the Committee on Commerce, Science, and Transportation of the Senate;

(B) the Committee on Energy and Commerce of the House of Representatives; and

(C) the Secretary of Transportation.

(3) USE OF RESULTS.—The Secretary of Transportation shall review the results of the study conducted under paragraph (1) and take whatever action the Secretary determines to be appropriate.

(e) CONFORMING AMENDMENT.—The table of contents for chapter 301 of title 49, United States Code, is amended by inserting after the item relating to section 30106 the following:

"30107. Restriction on covered motor vehicle safety officials.".

**SEC. 31310. STUDY OF CRASH DATA COLLECTION.**

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate the Committee on Energy and Commerce of the House of Representatives regarding

the quality of data collected through the National Automotive Sampling System, including the Special Crash Investigations Program.

(b) REVIEW.—The Administrator of the National Highway Traffic Safety Administration (referred to in this section as the ''Administration'') shall conduct a comprehensive review of the data elements collected from each crash to determine if additional data should be collected. The review under this subsection shall include input from interested parties, including suppliers, automakers, safety advocates, the medical community, and research organizations.

(c) CONTENTS.—The report issued under this section shall include—

(1) the analysis and conclusions the Administration can reach from the amount of motor vehicle crash data collected in a given year;

(2) the additional analysis and conclusions the Administration could reach if more crash investigations were conducted each year;

(3) the number of investigations per year that would allow for optimal data analysis and crash information;

(4) the results of the comprehensive review conducted pursuant to subsection (b);

(5) recommendations for improvements to the Administration's data collection program; and

(6) the resources needed by the Administration to implement such recommendations.

**SEC. 31311. UPDATE MEANS OF PROVIDING NOTIFICATION; IMPROVING EFFICACY OF RECALLS.**

(a) UPDATE OF MEANS OF PROVIDING NOTIFICATION.—Section 30119(d) of title 49, United States Code, is amended—

(1) by striking, in paragraph (1), ''by first class mail'' and inserting ''in the manner prescribed by the Secretary, by regulation'';

(2) in paragraph (2)—

(A) by striking ''(except a tire) shall be sent by first class mail'' and inserting ''shall be sent in the manner prescribed by the Secretary, by regulation,''; and

(B) by striking the second sentence;

(3) in paragraph (3)—

(A) by striking the first sentence;

(B) by inserting ''to the notification required under paragraphs (1) and (2)'' after ''addition''; and

(C) by inserting ''by the manufacturer'' after ''given''; and

(4) in paragraph (4), by striking "by certified mail or quicker means if available" and inserting "in the manner prescribed by the Secretary, by regulation".

(b) IMPROVING EFFICACY OF RECALLS.—Section 30119(e) of title 49, United States Code, is amended—

(1) in the subsection heading, by striking "SECOND" and inserting "ADDITIONAL";

(2) by striking "If the Secretary" and inserting the following:

"(1) SECOND NOTIFICATION.—If the Secretary"; and

(3) by adding at the end the following:

"(2) ADDITIONAL NOTIFICATIONS.—If the Secretary determines, after considering the severity of the defect or noncompliance, that the second notification by a manufacturer does not result in an adequate number of motor vehicles or items of replacement equipment being returned for remedy, the Secretary may order the manufacturer—

"(A) to send additional notifications in the manner prescribed by the Secretary, by regulation;

"(B) to take additional steps to locate and notify each person registered under State law

as the owner or lessee or the most recent purchaser or lessee, as appropriate; and

"(C) to emphasize the magnitude of the safety risk caused by the defect or noncompliance in such notification.".

**SEC. 31312. EXPANDING CHOICES OF REMEDY AVAILABLE TO MANUFACTURERS OF REPLACEMENT EQUIPMENT.**

Section 30120 of title 49, United States Code, is amended—

(1) in subsection (a)(1), by amending subparagraph (B) to read as follows:

"(B) if replacement equipment, by repairing the equipment, replacing the equipment with identical or reasonably equivalent equipment, or by refunding the purchase price.";

(2) in the heading of subsection (i), by adding "OF NEW VEHICLES OR EQUIPMENT" at the end; and

(3) in the heading of subsection (j), by striking "REPLACED" and inserting "REPLACEMENT".

**SEC. 31313. RECALL OBLIGATIONS AND BANKRUPTCY OF MANUFACTURER.**

(a) IN GENERAL.—Chapter 301 of title 49, United States Code, is amended by inserting the following after section 30120:

**"§ 30120A. Recall obligations and bankruptcy of a manufacturer**

''A manufacturer's filing of a petition in bankruptcy under chapter 11 of title 11, does not negate the manufacturer's duty to comply with section 30112 or sections 30115 through 30120 of this title. In any bankruptcy proceeding, the manufacturer's obligations under such sections shall be treated as a claim of the United States Government against such manufacturer, subject to subchapter II of chapter 37 of title 31, United States Code, and given priority pursuant to section 3713(a)(1)(A) of such chapter, notwithstanding section 3713(a)(2), to ensure that consumers are adequately protected from any safety defect or noncompliance determined to exist in the manufacturer's products. This section shall apply equally to actions of a manufacturer taken before or after the filing of a petition in bankruptcy.''

(b) CONFORMING AMENDMENT.—The chapter analysis of chapter 301 of title 49, United States Code, is

amended by inserting after the item relating to section 30120 the following:

"30120a. Recall obligations and bankruptcy of a manufacturer.".

**SEC. 31314. REPEAL OF INSURANCE REPORTS AND INFORMATION PROVISION.**

Chapter 331 of title 49, United States Code, is amended—

(1) in the chapter analysis, by striking the item relating to section 33112; and

(2) by striking section 33112.

**SEC. 31315. MONRONEY STICKER TO PERMIT ADDITIONAL SAFETY RATING CATEGORIES.**

Section 3(g)(2) of the Automobile Information Disclosure Act (15 U.S.C. 1232(g)(2)), is amended by inserting "safety rating categories that may include" after "refers to".

# Subtitle D—Vehicle Electronics and Safety Standards

**SEC. 31401. NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION ELECTRONICS, SOFTWARE, AND ENGINEERING EXPERTISE.**

(a) COUNCIL FOR VEHICLE ELECTRONICS, VEHICLE SOFTWARE, AND EMERGING TECHNOLOGIES.—

(1) IN GENERAL.—The Secretary shall establish, within the National Highway Traffic Safety Administration, a Council for Vehicle Electronics, Vehi-

cle Software, and Emerging Technologies (referred to in this section as the ''Council'') to build, integrate, and aggregate the Administration's expertise in passenger motor vehicle electronics and other new and emerging technologies.

(2) IMPLEMENTATION OF ROADMAP.—The Council shall research the inclusion of emerging lightweight plastic and composite technologies in motor vehicles to increase fuel efficiency, lower emissions, meet fuel economy standards, and enhance passenger motor vehicle safety through continued utilization of the Administration's Plastic and Composite Intensive Vehicle Safety Roadmap (Report No. DOT HS 810 863).

(3) INTRA-AGENCY COORDINATION.—The Council shall coordinate with all components of the Administration responsible for vehicle safety, including research and development, rulemaking, and defects investigation.

(b) HONORS RECRUITMENT PROGRAM.—

(1) ESTABLISHMENT.—The Secretary shall establish, within the National Highway Traffic Safety Administration, an honors program for engineering students, computer science students, and other students interested in vehicle safety that will enable

such students to train with engineers and other safety officials for a career in vehicle safety.

(2) STIPEND.—The Secretary is authorized to provide a stipend to students during their participation in the program established pursuant to paragraph (1).

(c) ASSESSMENT.—The Council, in consultation with affected stakeholders, shall assess the implications of emerging safety technologies in passenger motor vehicles, including the effect of such technologies on consumers, product availability, and cost.

**SEC. 31402. VEHICLE STOPPING DISTANCE AND BRAKE OVERRIDE STANDARD.**

Not later than 1 year after the date of enactment of this Act, the Secretary shall prescribe a Federal motor vehicle safety standard that—

(1) mitigates unintended acceleration in passenger motor vehicles;

(2) establishes performance requirements, based on the speed, size, and weight of the vehicle, that enable a driver to bring a passenger motor vehicle safely to a full stop by normal braking application even if the vehicle is simultaneously receiving accelerator input signals, including a full-throttle input signal;

(3) may permit compliance through a system that requires brake pedal application, after a period of time determined by the Secretary, to override an accelerator pedal input signal in order to stop the vehicle;

(4) requires that redundant circuits or other mechanisms be built into accelerator control systems, including systems controlled by electronic throttle, to maintain vehicle control in the event of failure of the primary circuit or mechanism; and

(5) may permit vehicles to incorporate a means to temporarily disengage the function required under paragraph (2) to facilitate operations, such as maneuvering trailers or climbing steep hills, which may require the simultaneous operation of brake and accelerator.

**SEC. 31403. PEDAL PLACEMENT STANDARD.**

(a) IN GENERAL.—The Secretary shall initiate a rulemaking proceeding to consider a Federal motor vehicle safety standard that would mitigate potential obstruction of pedal movement in passenger motor vehicles, after taking into account—

(1) various pedal mounting configurations; and

(2) minimum clearances for passenger motor vehicle foot pedals with respect to other pedals, the

vehicle floor (including aftermarket floor coverings), and any other potential obstructions to pedal movement that the Secretary determines to be relevant.

(b) DEADLINE.—

(1) IN GENERAL.—Except as provided under paragraph (2), the Secretary shall issue a final rule to implement the safety standard described in subsection (a) not later than 3 years after the date of the enactment of this Act.

(2) REPORT.—If the Secretary determines that a pedal placement standard does not meet the requirements and considerations set forth in subsections (a) and (b) of section 30111 of title 49, United States Code, the Secretary shall submit a report describing the reasons for not prescribing such standard to—

(A) the Committee on Commerce, Science, and Transportation of the Senate; and

(B) the Committee on Energy and Commerce of the House of Representatives.

(c) COMBINED RULEMAKING.—The Secretary may combine the rulemaking proceeding required under subsection (a) with the rulemaking proceeding required under section 31402.

**SEC. 31404. ELECTRONIC SYSTEMS PERFORMANCE STANDARD.**

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall initiate a rulemaking proceeding to consider prescribing or amending a Federal motor vehicle safety standard that—

(1) requires electronic systems in passenger motor vehicles to meet minimum performance requirements; and

(2) may include requirements for—

(A) electronic components;

(B) the interaction of electronic components;

(C) security needs for those electronic systems to prevent unauthorized access; or

(D) the effect of surrounding environments on those electronic systems.

(b) DEADLINE.—

(1) IN GENERAL.—Except as provided under paragraph (2), the Secretary shall issue a final rule to implement the safety standard described in subsection (a) not later than 4 years after the date of enactment of this Act.

(2) REPORT.—If the Secretary determines that such a standard does not meet the requirements and considerations set forth in subsections (a) and (b) of

section 30111 of title 49, United States Code, the Secretary shall submit a report describing the reasons for not prescribing such standard to—

(A) the Committee on Commerce, Science, and Transportation of the Senate; and

(B) the Committee on Energy and Commerce of the House of Representatives.

(c) NATIONAL ACADEMY OF SCIENCES.—In conducting the rulemaking under subsection (a), the Secretary shall consider the findings and recommendations of the National Academy of Sciences, if any, pursuant to its study of electronic vehicle controls.

**SEC. 31405. PUSHBUTTON IGNITION SYSTEMS STANDARD.**

(a) PUSHBUTTON IGNITION STANDARD.—

(1) IN GENERAL.—The Secretary shall initiate a rulemaking proceeding to consider a Federal motor vehicle safety standard for passenger motor vehicles with pushbutton ignition systems that establishes a standardized operation of such systems when used by drivers, including drivers who may be unfamiliar with such systems, in an emergency situation when the vehicle is in motion.

(2) OTHER IGNITION SYSTEMS.—In the rulemaking proceeding initiated under paragraph (1), the Secretary may include any other ignition-start-

ing mechanism that the Secretary determines should be considered.

(b) PUSHBUTTON IGNITION SYSTEM DEFINED.—The term ''pushbutton ignition system'' means a mechanism, such as the push of a button, for starting a passenger motor vehicle that does not involve the physical insertion and turning of a tangible key.

(c) DEADLINE.—

(1) IN GENERAL.—Except as provided under paragraph (2), the Secretary shall issue a final rule to implement the standard described in subsection (a) not later than 2 years after the date of the enactment of this Act.

(2) REPORT.—If the Secretary determines that a standard does not meet the requirements and considerations set forth in subsections (a) and (b) of section 30111 of title 49, United States Code, the Secretary shall submit a report describing the reasons for not prescribing such standard to—

(A) the Committee on Commerce, Science, and Transportation of the Senate; and

(B) the Committee on Energy and Commerce of the House of Representatives.

**SEC. 31406. VEHICLE EVENT DATA RECORDERS.**

(a) MANDATORY EVENT DATA RECORDERS.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall revise part 563 of title 49, Code of Federal Regulations, to require, beginning with model year 2015, that new passenger motor vehicles sold in the United States be equipped with an event data recorder that meets the requirements under that part.

(2) PENALTY.—The violation of any provision under part 563 of title 49, Code of Federal Regulations—

(A) shall be deemed to be a violation of section 30112 of title 49, United States Code;

(B) shall be subject to civil penalties under section 30165(a) of that title; and

(C) shall not subject a manufacturer (as defined in section 30102(a)(5) of that title) to the requirements under section 30120 of that title.

(b) LIMITATIONS ON INFORMATION RETRIEVAL.—

(1) OWNERSHIP OF DATA.—Any data in an event data recorder required under part 563 of title 49, Code of Federal Regulations, regardless of when the passenger motor vehicle in which it is installed was manufactured, is the property of the owner, or

in the case of a leased vehicle, the lessee of the passenger motor vehicle in which the data recorder is installed.

(2) PRIVACY.—Data recorded or transmitted by such a data recorder may not be retrieved by a person other than the owner or lessee of the motor vehicle in which the recorder is installed unless—

(A) a court authorizes retrieval of the information in furtherance of a legal proceeding;

(B) the owner or lessee consents to the retrieval of the information for any purpose, including the purpose of diagnosing, servicing, or repairing the motor vehicle;

(C) the information is retrieved pursuant to an investigation or inspection authorized under section 1131(a) or 30166 of title 49, United States Code, and the personally identifiable information of the owner, lessee, or driver of the vehicle and the vehicle identification number is not disclosed in connection with the retrieved information; or

(D) the information is retrieved for the purpose of determining the need for, or facilitating, emergency medical response in response to a motor vehicle crash.

(c) REPORT TO CONGRESS.—Two years after the date of implementation of subsection (a), the Secretary shall study the safety impact and the impact on individual privacy of event data recorders in passenger motor vehicles and report its findings to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives. The report shall include—

(1) the safety benefits gained from installation of event data recorders;

(2) the recommendations on what, if any, additional data the event data recorder should be modified to record;

(3) the additional safety benefit such information would yield;

(4) the estimated cost to manufacturers to implement the new enhancements;

(5) an analysis of how the information proposed to be recorded by an event data recorder conforms to applicable legal, regulatory, and policy requirements regarding privacy;

(6) a determination of the risks and effects of collecting and maintaining the information proposed to be recorded by an event data recorder;

(7) an examination and evaluation of the protections and alternative processes for handling information recorded by an event data recorder to mitigate potential privacy risks.

(d) REVISED REQUIREMENTS FOR EVENT DATA RECORDERS.—Based on the findings of the study under subsection (c), the Secretary shall initiate a rulemaking proceeding to revise part 563 of title 49, Code of Federal Regulations. The rule—

(1) shall require event data recorders to capture and store data related to motor vehicle safety covering a reasonable time period before, during, and after a motor vehicle crash or airbag deployment, including a rollover;

(2) shall require that data stored on such event data recorders be accessible, regardless of vehicle manufacturer or model, with commercially available equipment in a specified data format;

(3) shall establish requirements for preventing unauthorized access to the data stored on an event data recorder in order to protect the security, integrity, and authenticity of the data; and

(4) may require an interoperable data access port to facilitate universal accessibility and analysis.

(e) DISCLOSURE OF EXISTENCE AND PURPOSE OF EVENT DATA RECORDER.—The rule issued under subsection (d) shall require that any owner's manual or similar documentation provided to the first purchaser of a passenger motor vehicle for purposes other than resale—

(1) disclose that the vehicle is equipped with such a data recorder; and

(2) explain the purpose of the data recorder.

(f) ACCESS TO EVENT DATA RECORDERS IN AGENCY INVESTIGATIONS.—Section 30166(c)(3)(C) of title 49, United States Code, is amended by inserting ", including any electronic data contained within the vehicle's diagnostic system or event data recorder" after "equipment."

(g) DEADLINE FOR RULEMAKING.—The Secretary shall issue a final rule under subsection (d) not later than 4 years after the date of enactment of this Act.

**SEC. 31407. PROHIBITION ON ELECTRONIC VISUAL ENTERTAINMENT IN DRIVER'S VIEW.**

(a) VISUAL ENTERTAINMENT SCREENS IN DRIVER'S VIEW.—Not later than 2 years after the date of enactment of this Act, the Secretary of Transportation shall issue a final rule that prescribes a Federal motor vehicle safety standard prohibiting electronic screens from displaying broadcast television, movies, video games, and other forms

of similar visual entertainment that is visible to the driver while driving.

(b) EXCEPTIONS.—The standard prescribed under subsection (a) shall allow electronic screens that display information or images regarding operation of the vehicle, vehicle surroundings, and telematic functions, such as the vehicles navigation and communications system, weather, time, or the vehicle's audio system.

**SEC. 31408. COMMERCIAL MOTOR VEHICLE ROLLOVER PREVENTION AND CRASH MITIGATION.**

(a) RULEMAKING.—Not later than 3 months after the date of enactment of this Act, the Secretary of Transportation shall initiate a rulemaking proceeding pursuant to section 30111 of title 49, United States Code, to prescribe or amend a Federal motor vehicle safety standard to reduce commercial motor vehicle rollover and loss of control crashes and mitigate deaths and injuries associated with such crashes for air-braked truck tractors and motorcoaches with a gross vehicle weight rating of more than 26,000 pounds.

(b) REQUIRED PERFORMANCE STANDARDS.—The rulemaking proceeding initiated under subsection (a) shall establish standards to reduce the occurrence of rollovers and loss of control crashes consistent with stability en-

hancing technologies, such as electronic stability control systems.

(c) DEADLINE.—Not later than 18 months after the date of enactment of this Act, the Secretary shall issue a final rule under subsection (a).

# Subtitle E—Child Safety Standards

**SEC. 31501. CHILD SAFETY SEATS.**

(a) PROTECTION FOR LARGER CHILDREN.—Not later than 1 year after the date of enactment of this Act, the Secretary shall issue a final rule amending Federal Motor Vehicle Safety Standard Number 213 to establish frontal crash protection requirements for child restraint systems for children weighing more than 65 pounds.

(b) SIDE IMPACT CRASHES.—Not later than 2 years after the date of enactment of this Act, the Secretary shall issue a final rule amending Federal Motor Vehicle Safety Standard Number 213 to improve the protection of children seated in child restraint systems during side impact crashes.

(c) FRONTAL IMPACT TEST PARAMETERS.—

(1) COMMENCEMENT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall commence a rulemaking proceeding to amend test parameters under Federal Motor Vehicle

Safety Standard Number 213 to better replicate real world conditions.

(2) FINAL RULE.—Not later than 4 years after the date of enactment of this Act, the Secretary shall issue a final rule pursuant to paragraph (1).

**SEC. 31502. CHILD RESTRAINT ANCHORAGE SYSTEMS.**

(a) INITIATION OF RULEMAKING PROCEEDING.—Not later than 1 year after the date of enactment of this Act, the Secretary shall initiate a rulemaking proceeding to—

(1) amend Federal Motor Vehicle Safety Standard Number 225 (relating to child restraint anchorage systems) to improve the visibility of, accessibility to, and ease of use for lower anchorages and tethers in all rear seat seating positions if such anchorages and tethers are feasible; and

(2) amend Federal Motor Vehicle Safety Standard Number 213 (relating to child restraint systems) or Federal Motor Vehicle Safety Standard Number 225 (relating to child restraint anchorage systems)—

(A) to establish a maximum allowable weight of the child and child restraint for standardizing the recommended use of child restraint anchorage systems in all vehicles; and

(B) to provide the information described in subparagraph (A) to the consumer.

(b) FINAL RULE.—

(1) IN GENERAL.—Except as provided under paragraph (2), the Secretary shall issue a final rule under subsection (a) not later than 3 years after the date of the enactment of this Act.

(2) REPORT.—If the Secretary determines that an amendment to the standard referred to in subsection (a) does not meet the requirements and considerations set forth in subsections (a) and (b) of section 30111 of title 49, United States Code, the Secretary shall submit a report describing the reasons for not prescribing such a standard to—

(A) the Committee on Commerce, Science, and Transportation of the Senate; and

(B) the Committee on Energy and Commerce of the House of Representatives.

**SEC. 31503. REAR SEAT BELT REMINDERS.**

(a) INITIATION OF RULEMAKING PROCEEDING.—Not later than 2 years after the date of enactment of this Act, the Secretary shall initiate a rulemaking proceeding to amend Federal Motor Vehicle Safety Standard Number 208 (relating to occupant crash protection) to provide a

safety belt use warning system for designated seating positions in the rear seat.

(b) FINAL RULE.—

(1) IN GENERAL.—Except as provided under paragraph (2), the Secretary shall issue a final rule under subsection (a) not later than 3 years after the date of enactment of this Act.

(2) REPORT.—If the Secretary determines that an amendment to the standard referred to in subsection (a) does not meet the requirements and considerations set forth in subsections (a) and (b) of section 30111 of title 49, United States Code, the Secretary shall submit a report describing the reasons for not prescribing such a standard to—

(A) the Committee on Commerce, Science, and Transportation of the Senate; and

(B) the Committee on Energy and Commerce of the House of Representatives.

**SEC. 31504. UNATTENDED PASSENGER REMINDERS.**

(a) SAFETY RESEARCH INITIATIVE.—Not later than 2 years after the date of enactment of this Act, the Secretary shall complete research into the development of performance requirements to warn drivers that a child or other unattended passenger remains in a rear seating position after the vehicle motor is disengaged.

(b) SPECIFICATIONS.—In carrying out subsection (a), the Secretary shall consider performance requirements that—

(1) sense weight, the presence of a buckled seat belt, or other indications of the presence of a child or other passenger; and

(2) provide an alert to prevent hyperthermia and hypothermia that can result in death or severe injuries.

(c) RULEMAKING OR REPORT.—

(1) RULEMAKING.—Not later than 1 year after the completion of each research and testing initiative required under subsection (a), the Secretary shall initiate a rulemaking proceeding to issue a Federal motor vehicle safety standard if the Secretary determines that such a standard meets the requirements and considerations set forth in subsections (a) and (b) of section 30111 of title 49, United States Code.

(2) REPORT.—If the Secretary determines that the standard described in subsection (a) does not meet the requirements and considerations set forth in subsections (a) and (b) of section 30111 of title 49, United States Code, the Secretary shall submit a report describing the reasons for not prescribing such a standard to—

(A) the Committee on Commerce, Science, and Transportation of the Senate; and

(B) the Committee on Energy and Commerce of the House of Representatives.

**SEC. 31505. NEW DEADLINE.**

If the Secretary determines that any deadline for issuing a final rule under this Act cannot be met, the Secretary shall—

(1) provide the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives with an explanation for why such deadline cannot be met; and

(2) establish a new deadline for that rule.

# Subtitle F—Improved Daytime and Nighttime Visibility of Agricultural Equipment

**SEC. 31601. RULEMAKING ON VISIBILITY OF AGRICULTURAL EQUIPMENT.**

(a) DEFINITIONS.—In this section:

(1) AGRICULTURAL EQUIPMENT.—The term ''agricultural equipment'' has the meaning given the term ''agricultural field equipment'' in ASABE Standard 390.4, entitled ''Definitions and Classifications of Agricultural Field Equipment'', which was

published in January 2005 by the American Society of Agriculture and Biological Engineers, or any successor standard.

(2) PUBLIC ROAD.—The term ''public road'' has the meaning given the term in section 101(a)(27) of title 23, United States Code.

(b) RULEMAKING.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary of Transportation, after consultation with representatives of the American Society of Agricultural and Biological Engineers and appropriate Federal agencies, and with other appropriate persons, shall promulgate a rule to improve the daytime and nighttime visibility of agricultural equipment that may be operated on a public road.

(2) MINIMUM STANDARDS.—The rule promulgated pursuant to this subsection shall—

(A) establish minimum lighting and marking standards for applicable agricultural equipment manufactured at least 1 year after the date on which such rule is promulgated; and

(B) provide for the methods, materials, specifications, and equipment to be employed to comply with such standards, which shall be

equivalent to ASABE Standard 279.14, entitled ''Lighting and Marking of Agricultural Equipment on Highways'', which was published in July 2008 by the American Society of Agricultural and Biological Engineers, or any successor standard.

(c) REVIEW.—Not less frequently than once every 5 years, the Secretary of Transportation shall—

(1) review the standards established pursuant to subsection (b); and

(2) revise such standards to reflect the revision of ASABE Standard 279 that is in effect at the time of such review.

(d) LIMITATIONS.—

(1) COMPLIANCE WITH SUCCESSOR STANDARDS.—Any rule promulgated pursuant to this section may not prohibit the operation on public roads of agricultural equipment that is equipped in accordance with any adopted revision of ASABE Standard 279 that is later than the revision of such standard that was referenced during the promulgation of the rule.

(2) NO RETROFITTING REQUIRED.—Any rule promulgated pursuant to this section may not require the retrofitting of agricultural equipment that

was manufactured before the date on which the lighting and marking standards are enforceable under subsection (b)(2)(A).

(3) NO EFFECT ON ADDITIONAL MATERIALS AND EQUIPMENT.—Any rule promulgated pursuant to this section may not prohibit the operation on public roads of agricultural equipment that is equipped with materials or equipment that are in addition to the minimum materials and equipment specified in the standard upon which such rule is based.

# TITLE II—COMMERCIAL MOTOR VEHICLE SAFETY ENHANCEMENT ACT OF 2012

**SEC. 32001. SHORT TITLE.**

This title may be cited as the ''Commercial Motor Vehicle Safety Enhancement Act of 2012''.

**SEC. 32002. REFERENCES TO TITLE 49, UNITED STATES CODE.**

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

# Subtitle A—Commercial Motor Vehicle Registration

**SEC. 32101. REGISTRATION OF MOTOR CARRIERS.**

(a) REGISTRATION REQUIREMENTS.—Section 13902(a)(1) is amended to read as follows:

"(1) IN GENERAL.—Except as otherwise provided in this section, the Secretary of Transportation may not register a person to provide transportation subject to jurisdiction under subchapter I of chapter 135 as a motor carrier unless the Secretary determines that the person—

"(A) is willing and able to comply with—

"(i) this part and the applicable regulations of the Secretary and the Board;

"(ii) any safety regulations imposed by the Secretary;

"(iii) the duties of employers and employees established by the Secretary under section 31135;

"(iv) the safety fitness requirements established by the Secretary under section 31144;

"(v) the accessibility requirements established by the Secretary under subpart H of part 37 of title 49, Code of Federal

Regulations (or successor regulations), for transportation provided by an over-the-road bus; and

"(vi) the minimum financial responsibility requirements established by the Secretary under sections 13906, 31138, and 31139;

"(B) has submitted a comprehensive management plan documenting that the person has management systems in place to ensure compliance with safety regulations imposed by the Secretary;

"(C) has disclosed any relationship involving common ownership, common management, common control, or common familial relationship between that person and any other motor carrier, freight forwarder, or broker, or any other applicant for motor carrier, freight forwarder, or broker registration, or a successor (as that term is defined under section 31153), if the relationship occurred in the 5-year period preceding the date of the filing of the application for registration; and

"(D) after the Secretary establishes a written proficiency examination pursuant to section

32101(b) of the Commercial Motor Vehicle Safety Enhancement Act of 2012, has passed the written proficiency examination.''.

(b) WRITTEN PROFICIENCY EXAMINATION.—

(1) ESTABLISHMENT.—Not later than 18 months after the date of enactment of this Act, the Secretary shall establish a written proficiency examination for applicant motor carriers pursuant to section 13902(a)(1)(D) of title 49, United States Code. The written proficiency examination shall test a person's knowledge of applicable safety regulations, standards, and orders of the Federal government and State government.

(2) ADDITIONAL FEE.—The Secretary may assess a fee to cover the expenses incurred by the Department of Transportation in—

(A) developing and administering the written proficiency examination; and

(B) reviewing the comprehensive management plan required under section 13902(a)(1)(B) of title 49, United States Code.

(c) CONFORMING AMENDMENT.—Section 210(b) of the Motor Carrier Safety Improvement Act of 1999 (49 U.S.C. 31144 note) is amended—

(1) by inserting ", commercial regulations, and provisions of subpart H of part 37 of title 49, Code of Federal Regulations, or successor regulations" after "applicable safety regulations"; and

(2) by striking "consider the establishment of" and inserting "establish".

(d) TRANSPORTATION OF AGRICULTURAL COMMODITIES AND FARM SUPPLIES.—Section 229(a)(1) of the Motor Carrier Safety Improvement Act of 1999 (49 U.S.C. 31136 note) is amended to read as follows:

"(1) TRANSPORTATION OF AGRICULTURAL COMMODITIES AND FARM SUPPLIES.—Regulations prescribed by the Secretary under sections 31136 and 31502 regarding maximum driving and on-duty time for drivers used by motor carriers shall not apply during planting and harvest periods, as determined by each State, to—

"(A) drivers transporting agricultural commodities in the State from the source of the agricultural commodities to a location within a 100 air-mile radius from the source;

"(B) drivers transporting farm supplies for agricultural purposes in the State from a wholesale or retail distribution point of the farm supplies to a farm or other location where the farm

supplies are intended to be used within a 100 air-mile radius from the distribution point; or

"(C) drivers transporting farm supplies for agricultural purposes in the State from a wholesale distribution point of the farm supplies to a retail distribution point of the farm supplies within a 100 air-mile radius from the wholesale distribution point.".

**SEC. 32102. SAFETY FITNESS OF NEW OPERATORS.**

(a) SAFETY REVIEWS OF NEW OPERATORS.—Section 31144(g)(1) is amended to read as follows:

"(1) SAFETY REVIEW.—

"(A) IN GENERAL.—The Secretary shall require, by regulation, each owner and each operator granted new registration under section 13902 or 31134 to undergo a safety review not later than 12 months after the owner or operator, as the case may be, begins operations under such registration.

"(B) PROVIDERS OF MOTORCOACH SERVICES.—The Secretary may register a person to provide motorcoach services under section 13902 or 31134 after the person undergoes a pre-authorization safety audit, including verification, in a manner sufficient to dem-

onstrate the ability to comply with Federal rules and regulations, as described in section 13902. The Secretary shall continue to monitor the safety performance of each owner and each operator subject to this section for 12 months after the owner or operator is granted registration under section 13902 or 31134. The registration of each owner and each operator subject to this section shall become permanent after the motorcoach service provider is granted registration following a pre-authorization safety audit and the expiration of the 12 month monitoring period.

"(C) PRE-AUTHORIZATION SAFETY AUDIT.—The Secretary may require, by regulation, that the pre-authorization safety audit under subparagraph (B) be completed on-site not later than 90 days after the submission of an application for operating authority.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect 1 year after the date of enactment of this Act.

**SEC. 32103. REINCARNATED CARRIERS.**

(a) EFFECTIVE PERIODS OF REGISTRATION.—

(1) SUSPENSIONS, AMENDMENTS, AND REVOCATIONS.—Section 13905(d) is amended—

(A) by redesignating paragraph (2) as paragraph (4);

(B) by striking paragraph (1) and inserting the following:

''(1) APPLICATIONS.—On application of the registrant, the Secretary may amend or revoke a registration.

''(2) COMPLAINTS AND ACTIONS ON SECRETARY'S OWN INITIATIVE.—On complaint or on the Secretary's own initiative and after notice and an opportunity for a proceeding, the Secretary may—

''(A) suspend, amend, or revoke any part of the registration of a motor carrier, broker, or freight forwarder for willful failure to comply with—

''(i) this part;

''(ii) an applicable regulation or order of the Secretary or the Board, including the accessibility requirements established by the Secretary under subpart H of part 37 of title 49, Code of Federal Regulations (or successor regulations), for transportation provided by an over-the-road bus; or

"(iii) a condition of its registration;

"(B) withhold, suspend, amend, or revoke any part of the registration of a motor carrier, broker, or freight forwarder for failure—

"(i) to pay a civil penalty imposed under chapter 5, 51, 149, or 311;

"(ii) to arrange and abide by an acceptable payment plan for such civil penalty, not later than 90 days after the date specified by order of the Secretary for the payment of such penalty; or

"(iii) for failure to obey a subpoena issued by the Secretary;

"(C) withhold, suspend, amend, or revoke any part of a registration of a motor carrier, broker, or freight forwarder following a determination by the Secretary that the motor carrier, broker, or freight forwarder failed to disclose, in its application for registration, a material fact relevant to its willingness and ability to comply with—

"(i) this part;

"(ii) an applicable regulation or order of the Secretary or the Board; or

"(iii) a condition of its registration; or

"(D) withhold, suspend, amend, or revoke any part of a registration of a motor carrier, broker, or freight forwarder if the Secretary finds that—

"(i) the motor carrier, broker, or freight forwarder is or was related through common ownership, common management, common control, or common familial relationship to any other motor carrier, broker, or freight forwarder, or any other applicant for motor carrier, broker, or freight forwarder registration that the Secretary determines is or was unwilling or unable to comply with the relevant requirements listed in section 13902, 13903, or 13904; or

"(ii) the person is the successor, as defined in section 31153, to a person who is or was unwilling or unable to comply with the relevant requirements of section 13902, 13903, or 13904.

"(3) LIMITATION.—Paragraph (2)(B) shall not apply to a person who is unable to pay a civil penalty because the person is a debtor in a case under chapter 11 of title 11."; and

(C) in paragraph (4), as redesignated by section 32103(a)(1)(A) of this Act, by striking ''paragraph (1)(B)'' and inserting ''paragraph (2)(B)''.

(2) PROCEDURE.—Section 13905(e) is amended by inserting ''or if the Secretary determines that the registrant failed to disclose a material fact in an application for registration in accordance with subsection (d)(2)(C),'' after ''registrant,''.

(b) INFORMATION SYSTEMS.—Section 31106(a)(3) is amended—

(1) in subparagraph (F), by striking ''and'' at the end;

(2) in subparagraph (G), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(H) determine whether a person or employer is or was related, through common ownership, common management, common control, or common familial relationship, to any other person, employer, or any other applicant for registration under section 13902 or 31134.''.

**SEC. 32104. FINANCIAL RESPONSIBILITY REQUIREMENTS.**

(a) REPORT.—Not later than 6 months after the date of enactment of this Act, the Secretary shall—

(1) issue a report on the appropriateness of—

(A) the current minimum financial responsibility requirements under sections 31138 and 31139 of title 49, United States Code; and

(B) the current bond and insurance requirements under section 13904(f) of title 49, United States Code; and

(2) submit the report issued under paragraph (1) to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(b) RULEMAKING.—Not later than 6 months after the publication of the report under subsection (a), the Secretary shall initiate a rulemaking—

(1) to revise the minimum financial responsibility requirements under sections 31138 and 31139 of title 49, United States Code and

(2) to revise the bond and insurance requirements under section 13904(f) of such title, as appropriate, based on the findings of the report submitted under subsection (a).

(c) DEADLINE.—Not later than 1 year after the start of the rulemaking under subsection (b), the Secretary shall—

(1) issue a final rule; or

(2) if the Secretary determines that a rulemaking is not required following the Secretary's analysis, submit a report stating the reason for not increasing the minimum financial responsibility requirements to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(d) BIENNIAL REVIEWS.—Not less than once every 2 years, the Secretary shall review the requirements prescribed under subsection (b) and revise the requirements, as appropriate.

**SEC. 32105. USDOT NUMBER REGISTRATION REQUIREMENT.**

(a) IN GENERAL.—Chapter 311 is amended by inserting after section 31133 the following:

**"§ 31134. Requirement for registration and USDOT number**

''(a) IN GENERAL.—Upon application, and subject to subsections (b) and (c), the Secretary shall register an employer or person subject to the safety jurisdiction of this subchapter. An employer or person may operate a commercial motor vehicle in interstate commerce only if the employer or person is registered by the Secretary under

this section and receives a USDOT number. Nothing in this section shall preclude registration by the Secretary of an employer or person not engaged in interstate commerce. An employer or person subject to jurisdiction under subchapter I of chapter 135 of this title shall apply for commercial registration under section 13902 of this title.

"(b) WITHHOLDING REGISTRATION.—The Secretary may withhold registration under subsection (a), after notice and an opportunity for a proceeding, if the Secretary determines that—

"(1) the employer or person seeking registration is unwilling or unable to comply with the requirements of this subchapter and the regulations prescribed thereunder and chapter 51 and the regulations prescribed thereunder;

"(2) the employer or person is or was related through common ownership, common management, common control, or common familial relationship to any other person or applicant for registration subject to this subchapter who is or was unfit, unwilling, or unable to comply with the requirements listed in subsection (b)(1); or

"(3) the person is the successor, as defined in section 31153, to a person who is or was unfit, un-

willing, or unable to comply with the requirements listed in subsection (b)(1).

"(c) REVOCATION OR SUSPENSION OF REGISTRATION.—The Secretary shall revoke the registration of an employer or person under subsection (a) after notice and an opportunity for a proceeding, or suspend the registration after giving notice of the suspension to the employer or person, if the Secretary determines that—

"(1) the employer's or person's authority to operate pursuant to chapter 139 of this title would be subject to revocation or suspension under sections 13905(d)(1) or 13905(f) of this title;

"(2) the employer or person is or was related through common ownership, common management, common control, or common familial relationship to any other person or applicant for registration subject to this subchapter that the Secretary determines is or was unfit, unwilling, or unable to comply with the requirements listed in subsection (b)(1);

"(3) the person is the successor, as defined in section 31153, to a person the Secretary determines is or was unfit, unwilling, or unable to comply with the requirements listed in subsection (b)(1); or

"(4) the employer or person failed or refused to submit to the safety review required by section 31144(g) of this title.

"(d) PERIODIC REGISTRATION UPDATE.—The Secretary may require an employer to update a registration under this section periodically or not later than 30 days after a change in the employer's address, other contact information, officers, process agent, or other essential information, as determined by the Secretary.".

(b) CONFORMING AMENDMENT.—The analysis of chapter 311 is amended by inserting after the item relating to section 31133 the following:

"31134. Requirement for registration and USDOT number.".

**SEC. 32106. REGISTRATION FEE SYSTEM.**

Section 13908(d)(1) is amended by striking "but shall not exceed $300".

**SEC. 32107. REGISTRATION UPDATE.**

(a) PERIODIC MOTOR CARRIER UPDATE.—Section 13902 is amended by adding at the end the following:

"(h) UPDATE OF REGISTRATION.—The Secretary may require a registrant to update its registration under this section periodically or not later than 30 days after a change in the registrant's address, other contact information, officers, process agent, or other essential information, as determined by the Secretary.".

(b) PERIODIC FREIGHT FORWARDER UPDATE.—Section 13903 is amended by adding at the end the following:

''(c) UPDATE OF REGISTRATION.—The Secretary may require a freight forwarder to update its registration under this section periodically or not later than 30 days after a change in the freight forwarder's address, other contact information, officers, process agent, or other essential information, as determined by the Secretary.''.

(c) PERIODIC BROKER UPDATE.—Section 13904 is amended by adding at the end the following:

''(e) UPDATE OF REGISTRATION.—The Secretary may require a broker to update its registration under this section periodically or not later than 30 days after a change in the broker's address, other contact information, officers, process agent, or other essential information, as determined by the Secretary.''.

**SEC. 32108. INCREASED PENALTIES FOR OPERATING WITHOUT REGISTRATION.**

(a) PENALTIES.—Section 14901(a) is amended—

(1) by striking ''$500'' and inserting ''$1,000'';

(2) by striking ''who is not registered under this part to provide transportation of passengers,'';

(3) by striking ''with respect to providing transportation of passengers,'' and inserting ''or section 13902(c) of this title,''; and

(4) by striking "$2,000 for each violation and each additional day the violation continues" and inserting "$10,000 for each violation, or $25,000 for each violation relating to providing transportation of passengers".

(b) TRANSPORTATION OF HAZARDOUS WASTES.—Section 14901(b) is amended by striking "not to exceed $20,000" and inserting "not less than $25,000".

**SEC. 32109. REVOCATION OF REGISTRATION FOR IMMINENT HAZARD.**

Section 13905(f)(2) is amended to read as follows:

"(2) IMMINENT HAZARD TO PUBLIC HEALTH.—Notwithstanding subchapter II of chapter 5 of title 5, the Secretary shall revoke the registration of a motor carrier if the Secretary finds that the carrier is or was conducting unsafe operations that are or were an imminent hazard to public health or property.".

**SEC. 32110. REVOCATION OF REGISTRATION AND OTHER PENALTIES FOR FAILURE TO RESPOND TO SUBPOENA.**

Section 525 is amended—

(1) by striking "subpenas" in the section heading and inserting "subpoenas";

(2) by striking ''subpena'' and inserting ''subpoena'';

(3) by striking ''$100'' and inserting ''$1,000'';

(4) by striking ''$5,000'' and inserting ''$10,000''; and

(5) by adding at the end the following:

''The Secretary may withhold, suspend, amend, or revoke any part of the registration of a person required to register under chapter 139 for failing to obey a subpoena or requirement of the Secretary under this chapter to appear and testify or produce records.''.

**SEC. 32111. FLEETWIDE OUT OF SERVICE ORDER FOR OPERATING WITHOUT REQUIRED REGISTRATION.**

Section 13902(e)(1) is amended—

(1) by striking ''motor vehicle'' and inserting ''motor carrier'' after ''the Secretary determines that a''; and

(2) by striking ''order the vehicle'' and inserting ''order the motor carrier operations'' after ''the Secretary may''.

**SEC. 32112. MOTOR CARRIER AND OFFICER PATTERNS OF SAFETY VIOLATIONS.**

Section 31135 is amended—

(1) by striking subsection (b) and inserting the following:

"(b) NONCOMPLIANCE.—

"(1) MOTOR CARRIERS.—Two or more motor carriers, employers, or persons shall not use common ownership, common management, common control, or common familial relationship to enable any or all such motor carriers, employers, or persons to avoid compliance, or mask or otherwise conceal non-compliance, or a history of non-compliance, with regulations prescribed under this subchapter or an order of the Secretary issued under this subchapter.

"(2) PATTERN.—If the Secretary finds that a motor carrier, employer, or person engaged in a pattern or practice of avoiding compliance, or masking or otherwise concealing noncompliance, with regulations prescribed under this subchapter, the Secretary—

"(A) may withhold, suspend, amend, or revoke any part of the motor carrier's, employer's, or person's registration in accordance with section 13905 or 31134; and

"(B) shall take into account such non-compliance for purposes of determining civil penalty amounts under section 521(b)(2)(D).

"(3) OFFICERS.—If the Secretary finds, after notice and an opportunity for proceeding, that an officer of a motor carrier, employer, or owner or operator engaged in a pattern or practice of violating regulations prescribed under this subchapter, or assisted a motor carrier, employer, or owner or operator in avoiding compliance, or masking or otherwise concealing noncompliance, the Secretary may impose appropriate sanctions, subject to the limitations in paragraph (4), including—

"(A) suspension or revocation of registration granted to the officer individually under section 13902 or 31134;

"(B) temporary or permanent suspension or bar from association with any motor carrier, employer, or owner or operator registered under section 13902 or 31134; or

"(C) any appropriate sanction approved by the Secretary.

"(4) LIMITATIONS.—The sanctions described in subparagraphs (A) through (C) of subsection (b)(3) shall apply to—

"(A) intentional or knowing conduct, including reckless conduct that violates applicable laws (including regulations); and

"(B) repeated instances of negligent conduct that violates applicable laws (including regulations)."; and

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

"(c) AVOIDING COMPLIANCE.—For purposes of this section, 'avoiding compliance' or 'masking or otherwise concealing noncompliance' includes serving as an officer or otherwise exercising controlling influence over 2 or more motor carriers where—

"(1) one of the carriers was placed out of service, or received notice from the Secretary that it will be placed out of service, following—

"(A) a determination of unfitness under section 31144(b);

"(B) a suspension or revocation of registration under section 13902, 13905, or 31144(g);

"(C) issuance of an imminent hazard out of service order under section 521(b)(5) or section 5121(d); or

"(D) notice of failure to pay a civil penalty or abide by a penalty payment plan; and

"(2) one or more of the carriers is the 'successor,' as that term is defined in section 31153, to

the carrier that is the subject of the action in paragraph (1).''.

**SEC. 32113. FEDERAL SUCCESSOR STANDARD.**

(a) IN GENERAL.—Chapter 311 is amended by adding after section 31152, as added by section 32508 of this Act, the following:

**''§ 31153. Federal successor standard**

''(a) FEDERAL SUCCESSOR STANDARD.—Notwithstanding any other provision of Federal or State law, the Secretary may take an action authorized under chapters 5, 51, 131 through 149, subchapter III of chapter 311 (except sections 31138 and 31139), or sections 31302, 31303, 31304, 31305(b), 31310(g)(1)(A), or 31502 of this title, or a regulation issued under any of those provisions, against a successor of a motor carrier (as defined in section 13102), a successor of an employer (as defined in section 31132), or a successor of an owner or operator (as that term is used in subchapter III of chapter 311), to the same extent and on the same basis as the Secretary may take the action against the motor carrier, employer, or owner or operator.

''(b) SUCCESSOR DEFINED.—For purposes of this section, the term 'successor' means a motor carrier, employer, or owner or operator that the Secretary determines, after notice and an opportunity for a proceeding,

has 1 or more features that correspond closely with the features of another existing or former motor carrier, employer, or owner or operator, such as—

"(1) consideration paid for assets purchased or transferred;

"(2) dates of corporate creation and dissolution or termination of operations;

"(3) commonality of ownership;

"(4) commonality of officers and management personnel and their functions;

"(5) commonality of drivers and other employees;

"(6) identity of physical or mailing addresses, telephone, fax numbers, or e-mail addresses;

"(7) identity of motor vehicle equipment;

"(8) continuity of liability insurance policies;

"(9) commonality of coverage under liability insurance policies;

"(10) continuation of carrier facilities and other physical assets;

"(11) continuity of the nature and scope of operations, including customers;

"(12) commonality of the nature and scope of operations, including customers;

"(13) advertising, corporate name, or other acts through which the motor carrier, employer, or owner or operator holds itself out to the public;

"(14) history of safety violations and pending orders or enforcement actions of the Secretary; and

"(15) additional factors that the Secretary considers appropriate.

"(c) EFFECTIVE DATE.—Notwithstanding any other provision of law, this section shall apply to any action commenced on or after the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012 without regard to whether the violation that is the subject of the action, or the conduct that caused the violation, occurred before the date of enactment.

"(d) RIGHTS NOT AFFECTED.—Nothing in this section shall affect the rights, functions, or responsibilities under law of any other Department, Agency, or instrumentality of the United States, the laws of any State, or any rights between a private party and a motor carrier, employer, or owner or operator.".

(b) CONFORMING AMENDMENT.—The analysis of chapter 311 is amended by inserting after the item related to section 31152, as added by section 32508 of this Act, the following:

"31153. Federal successor standard.".

# Subtitle B—Commercial Motor Vehicle Safety

**SEC. 32201. REPEAL OF COMMERCIAL JURISDICTION EXCEPTION FOR BROKERS OF MOTOR CARRIERS OF PASSENGERS.**

(a) IN GENERAL.—Section 13506(a) is amended—

(1) by inserting ''or'' at the end of paragraph (13);

(2) by striking paragraph (14); and

(3) by redesignating paragraph (15) as paragraph (14).

(b) CONFORMING AMENDMENT.—Section 13904(a) is amended by striking ''of property'' in the first sentence.

**SEC. 32202. BUS RENTALS AND DEFINITION OF EMPLOYER.**

Paragraph (3) of section 31132 is amended to read as follows:

''(3) 'employer'—

''(A) means a person engaged in a business affecting interstate commerce that—

''(i) owns or leases a commercial motor vehicle in connection with that business, or assigns an employee to operate the commercial motor vehicle; or

''(ii) offers for rent or lease a motor vehicle designed or used to transport more

than 8 passengers, including the driver, and from the same location or as part of the same business provides names or contact information of drivers, or holds itself out to the public as a charter bus company; but

''(B) does not include the Government, a State, or a political subdivision of a State.''.

**SEC. 32203. CRASHWORTHINESS STANDARDS.**

(a) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Secretary shall conduct a comprehensive analysis on the need for crashworthiness standards on property-carrying commercial motor vehicles with a gross vehicle weight rating or gross vehicle weight of at least 26,001 pounds involved in interstate commerce, including an evaluation of the need for roof strength, pillar strength, air bags, and frontal and back wall standards.

(b) REPORT.—Not later than 90 days after completing the comprehensive analysis under subsection (a), the Secretary shall report the results of the analysis and any recommendations to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

**SEC. 32204. CANADIAN SAFETY RATING RECIPROCITY.**

Section 31144 is amended by adding at the end the following:

"(h) RECOGNITION OF CANADIAN MOTOR CARRIER SAFETY FITNESS DETERMINATIONS.—

"(1) If an authorized agency of the Canadian federal government or a Canadian Territorial or Provincial government determines, by applying the procedure and standards prescribed by the Secretary under subsection (b) or pursuant to an agreement under paragraph (2), that a Canadian employer is unfit and prohibits the employer from operating a commercial motor vehicle in Canada or any Canadian Province, the Secretary may prohibit the employer from operating such vehicle in interstate and foreign commerce until the authorized Canadian agency determines that the employer is fit.

"(2) The Secretary may consult and participate in negotiations with authorized officials of the Canadian federal government or a Canadian Territorial or Provincial government, as necessary, to provide reciprocal recognition of each country's motor carrier safety fitness determinations. An agreement shall provide, to the maximum extent practicable, that each country will follow the procedure and standards prescribed by the Secretary under sub-

section (b) in making motor carrier safety fitness determinations.''.

**SEC. 32205. STATE REPORTING OF FOREIGN COMMERCIAL DRIVER CONVICTIONS.**

(a) DEFINITION OF FOREIGN COMMERCIAL DRIVER.—Section 31301 is amended—

(1) by redesignating paragraphs (10) through (14) as paragraphs (11) through (15), respectively; and

(2) by inserting after paragraph (9) the following:

''(10) 'foreign commercial driver' means an individual licensed to operate a commercial motor vehicle by an authority outside the United States, or a citizen of a foreign country who operates a commercial motor vehicle in the United States.''.

(b) STATE REPORTING OF CONVICTIONS.—Section 31311(a) is amended by adding after paragraph (21) the following:

''(22) The State shall report a conviction of a foreign commercial driver by that State to the Federal Convictions and Withdrawal Database, or another information system designated by the Secretary to record the convictions. A report shall include—

"(A) for a driver holding a foreign commercial driver's license—

"(i) each conviction relating to the operation of a commercial motor vehicle; and

"(ii) a non-commercial motor vehicle; and

"(B) for an unlicensed driver or a driver holding a foreign non-commercial driver's license, each conviction for operating a commercial motor vehicle.".

**SEC. 32206. AUTHORITY TO DISQUALIFY FOREIGN COMMERCIAL DRIVERS.**

Section 31310 is amended by adding at the end the following:

"(k) FOREIGN COMMERCIAL DRIVERS.—A foreign commercial driver shall be subject to disqualification under this section.".

**SEC. 32207. REVOCATION OF FOREIGN MOTOR CARRIER OPERATING AUTHORITY FOR FAILURE TO PAY CIVIL PENALTIES.**

Section 13905(d)(2), as amended by section 32103(a) of this Act, is amended by inserting "foreign motor carrier, foreign motor private carrier," after "registration of a motor carrier," each place it appears.

**SEC. 32208. RENTAL TRUCK ACCIDENT STUDY.**

(a) DEFINITIONS.—In this section:

(1) RENTAL TRUCK.—The term ''rental truck'' means a motor vehicle with a gross vehicle weight rating of between 10,000 and 26,000 pounds that is made available for rental by a rental truck company.

(2) RENTAL TRUCK COMPANY.—The term ''rental truck company'' means a person or company that is in the business of renting or leasing rental trucks to the public or for private use.

(b) STUDY.—

(1) IN GENERAL.—The Secretary shall conduct a study of the safety of rental trucks during the 7-year period ending on December 31, 2011.

(2) REQUIREMENTS.—The study conducted under paragraph (1) shall—

(A) evaluate available data on the number of crashes, fatalities, and injuries involving rental trucks and the cause of such crashes, utilizing police accident reports and other sources;

(B) estimate the property damage and costs resulting from a subset of crashes involving rental truck operations, which the Secretary believes adequately reflect all crashes involving rental trucks;

(C) analyze State and local laws regulating rental truck companies, including safety and inspection requirements;

(D) assess the rental truck maintenance programs of a selection of small, medium, and large rental truck companies, as selected by the Secretary, including the frequency of rental truck maintenance inspections, and compare such programs with inspection requirements for passenger vehicles and commercial motor vehicles;

(E) include any other information available regarding the safety of rental trucks; and

(F) review any other information that the Secretary determines to be appropriate.

(c) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that contains—

(1) the findings of the study conducted pursuant to subsection (b); and

(2) any recommendations for legislation that the Secretary determines to be appropriate.

# Subtitle C—Driver Safety

**SEC. 32301. ELECTRONIC ON-BOARD RECORDING DEVICES.**

(a) GENERAL AUTHORITY.—Section 31137 is amended—

(1) by amending the section heading to read as follows:

**"§ 31137. Electronic on-board recording devices and brake maintenance regulations";**

(2) by redesignating subsection (b) as subsection (e); and

(3) by amending (a) to read as follows:

"(a) ELECTRONIC ON-BOARD RECORDING DEVICES.—Not later than 1 year after the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012, the Secretary of Transportation shall prescribe regulations—

"(1) requiring a commercial motor vehicle involved in interstate commerce and operated by a driver subject to the hours of service and the record of duty status requirements under part 395 of title 49, Code of Federal Regulations, be equipped with an electronic on-board recording device to improve compliance by an operator of a vehicle with hours of service regulations prescribed by the Secretary; and

"(2) ensuring that an electronic on-board recording device is not used to harass a vehicle operator.

"(b) ELECTRONIC ON-BOARD RECORDING DEVICE REQUIREMENTS.—

"(1) IN GENERAL.—The regulations prescribed under subsection (a) shall—

"(A) require an electronic on-board recording device—

"(i) to accurately record commercial driver hours of service;

"(ii) to record the location of a commercial motor vehicle;

"(iii) to be tamper resistant; and

"(iv) to be integrally synchronized with an engine's control module;

"(B) allow law enforcement to access the data contained in the device during a roadside inspection; and

"(C) apply to a commercial motor vehicle beginning on the date that is 2 years after the date that the regulations are published as a final rule.

"(2) PERFORMANCE AND DESIGN STANDARDS.—The regulations prescribed under subsection (a) shall establish performance standards—

"(A) defining a standardized user interface to aid vehicle operator compliance and law enforcement review;

"(B) establishing a secure process for standardized—

"(i) and unique vehicle operator identification;

"(ii) data access;

"(iii) data transfer for vehicle operators between motor vehicles;

"(iv) data storage for a motor carrier; and

"(v) data transfer and transportability for law enforcement officials;

"(C) establishing a standard security level for an electronic on-board recording device and related components to be tamper resistant by using a methodology endorsed by a nationally recognized standards organization; and

"(D) identifying each driver subject to the hours of service and record of duty status re-

quirements under part 395 of title 49, Code of Federal Regulations.

"(c) CERTIFICATION CRITERIA.—

"(1) IN GENERAL.—The regulations prescribed by the Secretary under this section shall establish the criteria and a process for the certification of an electronic on-board recording device to ensure that the device meets the performance requirements under this section.

"(2) EFFECT OF NONCERTIFICATION.—An electronic on-board recording device that is not certified in accordance with the certification process referred to in paragraph (1) shall not be acceptable evidence of hours of service and record of duty status requirements under part 395 of title 49, Code of Federal Regulations.

"(d) ELECTRONIC ON-BOARD RECORDING DEVICE DEFINED.—In this section, the term 'electronic on-board recording device' means an electronic device that—

"(1) is capable of recording a driver's hours of service and duty status accurately and automatically; and

"(2) meets the requirements established by the Secretary through regulation.".

(b) CIVIL PENALTIES.—Section 30165(a)(1) is amended by striking "or 30141 through 30147" and inserting "30141 through 30147, or 31137".

(c) CONFORMING AMENDMENT.—The analysis for chapter 311 is amended by striking the item relating to section 31137 and inserting the following:

"31137. Electronic on-board recording devices and brake maintenance regulations.".

**SEC. 32302. SAFETY FITNESS.**

(a) SAFETY FITNESS RATING METHODOLOGY.—The Secretary shall—

(1) incorporate into its Compliance, Safety, Accountability program a safety fitness rating methodology that assigns sufficient weight to adverse vehicle and driver performance based-data that elevate crash risks to warrant an unsatisfactory rating for a carrier; and

(2) ensure that the data to support such assessments is accurate.

(b) INTERIM MEASURES.—Not later than March 31, 2012, the Secretary shall take interim measures to implement a similar safety fitness rating methodology in its current safety rating system if the Compliance, Safety, Accountability program is not fully implemented.

**SEC. 32303. DRIVER MEDICAL QUALIFICATIONS.**

(a) DEADLINE FOR ESTABLISHMENT OF NATIONAL REGISTRY OF MEDICAL EXAMINERS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall establish a national registry of medical examiners in accordance with section 31149(d)(1) of title 49, United States Code.

(b) EXAMINATION REQUIREMENT FOR NATIONAL REGISTRY OF MEDICAL EXAMINERS.—Section 31149(c)(1)(D) is amended to read as follows:

"(D) not later than 1 year after enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012, develop requirements for a medical examiner to be listed in the national registry under this section, including—

"(i) the completion of specific courses and materials;

"(ii) certification, including self-certification, if the Secretary determines that self-certification is necessary for sufficient participation in the national registry, to verify that a medical examiner completed specific training, including refresher courses, that the Secretary determines necessary to be listed in the national registry;

"(iii) an examination that requires a passing grade; and

"(iv) demonstration of a medical examiner's willingness to meet the reporting requirements established by the Secretary;".

(c) ADDITIONAL OVERSIGHT OF LICENSING AUTHORITIES.—

(1) IN GENERAL.—Section 31149(c)(1) is amended—

(A) by amending subparagraph (E) to read as follows:

"(E) require medical examiners to transmit electronically, on at least a monthly basis, the name of the applicant, a numerical identifier, and additional information contained on the medical examiner's certificate for any completed medical examination report required under section 391.43 of title 49, Code of Federal Regulations, to the chief medical examiner;";

(B) in subparagraph (F), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(G) annually review the implementation of commercial driver's license requirements by not fewer than 10 States to assess the accuracy, validity, and timeliness of—

"(i) the submission of physical examination reports and medical certificates to State licensing agencies; and

"(ii) the processing of the submissions by State licensing agencies.".

(2) INTERNAL OVERSIGHT POLICY.—

(A) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall establish an oversight policy and procedure to carry out section 31149(c)(1)(G) of title 49, United States Code, as added by section 32303(c)(1) of this Act.

(B) EFFECTIVE DATE.—The amendments made by section 32303(c)(1) of this Act shall take effect on the date the oversight policies and procedures are established pursuant to subparagraph (A).

(d) ELECTRONIC FILING OF MEDICAL EXAMINATION CERTIFICATES.—Section 31311(a), as amended by sections 32205(b) and 32306(b) of this Act, is amended by adding at the end the following:

"(24) Not later than 1 year after the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012, the State shall establish and maintain, as part of its driver information system, the capability to receive an electronic copy of a medical examiner's certificate, from a certified medical examiner, for each holder of a commercial driver's license issued by the State who operates or intends to operate in interstate commerce.".

(e) FUNDING.—

(1) AUTHORIZATION OF APPROPRIATIONS.—Of the funds provided for Data and Technology Grants under section 31104(a) of title 49, United States Code, there are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for the Secretary to make grants to States or an organization representing agencies and officials of the States to support development costs of the information technology needed to carry out section 31311(a)(24) of title 49, United States Code—

(A) up to $1,000,000 for fiscal year 2012; and

(B) up to $1,000,000 for fiscal year 2013.

(2) PERIOD OF AVAILABILITY.—The amounts made available under this subsection shall remain available until expended.

**SEC. 32304. COMMERCIAL DRIVER'S LICENSE NOTIFICATION SYSTEM.**

(a) IN GENERAL.—Section 31304 is amended—

(1) by striking ''An employer'' and inserting the following:

''(a) IN GENERAL.—An employer''; and

(2) by adding at the end the following:

''(b) DRIVER VIOLATION RECORDS.—

''(1) PERIODIC REVIEW.—Except as provided in paragraph (3), an employer shall ascertain the driving record of each driver it employs—

''(A) by making an inquiry at least once every 12 months to the appropriate State agency in which the driver held or holds a commercial driver's license or permit during such time period;

''(B) by receiving occurrence-based reports of changes in the status of a driver's record from 1 or more driver record notification systems that meet minimum standards issued by the Secretary; or

"(C) by a combination of inquiries to States and reports from driver record notification systems.

"(2) RECORD KEEPING.—A copy of the reports received under paragraph (1) shall be maintained in the driver's qualification file.

"(3) EXCEPTIONS TO RECORD REVIEW REQUIREMENT.—Paragraph (1) shall not apply to a driver employed by an employer who, in any 7-day period, is employed or used as a driver by more than 1 employer—

"(A) if the employer obtains the driver's identification number, type, and issuing State of the driver's commercial motor vehicle license; or

"(B) if the information described in subparagraph (A) is furnished by another employer and the employer that regularly employs the driver meets the other requirements under this section.

"(4) DRIVER RECORD NOTIFICATION SYSTEM DEFINED.—In this section, the term 'driver record notification system' means a system that automatically furnishes an employer with a report, generated by the appropriate agency of a State, on the change

in the status of an employee's driver's license due to a conviction for a moving violation, a failure to appear, an accident, driver's license suspension, driver's license revocation, or any other action taken against the driving privilege.''.

(b) STANDARDS FOR DRIVER RECORD NOTIFICATION SYSTEMS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall issue minimum standards for driver notification systems, including standards for the accuracy, consistency, and completeness of the information provided.

(c) PLAN FOR NATIONAL NOTIFICATION SYSTEM.—

(1) DEVELOPMENT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall develop recommendations and a plan for the development and implementation of a national driver record notification system, including—

(A) an assessment of the merits of achieving a national system by expanding the Commercial Driver's License Information System; and

(B) an estimate of the fees that an employer will be charged to offset the operating costs of the national system.

(2) SUBMISSION TO CONGRESS.—Not later than 90 days after the recommendations and plan are developed under paragraph (1), the Secretary shall submit a report on the recommendations and plan to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

**SEC. 32305. COMMERCIAL MOTOR VEHICLE OPERATOR TRAINING.**

(a) IN GENERAL.—Section 31305 is amended by adding at the end the following:

''(c) STANDARDS FOR TRAINING.—Not later than 6 months after the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012, the Secretary shall issue final regulations establishing minimum entry-level training requirements for an individual operating a commercial motor vehicle—

''(1) addressing the knowledge and skills that—

''(A) are necessary for an individual operating a commercial motor vehicle to safely operate a commercial motor vehicle; and

''(B) must be acquired before obtaining a commercial driver's license for the first time or

upgrading from one class of commercial driver's license to another class;

''(2) addressing the specific training needs of a commercial motor vehicle operator seeking passenger or hazardous materials endorsements, including for an operator seeking a passenger endorsement training—

''(A) to suppress motorcoach fires; and

''(B) to evacuate passengers from motorcoaches safely;

''(3) requiring effective instruction to acquire the knowledge, skills, and training referred to in paragraphs (1) and (2), including classroom and behind-the-wheel instruction;

''(4) requiring certification that an individual operating a commercial motor vehicle meets the requirements established by the Secretary; and

''(5) requiring a training provider (including a public or private driving school, motor carrier, or owner or operator of a commercial motor vehicle) that offers training that results in the issuance of a certification to an individual under paragraph (4) to demonstrate that the training meets the requirements of the regulations, through a process established by the Secretary.''.

(b) COMMERCIAL DRIVER'S LICENSE UNIFORM STANDARDS.—Section 31308(1) is amended to read as follows:

"(1) an individual issued a commercial driver's license—

"(A) pass written and driving tests for the operation of a commercial motor vehicle that comply with the minimum standards prescribed by the Secretary under section 31305(a); and

"(B) present certification of completion of driver training that meets the requirements established by the Secretary under section 31305(c);".

(c) CONFORMING AMENDMENT.—The section heading for section 31305 is amended to read as follows:

**"§ 31305. General driver fitness, testing, and training".**

(d) CONFORMING AMENDMENT.—The analysis for chapter 313 is amended by striking the item relating to section 31305 and inserting the following:

"31305. General driver fitness, testing, and training.".

**SEC. 32306. COMMERCIAL DRIVER'S LICENSE PROGRAM.**

(a) IN GENERAL.—Section 31309 is amended—

(1) in subsection (e)(4), by amending subparagraph (A) to read as follows:

"(A) IN GENERAL.—The plan shall specify—

"(i) a date by which all States shall be operating commercial driver's license information systems that are compatible with the modernized information system under this section; and

"(ii) that States must use the systems to receive and submit conviction and disqualification data."; and

(2) in subsection (f), by striking "use" and inserting "use, subject to section 31313(a),".

(b) REQUIREMENTS FOR STATE PARTICIPATION.—Section 31311 is amended—

(1) in subsection (a), as amended by section 32205(b) of this Act—

(A) in paragraph (5), by striking "At least" and all that follows through "regulation)," and inserting: "Not later than the time period prescribed by the Secretary by regulation,"; and

(B) by adding at the end the following:

"(23) Not later than 1 year after the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012, the State shall imple-

ment a system and practices for the exclusive electronic exchange of driver history record information on the system the Secretary maintains under section 31309, including the posting of convictions, withdrawals, and disqualifications.''; and

(2) by adding at the end the following:

''(d) CRITICAL REQUIREMENTS.—

''(1) IDENTIFICATION OF CRITICAL REQUIREMENTS.—After reviewing the requirements under subsection (a), including the regulations issued pursuant to subsection (a) and section 31309(e)(4), the Secretary shall identify the requirements that are critical to an effective State commercial driver's license program.

''(2) GUIDANCE.—Not later than 180 days after the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012, the Secretary shall issue guidance to assist States in complying with the critical requirements identified under paragraph (1). The guidance shall include a description of the actions that each State must take to collect and share accurate and complete data in a timely manner.

''(e) STATE COMMERCIAL DRIVER'S LICENSE PROGRAM PLAN.—

"(1) IN GENERAL.—Not later than 180 days after the Secretary issues guidance under subsection (d)(2), a State shall submit a plan to the Secretary for complying with the requirements under this section during the period beginning on the date the plan is submitted and ending on September 30, 2016.

"(2) CONTENTS.—A plan submitted by a State under paragraph (1) shall identify—

"(A) the actions that the State will take to comply with the critical requirements identified under subsection (d)(1);

"(B) the actions that the State will take to address any deficiencies in the State's commercial driver's license program, as identified by the Secretary in the most recent audit of the program; and

"(C) other actions that the State will take to comply with the requirements under subsection (a).

"(3) PRIORITY.—

"(A) IMPLEMENTATION SCHEDULE.—A plan submitted by a State under paragraph (1) shall include a schedule for the implementation of the actions identified under paragraph (2).

In establishing the schedule, the State shall prioritize the actions identified under paragraphs (2)(A) and (2)(B).

"(B) DEADLINE FOR COMPLIANCE WITH CRITICAL REQUIREMENTS.—A plan submitted by a State under paragraph (1) shall include assurances that the State will take the necessary actions to comply with the critical requirements pursuant to subsection (d) not later than September 30, 2015.

"(4) APPROVAL AND DISAPPROVAL.—The Secretary shall—

"(A) review each plan submitted under paragraph (1);

"(B) approve a plan that the Secretary determines meets the requirements under this subsection and promotes the goals of this chapter; and

"(C) disapprove a plan that the Secretary determines does not meet the requirements or does not promote the goals.

"(5) MODIFICATION OF DISAPPROVED PLANS.—If the Secretary disapproves a plan under paragraph (4)(C), the Secretary shall—

"(A) provide a written explanation of the disapproval to the State; and

"(B) allow the State to modify the plan and resubmit it for approval.

"(6) PLAN UPDATES.—The Secretary may require a State to review and update a plan, as appropriate.

"(f) ANNUAL COMPARISON OF STATE LEVELS OF COMPLIANCE.—The Secretary shall annually—

"(1) compare the relative levels of compliance by States with the requirements under subsection (a); and

"(2) make the results of the comparison available to the public.".

(c) DECERTIFICATION AUTHORITY.—Section 31312 is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(2) by inserting after subsection (a) the following:

"(b) DEADLINE FOR COMPLIANCE WITH CRITICAL REQUIREMENTS.—Beginning on October 1, 2016, in making a determination under subsection (a), the Secretary shall consider a State to be in substantial noncompliance with this chapter if the Secretary determines that—

"(1) the State is not complying with a critical requirement under section 31311(d)(1); and

"(2) sufficient grant funding was made available to the State under section 31313(a) to comply with the requirement.".

**SEC. 32307. COMMERCIAL DRIVER'S LICENSE REQUIREMENTS.**

(a) LICENSING STANDARDS.—Section 31305(a)(7) is amended by inserting "would not be subject to a disqualification under section 31310(g) of this title and" after "taking the tests".

(b) DISQUALIFICATIONS.—Section 31310(g)(1) is amended by deleting "who holds a commercial driver's license and".

**SEC. 32308. COMMERCIAL MOTOR VEHICLE DRIVER INFORMATION SYSTEMS.**

Section 31106(c) is amended—

(1) by striking the subsection heading and inserting "(1) IN GENERAL.—";

(2) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D); and

(3) by adding at the end the following:

"(2) ACCESS TO RECORDS.—The Secretary may require a State, as a condition of an award of grant money under this section, to provide the Secretary

access to all State licensing status and driver history records via an electronic information system, subject to section 2721 of title 18.''.

**SEC. 32309. DISQUALIFICATIONS BASED ON NON-COMMERCIAL MOTOR VEHICLE OPERATIONS.**

(a) FIRST OFFENSE.—Section 31310(b)(1)(D) is amended by striking ''commercial'' after ''revoked, suspended, or canceled based on the individual's operation of a,'' and before ''motor vehicle''.

(b) SECOND OFFENSE.—Section 31310(c)(1)(D) is amended by striking ''commercial'' after ''revoked, suspended, or canceled based on the individual's operation of a,'' and before ''motor vehicle''.

**SEC. 32310. FEDERAL DRIVER DISQUALIFICATIONS.**

(a) DISQUALIFICATION DEFINED.—Section 31301, as amended by section 32205 of this Act, is amended—

(1) by redesignating paragraphs (6) through (15) as paragraphs (7) through (16), respectively; and

(2) by inserting after paragraph (5) the following:

''(6) 'Disqualification' means—

''(A) the suspension, revocation, or cancellation of a commercial driver's license by the State of issuance;

"(B) a withdrawal of an individual's privilege to drive a commercial motor vehicle by a State or other jurisdiction as the result of a violation of State or local law relating to motor vehicle traffic control, except for a parking, vehicle weight, or vehicle defect violation;

"(C) a determination by the Secretary that an individual is not qualified to operate a commercial motor vehicle; or

"(D) a determination by the Secretary that a commercial motor vehicle driver is unfit under section 31144(g).".

(b) COMMERCIAL DRIVER'S LICENSE INFORMATION SYSTEM CONTENTS.—Section 31309(b)(1)(F) is amended by inserting after "disqualified" the following: "by the State that issued the individual a commercial driver's license, or by the Secretary,".

(c) STATE ACTION ON FEDERAL DISQUALIFICATION.—Section 31310(h) is amended by inserting after the first sentence the following:

"If the State has not disqualified the individual from operating a commercial vehicle under subsections (b) through (g), the State shall disqualify the individual if the Secretary determines under section 31144(g) that the in-

dividual is disqualified from operating a commercial motor vehicle.''.

**SEC. 32311. EMPLOYER RESPONSIBILITIES.**

Section 31304, as amended by section 32304 of this Act, is amended in subsection (a)—

(1) by striking ''knowingly''; and

(2) by striking ''in which'' and inserting ''that the employer knows or should reasonably know that''.

**SEC. 32312. IMPROVING AND EXPEDITING SAFETY ASSESSMENTS IN THE COMMERCIAL DRIVER'S LICENSE APPLICATION PROCESS FOR MEMBERS AND FORMER MEMBERS OF THE ARMED FORCES.**

(a) STUDY.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary, in coordination with the Secretary of Defense, and in consultation with the States and other relevant stakeholders, shall commence a study to assess Federal and State regulatory, economic, and administrative challenges faced by members and former members of the Armed Forces, who received safety training and operated qualifying motor vehicles during their service, in obtaining commercial driver's li-

1 censes (as defined in section 31301(3) of title 49,
2 United States Code).
3 (2) REQUIREMENTS.—The study under this
4 subsection shall—
5 (A) identify written and behind-the-wheel
6 safety training, qualification standards, knowl-
7 edge and skills tests, or other operating experi-
8 ence members of the Armed Forces must meet
9 that satisfy the minimum standards prescribed
10 by the Secretary of Transportation for the oper-
11 ation of commercial motor vehicles under sec-
12 tion 31305 of title 49, United States Code;
13 (B) compare the alcohol and controlled
14 substances testing requirements for members of
15 the Armed Forces with those required for hold-
16 ers of a commercial driver's license;
17 (C) evaluate the cause of delays in review-
18 ing applications for commercial driver's licenses
19 of members and former members of the Armed
20 Forces;
21 (D) identify duplicative application costs;
22 (E) identify residency, domicile, training
23 and testing requirements, and other safety or
24 health assessments that affect or delay the
25 issuance of commercial driver's licenses to

members and former members of the Armed Forces; and

(F) include other factors that the Secretary determines to be appropriate to meet the requirements of the study.

(b) REPORT.—

(1) IN GENERAL.—Not later than 180 days after the commencement of the study under subsection (a), the Secretary shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Financial Services of the House of Representatives that contains the findings and recommendations from the study.

(2) ELEMENTS.—The report under paragraph (1) shall include—

(A) findings related to the study requirements under subsection (a)(2);

(B) recommendations for the Federal and State legislative, regulatory, and administrative actions necessary to address challenges identified in subparagraph (A); and

(C) a plan to implement the recommendations for which the Secretary has authority.

(c) IMPLEMENTATION.—Upon the completion of the report under subsection (b), the Secretary shall implement the plan described in subsection (b)(2)(C).

# Subtitle D—Safe Roads Act of 2012

**SEC. 32401. SHORT TITLE.**

This subtitle may be cited as the ''Safe Roads Act of 2012''.

**SEC. 32402. NATIONAL CLEARINGHOUSE FOR CONTROLLED SUBSTANCE AND ALCOHOL TEST RESULTS OF COMMERCIAL MOTOR VEHICLE OPERATORS.**

(a) IN GENERAL.—Chapter 313 is amended—

(1) in section 31306(a), by inserting ''and section 31306a'' after ''this section''; and

(2) by inserting after section 31306 the following:

**''§ 31306a. National clearinghouse for controlled substance and alcohol test results of commercial motor vehicle operators**

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—Not later than 2 years after the date of enactment of the Safe Roads Act of 2012, the Secretary of Transportation shall establish a national clearinghouse for records relating to alcohol and controlled substances testing of commercial motor vehicle operators.

"(2) PURPOSES.—The purposes of the clearinghouse shall be—

"(A) to improve compliance with the Department of Transportation's alcohol and controlled substances testing program applicable to commercial motor vehicle operators;

"(B) to facilitate access to information about an individual before employing the individual as a commercial motor vehicle operator;

"(C) to enhance the safety of our United States roadways by reducing accident fatalities involving commercial motor vehicles; and

"(D) to reduce the number of impaired commercial motor vehicle operators.

"(3) CONTENTS.—The clearinghouse shall function as a repository for records relating to the positive test results and test refusals of commercial motor vehicle operators and violations by such operators of prohibitions set forth in subpart B of part 382 of title 49, Code of Federal Regulations (or any subsequent corresponding regulations).

"(4) ELECTRONIC EXCHANGE OF RECORDS.—The Secretary shall ensure that records can be electronically submitted to, and requested from, the clearinghouse by authorized users.

"(5) AUTHORIZED OPERATOR.—The Secretary may authorize a qualified and experienced private entity to operate and maintain the clearinghouse and to collect fees on behalf of the Secretary under subsection (e). The entity shall establish, operate, maintain and expand the clearinghouse and permit access to driver information and records from the clearinghouse in accordance with this section.

"(b) DESIGN OF CLEARINGHOUSE.—

"(1) USE OF FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION RECOMMENDATIONS.—In establishing the clearinghouse, the Secretary shall consider—

"(A) the findings and recommendations contained in the Federal Motor Carrier Safety Administration's March 2004 report to Congress required under section 226 of the Motor Carrier Safety Improvement Act of 1999 (49 U.S.C. 31306 note); and

"(B) the findings and recommendations contained in the Government Accountability Office's May 2008 report to Congress entitled 'Motor Carrier Safety: Improvements to Drug Testing Programs Could Better Identify Illegal Drug Users and Keep Them off the Road.'.

"(2) DEVELOPMENT OF SECURE PROCESSES.—In establishing the clearinghouse, the Secretary shall develop a secure process for—

"(A) administering and managing the clearinghouse in compliance with applicable Federal security standards;

"(B) registering and authenticating authorized users of the clearinghouse;

"(C) registering and authenticating persons required to report to the clearinghouse under subsection (g);

"(D) preventing the unauthorized access of information from the clearinghouse;

"(E) storing and transmitting data;

"(F) persons required to report to the clearinghouse under subsection (g) to timely and accurately submit electronic data to the clearinghouse;

"(G) generating timely and accurate reports from the clearinghouse in response to requests for information by authorized users; and

"(H) updating an individual's record upon completion of the return-to-duty process described in title 49, Code of Federal Regulations.

1 "(3) EMPLOYER ALERT OF POSITIVE TEST RE-
2 SULT.—In establishing the clearinghouse, the Sec-
3 retary shall develop a secure method for electroni-
4 cally notifying an employer of each additional posi-
5 tive test result or other noncompliance—
6 "(A) for an employee, that is entered into
7 the clearinghouse during the 7-day period im-
8 mediately following an employer's inquiry about
9 the employee; and
10 "(B) for an employee who is listed as hav-
11 ing multiple employers.
12 "(4) ARCHIVE CAPABILITY.—In establishing the
13 clearinghouse, the Secretary shall develop a process
14 for archiving all clearinghouse records, including the
15 depositing of personal records, records relating to
16 each individual in the database, and access requests
17 for personal records, for the purposes of—
18 "(A) auditing and evaluating the timeli-
19 ness, accuracy, and completeness of data in the
20 clearinghouse; and
21 "(B) auditing to monitor compliance and
22 enforce penalties for noncompliance.
23 "(5) FUTURE NEEDS.—

"(A) INTEROPERABILITY WITH OTHER DATA SYSTEMS.—In establishing the clearinghouse, the Secretary shall consider—

"(i) the existing data systems containing regulatory and safety data for commercial motor vehicle operators;

"(ii) the efficacy of using or combining clearinghouse data with 1 or more of such systems; and

"(iii) the potential interoperability of the clearinghouse with such systems.

"(B) SPECIFIC CONSIDERATIONS.—In carrying out subparagraph (A), the Secretary shall determine—

"(i) the clearinghouse's capability for interoperability with—

"(I) the National Driver Register established under section 30302;

"(II) the Commercial Driver's License Information System established under section 31309;

"(III) the Motor Carrier Management Information System for preemployment screening services under section 31150; and

1 "(IV) other data systems, as ap-
2 propriate; and
3 "(ii) any change to the administration
4 of the current testing program, such as
5 forms, that is necessary to collect data for
6 the clearinghouse.
7 "(c) STANDARD FORMATS.—The Secretary shall de-
8 velop standard formats to be used—
9 "(1) by an authorized user of the clearinghouse
10 to—
11 "(A) request a record from the clearing-
12 house; and
13 "(B) obtain the consent of an individual
14 who is the subject of a request from the clear-
15 inghouse, if applicable; and
16 "(2) to notify an individual that a positive alco-
17 hol or controlled substances test result, refusing to
18 test, and a violation of any of the prohibitions under
19 subpart B of part 382 of title 49, Code of Federal
20 Regulations (or any subsequent corresponding regu-
21 lations), will be reported to the clearinghouse.
22 "(d) PRIVACY.—A release of information from the
23 clearinghouse shall—

1 "(1) comply with applicable Federal privacy
2 laws, including the fair information practices under
3 the Privacy Act of 1974 (5 U.S.C. 552a);
4 "(2) comply with applicable sections of the Fair
5 Credit Reporting Act (15 U.S.C. 1681 et seq.); and
6 "(3) not be made to any person or entity unless
7 expressly authorized or required by law.
8 "(e) FEES.—
9 "(1) AUTHORITY TO COLLECT FEES.—Except
10 as provided under paragraph (3), the Secretary may
11 collect a reasonable, customary, and nominal fee
12 from an authorized user of the clearinghouse for a
13 request for information from the clearinghouse.
14 "(2) USE OF FEES.—Fees collected under this
15 subsection shall be used for the operation and main-
16 tenance of the clearinghouse.
17 "(3) LIMITATION.—The Secretary may not col-
18 lect a fee from an individual requesting information
19 from the clearinghouse that pertains to the record of
20 that individual.
21 "(f) EMPLOYER REQUIREMENTS.—
22 "(1) DETERMINATION CONCERNING USE OF
23 CLEARINGHOUSE.—The Secretary shall determine if
24 an employer is authorized to use the clearinghouse
25 to meet the alcohol and controlled substances testing

requirements under title 49, Code of Federal Regulations.

"(2) APPLICABILITY OF EXISTING REQUIREMENTS.—Each employer and service agent shall comply with the alcohol and controlled substances testing requirements under title 49, Code of Federal Regulations.

"(3) EMPLOYMENT PROHIBITIONS.—Beginning 30 days after the date that the clearinghouse is established under subsection (a), an employer shall not hire an individual to operate a commercial motor vehicle unless the employer determines that the individual, during the preceding 3-year period—

"(A) if tested for the use of alcohol and controlled substances, as required under title 49, Code of Federal Regulations—

"(i) did not test positive for the use of alcohol or controlled substances in violation of the regulations; or

"(ii) tested positive for the use of alcohol or controlled substances and completed the required return-to-duty process under title 49, Code of Federal Regulations;

"(B)(i) did not refuse to take an alcohol or controlled substance test under title 49, Code of Federal Regulations; or

"(ii) refused to take an alcohol or controlled substance test and completed the required return-to-duty process under title 49, Code of Federal Regulations; and

"(C) did not violate any other provision of subpart B of part 382 of title 49, Code of Federal Regulations (or any subsequent corresponding regulations).

"(4) ANNUAL REVIEW.—Beginning 30 days after the date that the clearinghouse is established under subsection (a), an employer shall request and review a commercial motor vehicle operator's record from the clearinghouse annually for as long as the commercial motor vehicle operator is under the employ of the employer.

"(g) REPORTING OF RECORDS.—

"(1) IN GENERAL.—Beginning 30 days after the date that the clearinghouse is established under subsection (a), a medical review officer, employer, service agent, and other appropriate person, as determined by the Secretary, shall promptly submit to

the Secretary any record generated after the clearinghouse is initiated of an individual who—

"(A) refuses to take an alcohol or controlled substances test required under title 49, Code of Federal Regulations;

"(B) tests positive for alcohol or a controlled substance in violation of the regulations; or

"(C) violates any other provision of subpart B of part 382 of title 49, Code of Federal Regulations (or any subsequent corresponding regulations).

"(2) INCLUSION OF RECORDS IN CLEARINGHOUSE.—The Secretary shall include in the clearinghouse the records of positive test results and test refusals received under paragraph (1).

"(3) MODIFICATIONS AND DELETIONS.—If the Secretary determines that a record contained in the clearinghouse is not accurate, the Secretary shall modify or delete the record, as appropriate.

"(4) NOTIFICATION.—The Secretary shall expeditiously notify an individual, unless such notification would be duplicative, when—

"(A) a record relating to the individual is received by the clearinghouse;

"(B) a record in the clearinghouse relating to the individual is modified or deleted, and include in the notification the reason for the modification or deletion; or

"(C) a record in the clearinghouse relating to the individual is released to an employer and specify the reason for the release.

"(5) DATA QUALITY AND SECURITY STANDARDS FOR REPORTING AND RELEASING.—The Secretary may establish additional requirements, as appropriate, to ensure that—

"(A) the submission of records to the clearinghouse is timely and accurate;

"(B) the release of data from the clearinghouse is timely, accurate, and released to the appropriate authorized user under this section; and

"(C) an individual with a record in the clearinghouse has a cause of action for any inappropriate use of information included in the clearinghouse.

"(6) RETENTION OF RECORDS.—The Secretary shall—

"(A) retain a record submitted to the clearinghouse for a 5-year period beginning on the date the record is submitted;

"(B) remove the record from the clearinghouse at the end of the 5-year period, unless the individual fails to meet a return-to-duty or follow-up requirement under title 49, Code of Federal Regulations; and

"(C) retain a record after the end of the 5-year period in a separate location for archiving and auditing purposes.

"(h) AUTHORIZED USERS.—

"(1) EMPLOYERS.—The Secretary shall establish a process for an employer to request and receive an individual's record from the clearinghouse.

"(A) CONSENT.—An employer may not access an individual's record from the clearinghouse unless the employer—

"(i) obtains the prior written or electronic consent of the individual for access to the record; and

"(ii) submits proof of the individual's consent to the Secretary.

"(B) ACCESS TO RECORDS.—After receiving a request from an employer for an individ-

ual's record under subparagraph (A), the Secretary shall grant access to the individual's record to the employer as expeditiously as practicable.

"(C) RETENTION OF RECORD REQUESTS.—The Secretary shall require an employer to retain for a 3-year period—

"(i) a record of each request made by the employer for records from the clearinghouse; and

"(ii) the information received pursuant to the request.

"(D) USE OF RECORDS.—An employer may use an individual's record received from the clearinghouse only to assess and evaluate the qualifications of the individual to operate a commercial motor vehicle for the employer.

"(E) PROTECTION OF PRIVACY OF INDIVIDUALS.—An employer that receives an individual's record from the clearinghouse under subparagraph (B) shall—

"(i) protect the privacy of the individual and the confidentiality of the record; and

"(ii) ensure that information contained in the record is not divulged to a person or entity that is not directly involved in assessing and evaluating the qualifications of the individual to operate a commercial motor vehicle for the employer.

"(2) STATE LICENSING AUTHORITIES.—The Secretary shall establish a process for the chief commercial driver's licensing official of a State to request and receive an individual's record from the clearinghouse if the individual is applying for a commercial driver's license from the State.

"(A) CONSENT.—The Secretary may grant access to an individual's record in the clearinghouse under this paragraph without the prior written or electronic consent of the individual. An individual who holds a commercial driver's license shall be deemed to consent to such access by obtaining a commercial driver's license.

"(B) PROTECTION OF PRIVACY OF INDIVIDUALS.—A chief commercial driver's licensing official of a State that receives an individual's record from the clearinghouse under this paragraph shall—

"(i) protect the privacy of the individual and the confidentiality of the record; and

"(ii) ensure that the information in the record is not divulged to any person that is not directly involved in assessing and evaluating the qualifications of the individual to operate a commercial motor vehicle.

"(3) NATIONAL TRANSPORTATION SAFETY BOARD.—The Secretary shall establish a process for the National Transportation Safety Board to request and receive an individual's record from the clearinghouse if the individual is involved in an accident that is under investigation by the National Transportation Safety Board.

"(A) CONSENT.—The Secretary may grant access to an individual's record in the clearinghouse under this paragraph without the prior written or electronic consent of the individual. An individual who holds a commercial driver's license shall be deemed to consent to such access by obtaining a commercial driver's license.

"(B) PROTECTION OF PRIVACY OF INDIVIDUALS.—An official of the National Trans-

portation Safety Board that receives an individual's record from the clearinghouse under this paragraph shall—

"(i) protect the privacy of the individual and the confidentiality of the record; and

"(ii) unless the official determines that the information in the individual's record should be reported under section 1131(e), ensure that the information in the record is not divulged to any person that is not directly involved with investigating the accident.

"(4) ADDITIONAL AUTHORIZED USERS.—The Secretary shall consider whether to grant access to the clearinghouse to additional users. The Secretary may authorize access to an individual's record from the clearinghouse to an additional user if the Secretary determines that granting access will further the purposes under subsection (a)(2). In determining whether the access will further the purposes under subsection (a)(2), the Secretary shall consider, among other things—

"(A) what use the additional user will make of the individual's record;

1 "(B) the costs and benefits of the use; and
2 "(C) how to protect the privacy of the indi-
3 vidual and the confidentiality of the record.
4 "(i) ACCESS TO CLEARINGHOUSE BY INDIVIDUALS.—
5 "(1) IN GENERAL.—The Secretary shall estab-
6 lish a process for an individual to request and re-
7 ceive information from the clearinghouse—
8 "(A) to determine whether the clearing-
9 house contains a record pertaining to the indi-
10 vidual;
11 "(B) to verify the accuracy of a record;
12 "(C) to update an individual's record, in-
13 cluding completing the return-to-duty process
14 described in title 49, Code of Federal Regula-
15 tions; and
16 "(D) to determine whether the clearing-
17 house received requests for the individual's in-
18 formation.
19 "(2) DISPUTE PROCEDURE.—The Secretary
20 shall establish a procedure, including an appeal
21 process, for an individual to dispute and remedy an
22 administrative error in the individual's record.
23 "(j) PENALTIES.—
24 "(1) IN GENERAL.—An employer, employee,
25 medical review officer, or service agent who violates

any provision of this section shall be subject to civil penalties under section 521(b)(2)(C) and criminal penalties under section 521(b)(6)(B), and any other applicable civil and criminal penalties, as determined by the Secretary.

''(2) VIOLATION OF PRIVACY.—The Secretary shall establish civil and criminal penalties, consistent with paragraph (1), for an authorized user who violates paragraph (2)(B) or (3)(B) of subsection (h).

''(k) COMPATIBILITY OF STATE AND LOCAL LAWS.—

''(1) PREEMPTION.—Except as provided under paragraph (2), any law, regulation, order, or other requirement of a State, political subdivision of a State, or Indian tribe related to a commercial driver's license holder subject to alcohol or controlled substance testing under title 49, Code of Federal Regulations, that is inconsistent with this section or a regulation issued pursuant to this section is preempted.

''(2) APPLICABILITY.—The preemption under paragraph (1) shall include—

''(A) the reporting of valid positive results from alcohol screening tests and drug tests;

''(B) the refusal to provide a specimen for an alcohol screening test or drug test; and

"(C) other violations of subpart B of part 382 of title 49, Code of Federal Regulations (or any subsequent corresponding regulations).

"(3) EXCEPTION.—A law, regulation, order, or other requirement of a State, political subdivision of a State, or Indian tribe shall not be preempted under this subsection to the extent it relates to an action taken with respect to a commercial motor vehicle operator's commercial driver's license or driving record as a result of the driver's—

"(A) verified positive alcohol or drug test result;

"(B) refusal to provide a specimen for the test; or

"(C) other violations of subpart B of part 382 of title 49, Code of Federal Regulations (or any subsequent corresponding regulations).

"(l) DEFINITIONS.—In this section—

"(1) AUTHORIZED USER.—The term 'authorized user' means an employer, State licensing authority, National Transportation Safety Board, or other person granted access to the clearinghouse under subsection (h).

"(2) CHIEF COMMERCIAL DRIVER'S LICENSING OFFICIAL.—The term 'chief commercial driver's li-

censing official' means the official in a State who is authorized to—

"(A) maintain a record about commercial driver's licenses issued by the State; and

"(B) take action on commercial driver's licenses issued by the State.

"(3) CLEARINGHOUSE.—The term 'clearinghouse' means the clearinghouse established under subsection (a).

"(4) COMMERCIAL MOTOR VEHICLE OPERATOR.—The term 'commercial motor vehicle operator' means an individual who—

"(A) possesses a valid commercial driver's license issued in accordance with section 31308; and

"(B) is subject to controlled substances and alcohol testing under title 49, Code of Federal Regulations.

"(5) EMPLOYER.—The term 'employer' means a person or entity employing, or seeking to employ, 1 or more employees (including an individual who is self-employed) to be commercial motor vehicle operators.

1 "(6) MEDICAL REVIEW OFFICER.—The term
2 'medical review officer' means a licensed physician
3 who is responsible for—
4 "(A) receiving and reviewing a laboratory
5 result generated under the testing program;
6 "(B) evaluating a medical explanation for
7 a controlled substances test under title 49,
8 Code of Federal Regulations; and
9 "(C) interpreting the results of a con-
10 trolled substances test.
11 "(7) SECRETARY.—The term 'Secretary' means
12 the Secretary of Transportation.
13 "(8) SERVICE AGENT.—The term 'service
14 agent' means a person or entity, other than an em-
15 ployee of the employer, who provides services to em-
16 ployers or employees under the testing program.
17 "(9) TESTING PROGRAM.—The term 'testing
18 program' means the alcohol and controlled sub-
19 stances testing program required under title 49,
20 Code of Federal Regulations.".
21 (b) CONFORMING AMENDMENT.—The analysis for
22 chapter 313 is amended by inserting after the item relat-
23 ing to section 31306 the following:

"31306a. National clearinghouse for positive controlled substance and alcohol test results of commercial motor vehicle operators.".

**SEC. 32403. DRUG AND ALCOHOL VIOLATION SANCTIONS.**

Chapter 313 is amended—

(1) by redesignating section 31306(f) as 31306(f)(1); and

(2) by inserting after section 31306(f)(1) the following:

''(2) ADDITIONAL SANCTIONS.—The Secretary may require a State to revoke, suspend, or cancel the commercial driver's license of a commercial motor vehicle operator who is found, based on a test conducted and confirmed under this section, to have used alcohol or a controlled substance in violation of law until the commercial motor vehicle operator completes the rehabilitation process under subsection (e).''; and

(3) by amending section 31310(d) to read as follows:

''(d) CONTROLLED SUBSTANCE VIOLATIONS.—The Secretary may permanently disqualify an individual from operating a commercial vehicle if the individual—

''(1) uses a commercial motor vehicle in the commission of a felony involving manufacturing, distributing, or dispensing a controlled substance, or possession with intent to manufacture, distribute, or dispense a controlled substance; or

"(2) uses alcohol or a controlled substance, in violation of section 31306, 3 or more times.".

**SEC. 32404. AUTHORIZATION OF APPROPRIATIONS.**

From the funds authorized to be appropriated under section 31104(h) of title 49, United States Code, up to $5,000,000 is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for the Secretary of Transportation to develop, design, and implement the national clearinghouse required by section 32402 of this Act.

# Subtitle E—Enforcement

**SEC. 32501. INSPECTION DEMAND AND DISPLAY OF CREDENTIALS.**

(a) SAFETY INVESTIGATIONS.—Section 504(c) is amended—

(1) by inserting ", or an employee of the recipient of a grant issued under section 31102 of this title" after "a contractor"; and

(2) by inserting ", in person or in writing" after "proper credentials".

(b) CIVIL PENALTY.—Section 521(b)(2)(E) is amended—

(1) by redesignating subparagraph (E) as subparagraph (E)(i); and

(2) by adding at the end the following:

"(ii) PLACE OUT OF SERVICE.—The Secretary may by regulation adopt procedures for placing out of service the commercial motor vehicle of a foreign-domiciled motor carrier that fails to promptly allow the Secretary to inspect and copy a record or inspect equipment, land, buildings, or other property.".

(c) HAZARDOUS MATERIALS INVESTIGATIONS.—Section 5121(c)(2) is amended by inserting ", in person or in writing," after "proper credentials".

(d) COMMERCIAL INVESTIGATIONS.—Section 14122(b) is amended by inserting ", in person or in writing" after "proper credentials".

**SEC. 32502. OUT OF SERVICE PENALTY FOR DENIAL OF ACCESS TO RECORDS.**

Section 521(b)(2)(E) is amended—

(1) by inserting after "$10,000." the following: "In the case of a motor carrier, the Secretary may also place the violator's motor carrier operations out of service."; and

(2) by striking "such penalty" after "It shall be a defense to" and inserting "a penalty".

**SEC. 32503. PENALTIES FOR VIOLATION OF OPERATION OUT OF SERVICE ORDERS.**

Section 521(b)(2) is amended by adding at the end the following:

"(F) PENALTY FOR VIOLATIONS RELATING TO OUT OF SERVICE ORDERS.—A motor carrier or employer (as defined in section 31132) that operates a commercial motor vehicle in commerce in violation of a prohibition on transportation under section 31144(c) of this title or an imminent hazard out of service order issued under subsection (b)(5) of this section or section 5121(d) of this title shall be liable for a civil penalty not to exceed $25,000.".

**SEC. 32504. MINIMUM PROHIBITION ON OPERATION FOR UNFIT CARRIERS.**

(a) IN GENERAL.—Section 31144(c)(1) is amended by inserting ", and such period shall be for not less than 10 days" after "operator is fit".

(b) OWNERS OR OPERATORS TRANSPORTING PASSENGERS.—Section 31144(c)(2) is amended by inserting ", and such period shall be for not less than 10 days" after "operator is fit".

(c) OWNERS OR OPERATORS TRANSPORTING HAZARDOUS MATERIAL.—Section 31144(c)(3) is amended by inserting before the period at the end of the first sentence

the following: ", and such period shall be for not less than 10 days".

**SEC. 32505. MINIMUM OUT OF SERVICE PENALTIES.**

Section 521(b)(7) is amended by adding at the end the following:

"The penalties may include a minimum duration for any out of service period, not to exceed 90 days.".

**SEC. 32506. IMPOUNDMENT AND IMMOBILIZATION OF COMMERCIAL MOTOR VEHICLES FOR IMMINENT HAZARD.**

Section 521(b) is amended by adding at the end the following:

"(15) IMPOUNDMENT OF COMMERCIAL MOTOR VEHICLES.—

"(A) ENFORCEMENT OF IMMINENT HAZARD OUT-OF-SERVICE ORDERS.—

"(i) The Secretary, or an authorized State official carrying out motor carrier safety enforcement activities under section 31102, may enforce an imminent hazard out-of-service order issued under chapters 5, 51, 131 through 149, 311, 313, or 315 of this title, or a regulation promulgated thereunder, by towing and impounding a

commercial motor vehicle until the order is rescinded.

"(ii) Enforcement shall not unreasonably interfere with the ability of a shipper, carrier, broker, or other party to arrange for the alternative transportation of any cargo or passenger being transported at the time the commercial motor vehicle is immobilized. In the case of a commercial motor vehicle transporting passengers, the Secretary or authorized State official shall provide reasonable, temporary, and secure shelter and accommodations for passengers in transit.

"(iii) The Secretary's designee or an authorized State official carrying out motor carrier safety enforcement activities under section 31102, shall immediately notify the owner of a commercial motor vehicle of the impoundment and the opportunity for review of the impoundment. A review shall be provided in accordance with section 554 of title 5, except that the review shall occur not later than 10 days after the impoundment.

"(B) ISSUANCE OF REGULATIONS.—The Secretary shall promulgate regulations on the use of impoundment or immobilization of commercial motor vehicles as a means of enforcing additional out-of-service orders issued under chapters 5, 51, 131 through 149, 311, 313, or 315 of this title, or a regulation promulgated thereunder. Regulations promulgated under this subparagraph shall include consideration of public safety, the protection of passengers and cargo, inconvenience to passengers, and the security of the commercial motor vehicle.

"(C) DEFINITION.—In this paragraph, the term 'impoundment' or 'impounding' means the seizing and taking into custody of a commercial motor vehicle or the immobilizing of a commercial motor vehicle through the attachment of a locking device or other mechanical or electronic means.".

**SEC. 32507. INCREASED PENALTIES FOR EVASION OF REGULATIONS.**

(a) PENALTIES.—Section 524 is amended—

(1) by striking "knowingly and willfully";

(2) by inserting after "this chapter" the following: ", chapter 51, subchapter III of chapter 311

(except sections 31138 and 31139) or section 31302, 31303, 31304, 31305(b), 31310(g)(1)(A), or 31502 of this title, or a regulation issued under any of those provisions,'';

(3) by striking ''$200 but not more than $500'' and inserting ''$2,000 but not more than $5,000''; and

(4) by striking ''$250 but not more than $2,000'' and inserting ''$2,500 but not more than $7,500''.

(b) EVASION OF REGULATION.—Section 14906 is amended—

(1) by striking ''$200'' and inserting ''at least $2,000'';

(2) by striking ''$250'' and inserting ''$5,000''; and

(3) by inserting after ''a subsequent violation'' the following:

'', and may be subject to criminal penalties''.

**SEC. 32508. FAILURE TO PAY CIVIL PENALTY AS A DISQUALIFYING OFFENSE.**

(a) IN GENERAL.—Chapter 311 is amended by inserting after section 31151 the following:

**"§ 31152. Disqualification for failure to pay**

''An individual assessed a civil penalty under this chapter, or chapters 5, 51, or 149 of this title, or a regulation issued under any of those provisions, who fails to pay the penalty or fails to comply with the terms of a settlement with the Secretary, shall be disqualified from operating a commercial motor vehicle after the individual is notified in writing and is given an opportunity to respond. A disqualification shall continue until the penalty is paid, or the individual complies with the terms of the settlement, unless the nonpayment is because the individual is a debtor in a case under chapter 11 of title 11, United States Code.''.

(b) TECHNICAL AMENDMENTS.—Section 31310, as amended by sections 32206 and 32310 of this Act, is amended—

(1) by redesignating subsections (h) through (k) as subsections (i) through (l), respectively; and

(2) by inserting after subsection (g) the following:

''(h) DISQUALIFICATION FOR FAILURE TO PAY.—The Secretary shall disqualify from operating a commercial motor vehicle any individual who fails to pay a civil penalty within the prescribed period, or fails to conform to the terms of a settlement with the Secretary. A disqualification shall continue until the penalty is paid, or the in-

dividual conforms to the terms of the settlement, unless the nonpayment is because the individual is a debtor in a case under chapter 11 of title 11, United States Code.''; and

(3) in subsection (i), as redesignated, by striking ''Notwithstanding subsections (b) through (g)'' and inserting ''Notwithstanding subsections (b) through (h)''.

(c) CONFORMING AMENDMENT.—The analysis of chapter 311 is amended by inserting after the item relating to section 31151 the following:

''31152. Disqualification for failure to pay.''.

**SEC. 32509. VIOLATIONS RELATING TO COMMERCIAL MOTOR VEHICLE SAFETY REGULATION AND OPERATORS.**

Section 521(b)(2)(D) is amended by striking ''ability to pay,''.

**SEC. 32510. EMERGENCY DISQUALIFICATION FOR IMMINENT HAZARD.**

Section 31310(f) is amended—

(1) in paragraph (1) by inserting ''section 521 or'' before ''section 5102''; and

(2) in paragraph (2) by inserting ''section 521 or'' before ''section 5102''.

**SEC. 32511. INTRASTATE OPERATIONS OF INTERSTATE MOTOR CARRIERS.**

(a) PROHIBITED TRANSPORTATION.—Section 521(b)(5) is amended by inserting after subparagraph (B) the following:

"(C) If an employee, vehicle, or all or part of an employer's commercial motor vehicle operations is ordered out of service under paragraph (5)(A), the commercial motor vehicle operations of the employee, vehicle, or employer that affect interstate commerce are also prohibited.".

(b) PROHIBITION ON OPERATION IN INTERSTATE COMMERCE AFTER NONPAYMENT OF PENALTIES.—Section 521(b)(8) is amended—

(1) by redesignating subparagraph (B) as subparagraph (C); and

(2) by inserting after subparagraph (A) the following:

"(B) ADDITIONAL PROHIBITION.—A person prohibited from operating in interstate commerce under paragraph (8)(A) may not operate any commercial motor vehicle where the operation affects interstate commerce.".

**SEC. 32512. ENFORCEMENT OF SAFETY LAWS AND REGULATIONS.**

(a) ENFORCEMENT OF SAFETY LAWS AND REGULATIONS.—Chapter 311, as amended by sections 32113 and 32508 of this Act, is amended by adding after section 31153 the following:

**"§ 31154. Enforcement of safety laws and regulations**

''(a) IN GENERAL.—The Secretary may bring a civil action to enforce this part, or a regulation or order of the Secretary under this part, when violated by an employer, employee, or other person providing transportation or service under this subchapter or subchapter I.

''(b) VENUE.—In a civil action under subsection (a)—

''(1) trial shall be in the judicial district in which the employer, employee, or other person operates;

''(2) process may be served without regard to the territorial limits of the district or of the State in which the action is instituted; and

''(3) a person participating with a carrier or broker in a violation may be joined in the civil action without regard to the residence of the person.''.

(b) CONFORMING AMENDMENT.—The analysis of chapter 311 is amended by inserting after the item relating to section 31153 the following:

"31154. Enforcement of safety laws and regulations.".

**SEC. 32513. DISCLOSURE TO STATE AND LOCAL LAW ENFORCEMENT AGENCIES.**

Section 31106(e) is amended—

(1) by redesignating subsection (e) as subsection (e)(1); and

(2) by inserting at the end the following:

"(2) IN GENERAL.—Notwithstanding any prohibition on disclosure of information in section 31105(h) or 31143(b) of this title or section 552a of title 5, the Secretary may disclose information maintained by the Secretary pursuant to chapters 51, 135, 311, or 313 of this title to appropriate personnel of a State agency or instrumentality authorized to carry out State commercial motor vehicle safety activities and commercial driver's license laws, or appropriate personnel of a local law enforcement agency, in accordance with standards, conditions, and procedures as determined by the Secretary. Disclosure under this section shall not operate as a waiver by the Secretary of any applicable privilege against disclosure under common law or as a basis

for compelling disclosure under section 552 of title 5.''.

**SEC. 32514. GRADE CROSSING SAFETY REGULATIONS.**

Section 112(2) of the Hazardous Materials Transportation Authorization Act of 1994 (Public Law 103–311) is amended by striking ''315 of such title (relating to motor carrier safety)'' and inserting ''311 of such title (relating to commercial motor vehicle safety)''.

# Subtitle F—Compliance, Safety, Accountability

**SEC. 32601. COMPLIANCE, SAFETY, ACCOUNTABILITY.**

(a) IN GENERAL.—Section 31102 is amended—

(1) by amending the section heading to read:

**''§ 31102. Compliance, safety, and accountability grants'';**

(2) by amending subsection (a) to read as follows:

''(a) GENERAL AUTHORITY.—Subject to this section, the Secretary of Transportation shall make and administer a compliance, safety, and accountability grant program to assist States, local governments, and other entities and persons with motor carrier safety and enforcement on highways and other public roads, new entrant safety audits, border enforcement, hazardous materials safety and security, consumer protection and household

goods enforcement, and other programs and activities required to improve the safety of motor carriers as determined by the Secretary. The Secretary shall allocate funding in accordance with section 31104 of this title.'';

(3) in subsection (b)—

(A) by amending the heading to read as follows:

''(b) MOTOR CARRIER SAFETY ASSISTANCE PROGRAM.—'';

(B) by redesignating paragraphs (1) through (3) as (2) through (4), respectively;

(C) by inserting before paragraph (2), as redesignated, the following:

''(1) PROGRAM GOAL.—The goal of the Motor Carrier Safety Assistance Program is to ensure that the Secretary, States, local government agencies, and other political jurisdictions work in partnership to establish programs to improve motor carrier, commercial motor vehicle, and driver safety to support a safe and efficient surface transportation system by—

''(A) making targeted investments to promote safe commercial motor vehicle transportation, including transportation of passengers and hazardous materials;

"(B) investing in activities likely to generate maximum reductions in the number and severity of commercial motor vehicle crashes and fatalities resulting from such crashes;

"(C) adopting and enforcing effective motor carrier, commercial motor vehicle, and driver safety regulations and practices consistent with Federal requirements; and

"(D) assessing and improving statewide performance by setting program goals and meeting performance standards, measures, and benchmarks.";

(D) in paragraph (2), as redesignated—

(i) by striking "make a declaration of" in subparagraph (I) and inserting "demonstrate";

(ii) by amending subparagraph (M) to read as follows:

"(M) ensures participation in appropriate Federal Motor Carrier Safety Administration systems and other information systems by all appropriate jurisdictions receiving Motor Carrier Safety Assistance Program funding;";

(iii) in subparagraph (Q), by inserting ''and dedicated sufficient resources to'' between ''established'' and ''a program'';

(iv) in subparagraph (W), by striking ''and'' after the semicolon;

(v) by amending subparagraph (X) to read as follows:

''(X) except in the case of an imminent or obvious safety hazard, ensures that an inspection of a vehicle transporting passengers for a motor carrier of passengers is conducted at a station, terminal, border crossing, maintenance facility, destination, weigh station, rest stop, turnpike service area, or a location where adequate food, shelter, and sanitation facilities are available for passengers, and reasonable accommodation is available for passengers with disabilities; and''; and

(vi) by adding after subparagraph (X) the following:

''(Y) ensures that the State will transmit to its roadside inspectors the notice of each Federal exemption granted pursuant to section 31315(b) and provided to the State by the Secretary, including the name of the person grant-

ed the exemption and any terms and conditions that apply to the exemption.''; and

(E) by amending paragraph (4), as redesignated, to read as follows:

''(4) MAINTENANCE OF EFFORT.—

''(A) IN GENERAL.—A plan submitted by a State under paragraph (2) shall provide that the total expenditure of amounts of the lead State agency responsible for implementing the plan will be maintained at a level at least equal to the average level of that expenditure for fiscal years 2004 and 2005.

''(B) AVERAGE LEVEL OF STATE EXPENDITURES.—In estimating the average level of State expenditure under subparagraph (A), the Secretary—

''(i) may allow the State to exclude State expenditures for Government-sponsored demonstration or pilot programs; and

''(ii) shall require the State to exclude State matching amounts used to receive Government financing under this subsection.

"(C) WAIVER.—Upon the request of a State, the Secretary may waive or modify the requirements of this paragraph for 1 fiscal year, if the Secretary determines that a waiver is equitable due to exceptional or uncontrollable circumstances, such as a natural disaster or a serious decline in the financial resources of the State motor carrier safety assistance program agency.";

(4) by redesignating subsection (e) as subsection (h); and

(5) by inserting after subsection (d) the following:

"(e) NEW ENTRANT SAFETY ASSURANCE PROGRAM.—

"(1) PROGRAM GOAL.—The Secretary may make grants to States and local governments for pre-authorization safety audits and new entrant motor carrier audits as described in section 31144(g).

"(2) RECIPIENTS.—Grants made in support of this program may be provided to States and local governments.

"(3) FEDERAL SHARE.—The Federal share of a grant made under this program is 100 percent.

"(4) ELIGIBLE ACTIVITIES.—Eligible activities will be in accordance with criteria developed by the Secretary and posted in the Federal Register in advance of the grant application period.

"(5) DETERMINATION.—If the Secretary determines that a State or local government is unable to conduct a new entrant motor carrier audit, the Secretary may use the funds to conduct the audit.

"(f) BORDER ENFORCEMENT.—

"(1) PROGRAM GOAL.—The Secretary of Transportation may make a grant for carrying out border commercial motor vehicle safety programs and related enforcement activities and projects.

"(2) RECIPIENTS.—The Secretary of Transportation may make a grant to an entity, State, or other person for carrying out border commercial motor vehicle safety programs and related enforcement activities and projects.

"(3) FEDERAL SHARE.—The Secretary shall reimburse a grantee at least 100 percent of the costs incurred in a fiscal year for carrying out border commercial motor vehicle safety programs and related enforcement activities and projects.

"(4) ELIGIBLE ACTIVITIES.—An eligible activity will be in accordance with criteria developed by the

Secretary and posted in the Federal Register in advance of the grant application period.

"(g) HIGH PRIORITY INITIATIVES.—

"(1) PROGRAM GOAL.—The Secretary may make grants to carry out high priority activities and projects that improve commercial motor vehicle safety and compliance with commercial motor vehicle safety regulations, including activities and projects that—

"(A) are national in scope;

"(B) increase public awareness and education;

"(C) target unsafe driving of commercial motor vehicles and non-commercial motor vehicles in areas identified as high risk crash corridors;

"(D) improve consumer protection and enforcement of household goods regulations;

"(E) improve the movement of hazardous materials safely and securely, including activities related to the establishment of uniform forms and application procedures that improve the accuracy, timeliness, and completeness of commercial motor vehicle safety data reported to the Secretary; or

"(F) demonstrate new technologies to improve commercial motor vehicle safety.

"(2) RECIPIENTS.—The Secretary may allocate amounts to award grants to State agencies, local governments, and other persons for carrying out high priority activities and projects that improve commercial motor vehicle safety and compliance with commercial motor vehicle safety regulations in accordance with the program goals specified in paragraph (1).

"(3) FEDERAL SHARE.—The Secretary shall reimburse a grantee at least 80 percent of the costs incurred in a fiscal year for carrying out the high priority activities or projects.

"(4) ELIGIBLE ACTIVITIES.—An eligible activity will be in accordance with criteria that is—

"(A) developed by the Secretary; and

"(B) posted in the Federal Register in advance of the grant application period.".

(b) CONFORMING AMENDMENT.—The analysis of chapter 311 is amended by striking the item relating to section 31102 and inserting the following:

"31102. Compliance, safety, and accountability grants.".

**SEC. 32602. PERFORMANCE AND REGISTRATION INFORMATION SYSTEMS MANAGEMENT PROGRAM.**

Section 31106(b) is amended—

(1) by amending paragraph (3)(C) to read as follows—

"(C) establish and implement a process—

"(i) to cancel the motor vehicle registration and seize the registration plates of a vehicle when an employer is found liable under section 31310(j)(2)(C) for knowingly allowing or requiring an employee to operate such a commercial motor vehicle in violation of an out-of-service order; and

"(ii) to reinstate the vehicle registration or return the registration plates of the commercial motor vehicle, subject to sanctions under clause (i), if the Secretary permits such carrier to resume operations after the date of issuance of such order."; and

(2) by striking paragraph (4).

**SEC. 32603. COMMERCIAL MOTOR VEHICLE DEFINED.**

Section 31101(1) is amended to read as follows:

"(1) 'commercial motor vehicle' means (except under section 31106) a self-propelled or towed vehicle used on the highways in commerce to transport passengers or property, if the vehicle—

"(A) has a gross vehicle weight rating or gross vehicle weight of at least 10,001 pounds, whichever is greater;

"(B) is designed or used to transport more than 8 passengers, including the driver, for compensation;

"(C) is designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation; or

"(D) is used in transporting material found by the Secretary of Transportation to be hazardous under section 5103 and transported in a quantity requiring placarding under regulations prescribed by the Secretary under section 5103.".

**SEC. 32604. DRIVER SAFETY FITNESS RATINGS.**

Section 31144, as amended by section 32204 of this Act, is amended by adding at the end the following:

"(i) COMMERCIAL MOTOR VEHICLE DRIVERS.—The Secretary may maintain by regulation a procedure for determining the safety fitness of a commercial motor vehicle driver and for prohibiting the driver from operating in interstate commerce. The procedure and prohibition shall include the following:

"(1) Specific initial and continuing requirements that a driver must comply with to demonstrate safety fitness.

"(2) The methodology and continually updated safety performance data that the Secretary will use to determine whether a driver is fit, including inspection results, serious traffic offenses, and crash involvement data.

"(3) Specific time frames within which the Secretary will determine whether a driver is fit.

"(4) A prohibition period or periods, not to exceed 1 year, that a driver that the Secretary determines is not fit will be prohibited from operating a commercial motor vehicle in interstate commerce. The period or periods shall begin on the 46th day after the date of the fitness determination and continue until the Secretary determines the driver is fit or until the prohibition period expires.

"(5) A review by the Secretary, not later than 30 days after an unfit driver requests a review, of the driver's compliance with the requirements the driver failed to comply with and that resulted in the Secretary determining that the driver was not fit. The burden of proof shall be on the driver to demonstrate fitness.

"(6) The eligibility criteria for reinstatement, including the remedial measures the unfit driver must take for reinstatement.".

**SEC. 32605. UNIFORM ELECTRONIC CLEARANCE FOR COMMERCIAL MOTOR VEHICLE INSPECTIONS.**

(a) IN GENERAL.—Chapter 311 is amended by adding after section 31109 the following:

**"§ 31110. Withholding amounts for State noncompliance**

"(a) FIRST FISCAL YEAR.—Subject to criteria established by the Secretary of Transportation, the Secretary may withhold up to 50 percent of the amount a State is otherwise eligible to receive under section 31102(b) on the first day of the fiscal year after the first fiscal year following the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012 in which the State uses for at least 180 days an electronic commercial motor vehicle inspection selection system that does not employ a selection methodology approved by the Secretary.

"(b) SECOND FISCAL YEAR.—The Secretary shall withhold up to 75 percent of the amount a State is otherwise eligible to receive under section 31102(b) on the first day of the fiscal year after the second fiscal year following the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012 in which the State uses

for at least 180 days an electronic commercial motor vehicle inspection selection system that does not employ a selection methodology approved by the Secretary.

"(c) SUBSEQUENT AVAILABILITY OF WITHHELD FUNDS.—The Secretary may make the amounts withheld under subsection (a) or subsection (b) available to the State if the Secretary determines that the State has substantially complied with the requirement described under subsection (a) or subsection (b) not later than 180 days after the beginning of the fiscal year in which amounts were withheld.".

(b) CONFORMING AMENDMENT.—The analysis of chapter 311 is amended by inserting after the item relating to section 31109 the following:

"31110. Withholding amounts for State noncompliance.".

**SEC. 32606. AUTHORIZATION OF APPROPRIATIONS.**

Section 31104 is amended to read as follows:

**"§ 31104. Availability of amounts**

"(a) IN GENERAL.—There are authorized to be appropriated from Highway Trust Fund (other than the Mass Transit Account) for Federal Motor Carrier Safety Administration programs the following:

"(1) COMPLIANCE, SAFETY, AND ACCOUNTABILITY GRANTS UNDER SECTION 31102.—

"(A) $249,717,000 for fiscal year 2012, provided that the Secretary shall set aside not

less than $168,388,000 to carry out the motor carrier safety assistance program under section 31102(b); and

"(B) $253,814,000 for fiscal year 2013, provided that the Secretary shall set aside not less than $171,813,000 to carry out the motor carrier safety assistance program under section 31102(b).

"(2) DATA AND TECHNOLOGY GRANTS UNDER SECTION 31109.—

"(A) $30,000,000 for fiscal year 2012; and

"(B) $30,000,000 for fiscal year 2013.

"(3) DRIVER SAFETY GRANTS UNDER SECTION 31313.—

"(A) $31,000,000 for fiscal year 2012; and

"(B) $31,000,000 for fiscal year 2013.

"(4) CRITERIA.—The Secretary shall develop criteria to allocate the remaining funds under paragraphs (1), (2), and (3) for fiscal year 2013 and for each fiscal year thereafter not later than April 1 of the prior fiscal year.

"(b) AVAILABILITY AND REALLOCATION OF AMOUNTS.—

"(1) ALLOCATIONS AND REALLOCATIONS.—Amounts made available under subsection (a)(1) re-

main available until expended. Allocations to a State remain available for expenditure in the State for the fiscal year in which they are allocated and for the next fiscal year. Amounts not expended by a State during those 2 fiscal years are released to the Secretary for reallocation.

"(2) REDISTRIBUTION OF AMOUNTS.—The Secretary may, after August 1 of each fiscal year, upon a determination that a State does not qualify for funding under section 31102(b) or that the State will not expend all of its existing funding, reallocate the State's funding. In revising the allocation and redistributing the amounts, the Secretary shall give preference to those States that require additional funding to meet program goals under section 31102(b).

"(3) PERIOD OF AVAILABILITY FOR DATA AND TECHNOLOGY GRANTS.—Amounts made available under subsection (a)(2) remain available for obligation for the fiscal year and the next 2 years in which they are appropriated. Allocations remain available for expenditure in the State for 5 fiscal years after they were obligated. Amounts not expended by a State during those 3 fiscal years are released to the Secretary for reallocation.

"(4) PERIOD OF AVAILABILITY FOR DRIVER SAFETY GRANTS.—Amounts made available under subsection (a)(3) of this section remain available for obligation for the fiscal year and the next fiscal year in which they are appropriated. Allocations to a State remain available for expenditure in the State for the fiscal year in which they are allocated and for the following 2 fiscal years. Amounts not expended by a State during those 3 fiscal years are released to the Secretary for reallocation.

"(5) REALLOCATION.—The Secretary, upon a request by a State, may reallocate grant funds previously awarded to the State under a grant program authorized by section 31102, 31109, or 31313 to another grant program authorized by those sections upon a showing by the State that it is unable to expend the funds within the 12 months prior to their expiration provided that the State agrees to expend the funds within the remaining period of expenditure.

"(c) GRANTS AS CONTRACTUAL OBLIGATIONS.—Approval by the Secretary of a grant under sections 31102, 31109, and 31313 is a contractual obligation of the Government for payment of the Government's share of costs incurred in developing and implementing programs to im-

prove commercial motor vehicle safety and enforce commercial driver's license regulations, standards, and orders.

"(d) DEDUCTION FOR ADMINISTRATIVE EXPENSES.—

"(1) IN GENERAL.—On October 1 of each fiscal year or as soon after that as practicable, the Secretary may deduct, from amounts made available under—

"(A) subsection (a)(1) for that fiscal year, not more than 1.5 percent of those amounts for administrative expenses incurred in carrying out section 31102 in that fiscal year;

"(B) subsection (a)(2) for that fiscal year, not more than 1.4 percent of those amounts for administrative expenses incurred in carrying out section 31109 in that fiscal year; and

"(C) subsection (a)(3) for that fiscal year, not more than 1.4 percent of those amounts for administrative expenses incurred in carrying out section 31313 in that fiscal year.

"(2) TRAINING.—The Secretary may use at least 50 percent of the amounts deducted from the amounts made available under sections (a)(1) and (a)(3) to train non-Government employees and to de-

velop related training materials to carry out sections 31102, 31311, and 31313 of this title.

"(3) CONTRACTS.—The Secretary may use amounts deducted under paragraph (1) to enter into contracts and cooperative agreements with States, local governments, associations, institutions, corporations, and other persons, if the Secretary determines the contracts and cooperative agreements are cost-effective, benefit multiple jurisdictions of the United States, and enhance safety programs and related enforcement activities.

"(e) ALLOCATION CRITERIA AND ELIGIBILITY.—

"(1) On October 1 of each fiscal year or as soon as practicable after that date after making the deduction under subsection (d)(1)(A), the Secretary shall allocate amounts made available to carry out section 31102(b) for such fiscal year among the States with plans approved under that section. Allocation shall be made under the criteria prescribed by the Secretary.

"(2) On October 1 of each fiscal year or as soon as practicable after that date and after making the deduction under subsection (d)(1)(B) or (d)(1)(C), the Secretary shall allocate amounts made

available to carry out sections 31109(a) and 31313(b)(1).

"(f) INTRASTATE COMPATIBILITY.—The Secretary shall prescribe regulations specifying tolerance guidelines and standards for ensuring compatibility of intrastate commercial motor vehicle safety laws and regulations with Government motor carrier safety regulations to be enforced under section 31102(b). To the extent practicable, the guidelines and standards shall allow for maximum flexibility while ensuring a degree of uniformity that will not diminish transportation safety. In reviewing State plans and allocating amounts or making grants under section 153 of title 23, United States Code, the Secretary shall ensure that the guidelines and standards are applied uniformly.

"(g) WITHHOLDING AMOUNTS FOR STATE NONCOMPLIANCE.—

"(1) IN GENERAL.—Subject to criteria established by the Secretary, the Secretary may withhold up to 100 percent of the amounts a State is otherwise eligible to receive under section 31102(b) on October 1 of each fiscal year beginning after the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012 and continuing for

the period that the State does not comply substantially with a requirement under section 31109(b).

"(2) SUBSEQUENT AVAILABILITY OF WITHHELD FUNDS.—The Secretary may make the amounts withheld in accordance with paragraph (1) available to a State if the Secretary determines that the State has substantially complied with a requirement under section 31109(b) not later than 180 days after the beginning of the fiscal year in which the amounts are withheld.

"(h) ADMINISTRATIVE EXPENSES.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for the Secretary to pay administrative expenses of the Federal Motor Carrier Safety Administration—

"(A) $250,819,000 for fiscal year 2012; and

"(B) $248,523,000 for fiscal year 2013.

"(2) USE OF FUNDS.—The funds authorized by this subsection shall be used for personnel costs, administrative infrastructure, rent, information technology, programs for research and technology, information management, regulatory development, the

administration of the performance and registration information system management, outreach and education, other operating expenses, and such other expenses as may from time to time be necessary to implement statutory mandates of the Administration not funded from other sources.

''(i) AVAILABILITY OF FUNDS.—

''(1) PERIOD OF AVAILABILITY.—The amounts made available under this section shall remain available until expended.

''(2) INITIAL DATE OF AVAILABILITY.—Authorizations from the Highway Trust Fund (other than the Mass Transit Account) for this section shall be available for obligation on the date of their apportionment or allocation or on October 1 of the fiscal year for which they are authorized, whichever occurs first.''

''(j) PAYMENT TO RECIPIENTS OF FINANCIAL ASSISTANCE FOR COSTS.—Each grantee shall submit vouchers to the Secretary for costs the grantee has incurred under sections 31102, 31109, and 31313. The Secretary shall pay the grantee an amount equal to not more than the Government share of costs incurred as of the date on which the vouchers are submitted.''.

**SEC. 32607. HIGH RISK CARRIER REVIEWS.**

(a) HIGH RISK CARRIER REVIEWS.—Section 31104(h), as amended by section 32606 of this Act, is amended by adding at the end of paragraph (2) the following:

''From the funds authorized by this subsection, the Secretary shall ensure that a review is completed on each motor carrier that demonstrates through performance data that it poses the highest safety risk. At a minimum, a review shall be conducted whenever a motor carrier is among the highest risk carriers for 2 consecutive months.''.

(b) CONFORMING AMENDMENT.—Section 4138 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (49 U.S.C. 31144 note) is repealed.

**SEC. 32608. DATA AND TECHNOLOGY GRANTS.**

(a) IN GENERAL.—Section 31109 is amended to read as follows:

**"§ 31109. Data and technology grants**

''(a) GENERAL AUTHORITY.—The Secretary of Transportation shall establish and administer a data and technology grant program to assist the States with the implementation and maintenance of data systems. The Secretary shall allocate the funds in accordance with section 31104.

"(b) PERFORMANCE GOALS.—The Secretary may make a grant to a State to implement the performance and registration information system management requirements of section 31106(b) to develop, implement, and maintain commercial vehicle information systems and networks, and other innovative technologies that the Secretary determines improve commercial motor vehicle safety.

"(c) ELIGIBILITY.—To be eligible for a grant to implement the requirements of section 31106(b), the State shall design a program that—

"(1) links Federal motor carrier safety information systems with the State's motor carrier information systems;

"(2) determines the safety fitness of a motor carrier or registrant when licensing or registering the registrant or motor carrier or while the license or registration is in effect; and

"(3) denies, suspends, or revokes the commercial motor vehicle registrations of a motor carrier or registrant that was issued an operations out-of-service order by the Secretary.

"(d) REQUIRED PARTICIPATION.—The Secretary shall require States that participate in the program under section 31106 to—

"(1) comply with the uniform policies, procedures, and technical and operational standards prescribed by the Secretary under section 31106(b);

"(2) possess or seek the authority to possess for a time period not longer than determined reasonable by the Secretary, to impose sanctions relating to commercial motor vehicle registration on the basis of a Federal safety fitness determination; and

"(3) establish and implement a process to cancel the motor vehicle registration and seize the registration plates of a vehicle when an employer is found liable under section 31310(j)(2)(C) for knowingly allowing or requiring an employee to operate such a commercial motor vehicle in violation of an out of service order.

"(e) FEDERAL SHARE.—The total Federal share of the cost of a project payable from all eligible Federal sources shall be at least 80 percent.".

(b) CONFORMING AMENDMENT.—The analysis of chapter 311 is amended by striking the item relating to section 31109 and inserting the following:

"31109. Data and technology grants.".

**SEC. 32609. DRIVER SAFETY GRANTS.**

(a) DRIVER FOCUSED GRANT PROGRAM.—Section 31313 is amended to read as follows:

**"§ 31313. Driver safety grants**

"(a) GENERAL AUTHORITY.—The Secretary shall make and administer a driver focused grant program to assist the States, local governments, entities, and other persons with commercial driver's license systems, programs, training, fraud detection, reporting of violations and other programs required to improve the safety of drivers as the Federal Motor Carrier Safety Administration deems critical. The Secretary shall allocate the funds for the program in accordance with section 31104.

"(b) COMMERCIAL DRIVER'S LICENSE PROGRAM IMPROVEMENT GRANTS.—

"(1) PROGRAM GOAL.—The Secretary of Transportation may make a grant to a State in a fiscal year—

"(A) to comply with the requirements of section 31311;

"(B) in the case of a State that is making a good faith effort toward substantial compliance with the requirements of this section and section 31311, to improve its implementation of its commercial driver's license program;

"(C) for research, development demonstration projects, public education, and other special activities and projects relating to commercial driver licensing and motor vehicle safety

that are of benefit to all jurisdictions of the United States or are designed to address national safety concerns and circumstances;

"(D) for commercial driver's license program coordinators;

"(E) to implement or maintain a system to notify an employer of an operator of a commercial motor vehicle of the suspension or revocation of the operator's commercial driver's license consistent with the standards developed under section 32304(b) of the Commercial Motor Vehicle Safety Enhancement Act of 2012; or

"(F) to train operators of commercial motor vehicles, as defined under section 31301, and to train operators and future operators in the safe use of such vehicles. Funding priority for this discretionary grant program shall be to regional or multi-state educational or nonprofit associations serving economically distressed regions of the United States.

"(2) PRIORITY.—The Secretary shall give priority, in making grants under paragraph (1)(B), to a State that will use the grants to achieve compliance with the requirements of the Motor Carrier

Safety Improvement Act of 1999 (113 Stat. 1748), including the amendments made by the Commercial Motor Vehicle Safety Enhancement Act of 2012.

''(3) RECIPIENTS.—The Secretary may allocate grants to State agencies, local governments, and other persons for carrying out activities and projects that improve commercial driver's license safety and compliance with commercial driver's license and commercial motor vehicle safety regulations in accordance with the program goals under paragraph (1) and that train operators on commercial motor vehicles. The Secretary may make a grant to a State to comply with section 31311 for commercial driver's license program coordinators and for notification systems.

''(4) FEDERAL SHARE.—The Federal share of a grant made under this program shall be at least 80 percent, except that the Federal share of grants for commercial driver license program coordinators and training commercial motor vehicle operators shall be 100 percent.''.

(b) CONFORMING AMENDMENT.—The analysis of chapter 313 is amended by striking the item relating to section 31313 and inserting the following:

''31313. Driver safety grants.''.

**SEC. 32610. COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS.**

Not later than 6 months after the date of enactment of this Act, the Secretary shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that includes—

(1) established time frames and milestones for resuming the Commercial Vehicle Information Systems and Networks Program; and

(2) a strategic workforce plan for its grants management office to ensure that it has determined the skills and competencies that are critical to achieving its mission goals.

# Subtitle G—Motorcoach Enhanced Safety Act of 2012

**SEC. 32701. SHORT TITLE.**

This subtitle may be cited as the ''Motorcoach Enhanced Safety Act of 2012''.

**SEC. 32702. DEFINITIONS.**

In this subtitle:

(1) ADVANCED GLAZING.—The term ''advanced glazing'' means glazing installed in a portal on the side or the roof of a motorcoach that is designed to

be highly resistant to partial or complete occupant ejection in all types of motor vehicle crashes.

(2) BUS.—The term ''bus'' has the meaning given the term in section 571.3(b) of title 49, Code of Federal Regulations (as in effect on the day before the date of enactment of this Act).

(3) COMMERCIAL MOTOR VEHICLE.—Except as otherwise specified, the term ''commercial motor vehicle'' has the meaning given the term in section 31132(1) of title 49, United States Code.

(4) DIRECT TIRE PRESSURE MONITORING SYSTEM.—The term ''direct tire pressure monitoring system'' means a tire pressure monitoring system that is capable of directly detecting when the air pressure level in any tire is significantly under-inflated and providing the driver a low tire pressure warning as to which specific tire is significantly under-inflated.

(5) ELECTRONIC ON-BOARD RECORDER.—The term ''electronic on-board recorder'' means an electronic device that acquires and stores data showing the record of duty status of the vehicle operator and performs the functions required of an automatic on-board recording device in section 395.15(b) of title 49, Code of Federal Regulations.

(6) EVENT DATA RECORDER.—The term ''event data recorder'' has the meaning given that term in section 563.5 of title 49, Code of Federal Regulations.

(7) MOTOR CARRIER.—The term ''motor carrier'' means—

(A) a motor carrier (as defined in section 13102(14) of title 49, United States Code); or

(B) a motor private carrier (as defined in section 13102(15) of that title).

(8) MOTORCOACH.—The term ''motorcoach'' has the meaning given the term ''over-the-road bus'' in section 3038(a)(3) of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note), but does not include—

(A) a bus used in public transportation provided by, or on behalf of, a public transportation agency; or

(B) a school bus, including a multifunction school activity bus.

(9) MOTORCOACH SERVICES.—The term ''motorcoach services'' means passenger transportation by motorcoach for compensation.

(10) MULTIFUNCTION SCHOOL ACTIVITY BUS.—The term ''multifunction school activity bus'' has the

meaning given the term in section 571.3(b) of title 49, Code of Federal Regulations (as in effect on the day before the date of enactment of this Act).

(11) PORTAL.—The term ''portal'' means any opening on the front, side, rear, or roof of a motorcoach that could, in the event of a crash involving the motorcoach, permit the partial or complete ejection of any occupant from the motorcoach, including a young child.

(12) PROVIDER OF MOTORCOACH SERVICES.—The term ''provider of motorcoach services'' means a motor carrier that provides passenger transportation services with a motorcoach, including per-trip compensation and contracted or chartered compensation.

(13) PUBLIC TRANSPORTATION.—The term ''public transportation'' has the meaning given the term in section 5302 of title 49, United States Code.

(14) SAFETY BELT.—The term ''safety belt'' has the meaning given the term in section 153(i)(4)(B) of title 23, United States Code.

(15) SECRETARY.—The term ''Secretary'' means the Secretary of Transportation.

**SEC. 32703. REGULATIONS FOR IMPROVED OCCUPANT PROTECTION, PASSENGER EVACUATION, AND CRASH AVOIDANCE.**

(a) REGULATIONS REQUIRED WITHIN 1 YEAR.—Not later than 1 year after the date of enactment of this Act, the Secretary shall prescribe regulations requiring safety belts to be installed in motorcoaches at each designated seating position.

(b) REGULATIONS REQUIRED WITHIN 2 YEARS.—Not later than 2 years after the date of enactment of this Act, the Secretary shall prescribe the following commercial motor vehicle regulations:

(1) ROOF STRENGTH AND CRUSH RESISTANCE.—The Secretary shall establish improved roof and roof support standards for motorcoaches that substantially improve the resistance of motorcoach roofs to deformation and intrusion to prevent serious occupant injury in rollover crashes involving motorcoaches.

(2) ANTI-EJECTION SAFETY COUNTERMEASURES.—The Secretary shall require advanced glazing to be installed in each motorcoach portal and shall consider other portal improvements to prevent partial and complete ejection of motorcoach passengers, including children. In prescribing such standards, the Secretary shall consider the impact of

such standards on the use of motorcoach portals as a means of emergency egress.

(3) ROLLOVER CRASH AVOIDANCE.—The Secretary shall require motorcoaches to be equipped with stability enhancing technology, such as electronic stability control and torque vectoring, to reduce the number and frequency of rollover crashes among motorcoaches.

(c) COMMERCIAL MOTOR VEHICLE TIRE PRESSURE MONITORING SYSTEMS.—Not later than 3 years after the date of enactment of this Act, the Secretary shall prescribe the following commercial vehicle regulation:

(1) IN GENERAL.—The Secretary shall require motorcoaches to be equipped with direct tire pressure monitoring systems that warn the operator of a commercial motor vehicle when any tire exhibits a level of air pressure that is below a specified level of air pressure established by the Secretary.

(2) PERFORMANCE REQUIREMENTS.—The regulation prescribed by the Secretary under this subsection shall include performance requirements to ensure that direct tire pressure monitoring systems are capable of—

(A) providing a warning to the driver when 1 or more tires are underinflated;

(B) activating in a specified time period after the underinflation is detected; and

(C) operating at different vehicle speeds.

(d) APPLICATION OF REGULATIONS.—

(1) NEW MOTORCOACHES.—Any regulation prescribed in accordance with subsection (a), (b), or (c) shall apply to all motorcoaches manufactured more than 2 years after the date on which the regulation is published as a final rule.

(2) RETROFIT REQUIREMENTS FOR EXISTING MOTORCOACHES.—

(A) IN GENERAL.—The Secretary may, by regulation, provide for the application of any requirement established under subsection (a) or (b)(2) to motorcoaches manufactured before the date on which the requirement applies to new motorcoaches under paragraph (1) based on an assessment of the feasibility, benefits, and costs of retrofitting the older motorcoaches.

(B) ASSESSMENT.—The Secretary shall complete an assessment with respect to safety belt retrofits not later than 1 year after the date of enactment of this Act and with respect to anti-ejection countermeasure retrofits not

later than 2 years after the date of enactment of this Act.

(e) FAILURE TO MEET DEADLINE.—If the Secretary determines that a final rule cannot be issued before the deadline established under this section, the Secretary shall—

(1) submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives that explains why the deadline cannot be met; and

(2) establish a new deadline for the issuance of the final rule.

**SEC. 32704. STANDARDS FOR IMPROVED FIRE SAFETY.**

(a) EVALUATIONS.—Not later than 18 months after the date of enactment of this Act, the Secretary shall initiate the following rulemaking proceedings:

(1) FLAMMABILITY STANDARD FOR EXTERIOR COMPONENTS.—The Secretary shall establish requirements for fire hardening or fire resistance of motorcoach exterior components to prevent fire and smoke inhalation injuries to occupants.

(2) SMOKE SUPPRESSION.—The Secretary shall update Federal Motor Vehicle Safety Standard Number 302 (49 C.F.R. 571.302; relating to flam-

mability of interior materials) to improve the resistance of motorcoach interiors and components to burning and permit sufficient time for the safe evacuation of passengers from motorcoaches.

(3) PREVENTION OF, AND RESISTANCE TO, WHEEL WELL FIRES.—The Secretary shall establish requirements—

(A) to prevent and mitigate the propagation of wheel well fires into the passenger compartment; and

(B) to substantially reduce occupant deaths and injuries from such fires.

(4) AUTOMATIC FIRE SUPPRESSION.—The Secretary shall establish requirements for motorcoaches to be equipped with highly effective fire suppression systems that automatically respond to and suppress all fires in such motorcoaches.

(5) PASSENGER EVACUATION.—The Secretary shall establish requirements for motorcoaches to be equipped with—

(A) improved emergency exit window, door, roof hatch, and wheelchair lift door designs to expedite access and use by passengers of motorcoaches under all emergency circumstances, including crashes and fires; and

(B) emergency interior lighting systems, including luminescent or retroreflectorized delineation of evacuation paths and exits, which are triggered by a crash or other emergency incident to accomplish more rapid and effective evacuation of passengers.

(6) CAUSATION AND PREVENTION OF MOTORCOACH FIRES.—The Secretary shall examine the principle causes of motorcoach fires and vehicle design changes intended to reduce the number of motorcoach fires resulting from those principle causes.

(b) DEADLINE.—Not later than 42 months after the date of enactment of this Act, the Secretary shall—

(1) issue final rules in accordance with subsection (a); or

(2) if the Secretary determines that any standard is not warranted based on the requirements and considerations set forth in subsection (a) and (b) of section 30111 of title 49, United States Code, submit a report that describes the reasons for not prescribing such a standard to—

(A) the Committee on Commerce, Science, and Transportation of the Senate; and

(B) the Committee on Energy and Commerce of the House of Representatives.

(c) TIRE PERFORMANCE STANDARD.—Not later than 3 years after the date of enactment of this Act, the Secretary shall—

(1) issue a final rule upgrading performance standards for tires used on motorcoaches, including an enhanced endurance test and a new high-speed performance test; or

(2) if the Secretary determines that a standard is not warranted based on the requirements and considerations set forth in subsections (a) and (b) of section 30111 of title 49, United States Code, submit a report that describes the reasons for not prescribing such a standard to—

(A) the Committee on Commerce, Science, and Transportation of the Senate; and

(B) the Committee on Energy and Commerce of the House of Representatives.

**SEC. 32705. OCCUPANT PROTECTION, COLLISION AVOIDANCE, FIRE CAUSATION, AND FIRE EXTINGUISHER RESEARCH AND TESTING.**

(a) SAFETY RESEARCH INITIATIVES.—Not later than 2 years after the date of enactment of this Act, the Secretary shall complete the following research and testing:

(1) IMPROVED FIRE EXTINGUISHERS.—The Secretary shall research and test the need to install

improved fire extinguishers or other readily available firefighting equipment in motorcoaches to effectively extinguish fires in motorcoaches and prevent passenger deaths and injuries.

(2) INTERIOR IMPACT PROTECTION.—The Secretary shall research and test enhanced occupant impact protection standards for motorcoach interiors to reduce substantially serious injuries for all passengers of motorcoaches.

(3) COMPARTMENTALIZATION SAFETY COUNTERMEASURES.—The Secretary shall require enhanced compartmentalization safety countermeasures for motorcoaches, including enhanced seating designs, to substantially reduce the risk of passengers being thrown from their seats and colliding with other passengers, interior surfaces, and components in the event of a crash involving a motorcoach.

(4) COLLISION AVOIDANCE SYSTEMS.—The Secretary shall research and test forward and lateral crash warning systems applications for motorcoaches.

(b) RULEMAKING.—Not later than 2 years after the completion of each research and testing initiative required under subsection (a), the Secretary shall issue final motor vehicle safety standards if the Secretary determines that

such standards are warranted based on the requirements and considerations set forth in subsections (a) and (b) of section 30111 of title 49, United States Code.

**SEC. 32706. MOTORCOACH REGISTRATION.**

(a) REGISTRATION REQUIREMENTS.—Section 13902(b) is amended—

(1) by redesignating paragraphs (1) through (8) as paragraphs (4) through (11), respectively; and

(2) by inserting before paragraph (4), as redesignated, the following:

"(1) ADDITIONAL REGISTRATION REQUIREMENTS FOR PROVIDERS OR MOTORCOACH SERVICES.—In addition to meeting the requirements under subsection (a)(1), the Secretary may not register a person to provide motorcoach services until after the person—

"(A) undergoes a preauthorization safety audit, including verification, in a manner sufficient to demonstrate the ability to comply with Federal rules and regulations, of—

"(i) a drug and alcohol testing program under part 40 of title 49, Code of Federal Regulations;

"(ii) the carrier's system of compliance with hours-of-service rules, including hours-of-service records;

"(iii) the ability to obtain required insurance;

"(iv) driver qualifications, including the validity of the commercial driver's license of each driver who will be operating under such authority;

"(v) disclosure of common ownership, common control, common management, common familial relationship, or other corporate relationship with another motor carrier or applicant for motor carrier authority during the past 3 years;

"(vi) records of the State inspections, or of a Level I or V Commercial Vehicle Safety Alliance Inspection, for all vehicles that will be operated by the carrier;

"(vii) safety management programs, including vehicle maintenance and repair programs; and

"(viii) the ability to comply with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), and the Over-

the-Road Bus Transportation Accessibility Act of 2007 (122 Stat. 2915);

''(B) has been interviewed to review safety management controls and the carrier's written safety oversight policies and practices; and

''(C) through the successful completion of a written examination developed by the Secretary, has demonstrated proficiency to comply with and carry out the requirements and regulations described in subsection (a)(1).

''(2) PRE-AUTHORIZATION SAFETY AUDIT.—The pre-authorization safety audit required under paragraph (1)(A) shall be completed on-site not later than 90 days following the submission of an application for operating authority.

''(3) FEE.—The Secretary may establish, under section 9701 of title 31, a fee of not more than $1,200 for new registrants that as nearly as possible covers the costs of performing a preauthorization safety audit. Amounts collected under this subsection shall be deposited in the Highway Trust Fund (other than the Mass Transit Account).''.

(b) SAFETY REVIEWS OF NEW OPERATORS.—Section 31144(g)(1) is amended by inserting ''transporting property'' after ''each operator''.

(c) CONFORMING AMENDMENT.—Section 24305(a)(3)(A)(i) is amended by striking ''section 13902(b)(8)(A)'' and inserting ''section 13902(b)(11)(A)''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect 1 year after the date of enactment of this Act.

**SEC. 32707. IMPROVED OVERSIGHT OF MOTORCOACH SERVICE PROVIDERS.**

(a) SAFETY REVIEWS.—Section 31144, as amended by sections 32204 and 32604 of this Act, is amended by adding at the end the following:

''(j) PERIODIC SAFETY REVIEWS OF PROVIDERS OF MOTORCOACH SERVICES.—

''(1) SAFETY REVIEW.—

''(A) IN GENERAL.—The Secretary shall—

''(i) determine the safety fitness of all providers of motorcoach services registered with the Federal Motor Carrier Safety Administration through a simple and understandable rating system that allows motorcoach passengers to compare the safety performance of motorcoach operators; and

''(ii) assign a safety fitness rating to each such provider.

"(B) APPLICABILITY.—Subparagraph (A) shall apply—

"(i) to any provider of motorcoach services registered with the Administration after the date of enactment of the Motorcoach Enhanced Safety Act of 2012 beginning not later than 2 years after the date of such registration; and

"(ii) to any provider of motorcoach services registered with the Administration on or before the date of enactment of that Act beginning not later than 3 years after the date of enactment of that Act.

"(2) PERIODIC REVIEW.—The Secretary shall establish, by regulation, a process for monitoring the safety performance of each provider of motorcoach services on a regular basis following the assignment of a safety fitness rating, including progressive intervention to correct unsafe practices.

"(3) ENFORCEMENT STRIKE FORCES.—In addition to the enhanced monitoring and enforcement actions required under paragraph (2), the Secretary may organize special enforcement strike forces targeting providers of motorcoach services.

"(4) PERIODIC UPDATE OF SAFETY FITNESS RATING.—In conducting the safety reviews required under this subsection, the Secretary shall—

"(A) reassess the safety fitness rating of each provider not less frequently than once every 3 years; and

"(B) annually assess the safety fitness of certain providers of motorcoach services that serve primarily urban areas with high passenger loads.

"(5) MOTORCOACH SERVICES DEFINED.—In this subsection, the term 'provider of motorcoach services' has the meaning given such term in section 32702 of the Motorcoach Enhanced Safety Act of 2012.".

(b) DISCLOSURE OF SAFETY PERFORMANCE RATINGS OF MOTORCOACH SERVICES AND OPERATIONS.—

(1) IN GENERAL.—Subchapter I of chapter 141 of title 49, United States Code, is amended by adding at the end the following:

**"§ 14105. Safety performance ratings of motorcoach services and operations**

"(a) DEFINITIONS.—In this section:

"(1) MOTORCOACH.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'motorcoach' has the meaning given to the term 'over-the-road bus' in section 3038(a)(3) of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note).

"(B) EXCLUSIONS.—The term 'motorcoach' does not include—

"(i) a bus used in public transportation that is provided by a State or local government; or

"(ii) a school bus (as defined in section 30125(a)(1)), including a multifunction school activity bus.

"(2) MOTORCOACH SERVICES AND OPERATIONS.—The term 'motorcoach services and operations' means passenger transportation by a motorcoach for compensation.

"(b) DISPLAY OF MOTOR CARRIER IDENTIFICATION.—

"(1) REQUIREMENT.—Beginning on the date that is 1 year after the date of the enactment of the Moving Ahead for Progress in the 21st Century Act, no person may sell or offer to sell interstate motorcoach transportation services, or provide broker serv-

ices related to such transportation, unless the person, at the point of sale or provision of broker services, conspicuously displays—

"(A) the legal name and USDOT number of the single motor carrier responsible for the transportation and for compliance with the Federal Motor Carrier Safety Regulations under parts 350 through 399 of title 49, Code of Federal Regulations; and

"(B) the URL for the Federal Motor Carrier Safety Administration's public website where the Administration has posted motor carrier and commercial motor vehicle driver scores in the Safety Measurement System.

"(2) CIVIL PENALTIES.—A person who violates paragraph (1) shall be liable for civil penalties to the same extent as a person who does not prepare a record in the form and manner prescribed under section 14901(a).

"(c) RULEMAKING.—

"(1) IN GENERAL.—Not later than 2 years after the date on which the safety fitness determination rule is implemented, the Secretary shall require, by regulation—

"(A) each motor carrier that owns or leases 1 or more motorcoaches that transport passengers subject to the Secretary's jurisdiction under section 13501 to prominently display the safety fitness rating assigned under section 31144(j)(1)(A)(ii)—

"(i) in each terminal of departure;

"(ii) in the motorcoach and visible from a position exterior to the vehicle at the point of departure, if the motorcoach does not depart from a terminal; and

"(iii) at all points of sale for such motorcoach services and operations; and

"(B) any person who sells tickets for motorcoach services and operations to display the rating system described in subparagraph (A) at all points of sale for such motorcoach services and operations.

"(2) ITEMS INCLUDED IN THE RULEMAKING.—In promulgating safety performance ratings for motorcoaches pursuant to the rulemaking required under paragraph (1), the Secretary shall consider—

"(A) the need and extent to which safety performance ratings should be made available in languages other than English; and

"(B) penalties authorized under section 521.

"(3) INSUFFICIENT INSPECTIONS.—Any motor carrier for which insufficient safety data is available shall display a label that states that the carrier has sufficiently passed the preauthorization safety audit required under section 13902(b)(1)(A).

"(d) EFFECT ON STATE AND LOCAL LAW.—Nothing in this section may be construed to preempt a State, or a political subdivision of a State, from enforcing any requirements concerning the manner and content of consumer information provided by motor carriers that are not subject to the Secretary's jurisdiction under section 13501.".

(2) CLERICAL AMENDMENT.—The analysis of chapter 141 of title 49, United States Code, is amended by inserting after the item relating to section 14104 the following:

"14105. Safety performance ratings of motorcoach services and operations.".

**SEC. 32708. REPORT ON FEASIBILITY, BENEFITS, AND COSTS OF ESTABLISHING A SYSTEM OF CERTIFICATION OF TRAINING PROGRAMS.**

Not later than 2 years after the date of the enactment of this Act, the Secretary shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and

Infrastructure of the House of Representatives that describes the feasibility, benefits, and costs of establishing a system of certification of public and private schools and of motor carriers and motorcoach operators that provide motorcoach driver training.

**SEC. 32709. REPORT ON DRIVER'S LICENSE REQUIREMENTS FOR 9- TO 15-PASSENGER VANS.**

(a) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Secretary shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that examines requiring all or certain classes of drivers operating a vehicle, which is designed or used to transport not fewer than 9 and not more than 15 passengers (including a driver) in interstate commerce, to have a commercial driver's license passenger-carrying endorsement and be tested in accordance with a drug and alcohol testing program under part 40 of title 49, Code of Federal Regulations.

(b) CONSIDERATIONS.—In developing the report under subsection (a), the Secretary shall consider—

(1) the safety benefits of the requirement described in subsection (a);

(2) the scope of the population that would be impacted by such requirement;

(3) the cost to the Federal Government and State governments to meet such requirement; and

(4) the impact on safety benefits and cost from limiting the application of such requirement to certain drivers of such vehicles, such as drivers who are compensated for driving.

**SEC. 32710. EVENT DATA RECORDERS.**

(a) EVALUATION.—Not later than 1 year after the date of enactment of this Act, the Secretary, after considering the performance requirements for event data recorders for passenger vehicles under part 563 of title 49, Code of Federal Regulations, shall complete an evaluation of event data recorders, including requirements regarding specific types of vehicle operations, events and incidents, and systems information to be recorded, for event data recorders to be used on motorcoaches used by motor carriers in interstate commerce.

(b) STANDARDS AND REGULATIONS.—Not later than 2 years after completing the evaluation required under subsection (a), the Secretary shall issue standards and regulations based on the results of that evaluation.

**SEC. 32711. SAFETY INSPECTION PROGRAM FOR COMMERCIAL MOTOR VEHICLES OF PASSENGERS.**

Not later than 3 years after the date of enactment of this Act, the Secretary shall complete a rulemaking proceeding to consider requiring States to conduct annual inspections of commercial motor vehicles designed or used to transport passengers, including an assessment of—

(1) the risks associated with improperly maintained or inspected commercial motor vehicles designed or used to transport passengers;

(2) the effectiveness of existing Federal standards for the inspection of such vehicles in—

(A) mitigating the risks described in paragraph (1); and

(B) ensuring the safe and proper operation condition of such vehicles; and

(3) the costs and benefits of a mandatory State inspection program.

**SEC. 32712. DISTRACTED DRIVING.**

(a) IN GENERAL.—Chapter 311, as amended by sections 32113, 32508, and 32512 of this Act, is amended by adding after section 31154 the following:

**"§ 31155. Regulation of the use of distracting devices in motorcoaches**

''(a) IN GENERAL.—Not later than 1 year after the date of enactment of the Motorcoach Enhanced Safety Act

of 2012, the Secretary of Transportation shall prescribe regulations on the use of electronic or wireless devices, including cell phones and other distracting devices, by an individual employed as the operator of a motorcoach (as defined in section 32702 of that Act).

''(b) BASIS FOR REGULATIONS.—The Secretary shall base the regulations prescribed under subsection (a) on accident data analysis, the results of ongoing research, and other information, as appropriate.

''(c) PROHIBITED USE.—Except as provided under subsection (d), the Secretary shall prohibit the use of the devices described in subsection (a) in circumstances in which the Secretary determines that their use interferes with a driver's safe operation of a motorcoach.

''(d) PERMITTED USE.—The Secretary may permit the use of a device that is otherwise prohibited under subsection (c) if the Secretary determines that such use is necessary for the safety of the driver or the public in emergency circumstances.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 311 is amended by inserting after the item relating to section 31154 the following:

''31155. Regulation of the use of distracting devices in motorcoaches.''.

**SEC. 32713. REGULATIONS.**

Any standard or regulation prescribed or modified pursuant to the Motorcoach Enhanced Safety Act of 2012

shall be prescribed or modified in accordance with section 553 of title 5, United States Code.

# Subtitle H—Safe Highways and Infrastructure Preservation

## SEC. 32801. COMPREHENSIVE TRUCK SIZE AND WEIGHT LIMITS STUDY.

(a) TRUCK SIZE AND WEIGHT LIMITS STUDY.—Not later than 90 days after the date of enactment of this Act, the Secretary, in consultation with each relevant State and other applicable Federal agencies, shall commence a comprehensive truck size and weight limits study. The study shall—

(1) provide data on accident frequency and factors related to accident risk of each route of the National Highway System in each State that allows a vehicle to operate with size and weight limits that are in excess of the Federal law and regulations and its correlation to truck size and weight limits;

(2) evaluate the impacts to the infrastructure of each route of the National Highway System in each State that allows a vehicle to operate with size and weight limits that are in excess of the Federal law and regulations, including—

(A) an analysis that quantifies the cost and benefits of the impacts in dollars;

(B) an analysis of the percentage of trucks operating in excess of the Federal size and weight limits; and

(C) an analysis that examines the ability of each State to recover the cost for the impacts, or the benefits incurred;

(3) evaluate the impacts and frequency of violations in excess of the Federal size and weight law and regulations to determine the cost of the enforcement of the law and regulations, and the effectiveness of the enforcement methods;

(4) examine the relationship between truck performance and crash involvement and its correlation to Federal size and weight limits, including the impacts on crashes;

(5) assess the impacts that truck size and weight limits in excess of the Federal law and regulations have in the risk of bridge failure contributing to the structural deficiencies of bridges or in the useful life of a bridge, including the impacts resulting from the number of bridge loadings;

(6) analyze the impacts on safety and infrastructure in each State that allows a truck to operate in excess of Federal size and weight limitations in truck-only lanes;

(7) compare and contrast the safety and infrastructure impacts of the Federal limits regarding truck size and weight limits in relation to—

(A) six-axle and other alternative configurations of tractor-trailers; and

(B) safety records of foreign nations with truck size and weight limits and tractor-trailer configurations that differ from the Federal law and regulations; and

(8) estimate—

(A) the extent to which freight would be diverted from other surface transportation modes to principal arterial routes and National Highway System intermodal connectors if each covered truck configuration is allowed to operate and the effect that any such diversion would have on other modes of transportation;

(B) the effect that any such diversion would have on public safety, infrastructure, cost responsibilities, fuel efficiency, and the environment;

(C) the effect on the transportation network of the United States that allowing each covered truck configuration to operate would have; and

(D) whether allowing each covered truck configuration to operate would result in an increase or decrease in the total number of trucks operating on principal arterial routes and National Highway System intermodal connectors; and

(9) identify all Federal rules and regulations impacted by changes in truck size and weight limits.

(b) REPORT.—Not later than 2 years after the date that the study is commenced under subsection (a), the Secretary shall submit a final report on the study, including all findings and recommendations, to the Committee on Commerce, Science, and Transportation and the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

**SEC. 32802. COMPILATION OF EXISTING STATE TRUCK SIZE AND WEIGHT LIMIT LAWS.**

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary, in consultation with the States, shall begin to compile—

(1) a list for each State, as applicable, that describes each route of the National Highway System that allows a vehicle to operate in excess of the Federal truck size and weight limits that—

(A) was authorized under State law on or before the date of enactment of this Act; and

(B) was in actual and lawful operation on a regular or periodic basis (including seasonal operations) on or before the date of enactment of this Act;

(2) a list for each State, as applicable, that describes—

(A) the size and weight limitations applicable to each segment of the National Highway System in that State as listed under paragraph (1);

(B) each combination that exceeds the Interstate weight limit, but that the Department of Transportation, other Federal agency, or a State agency has determined on or before the date of enactment of this Act, could be or could have been lawfully operated in the State; and

(C) each combination that exceeds the Interstate weight limit, but that the Secretary determines could have been lawfully operated on a non-Interstate segment of the National Highway System in the State on or before the date of enactment of this Act; and

(3) a list of each State law that designates or allows designation of size and weight limitations in excess of Federal law and regulations on routes of the National Highway System, including nondivisible loads.

(b) SPECIFICATIONS.—The Secretary, in consultation with the States, shall specify whether the determinations under paragraphs (1) and (2) of subsection (a) were made by the Department of Transportation, other Federal agency, or a State agency.

(c) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit a final report of the compilation under subsection (a) to the Committee on Commerce, Science, and Transportation and the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

# Subtitle I—Miscellaneous

## PART I—MISCELLANEOUS

### SEC. 32911. DETENTION TIME STUDY.

(a) STUDY.—Not later than 30 days after the date of enactment of this Act, the Secretary shall task the Motor Carrier Safety Advisory Committee to study the extent to which detention time contributes to drivers vio-

lating hours of service requirements and driver fatigue. In conducting this study, the Committee shall—

(1) examine data collected from driver and vehicle inspections;

(2) consult with—

(A) motor carriers and drivers, shippers, and representatives of ports and other facilities where goods are loaded and unloaded;

(B) government officials; and

(C) other parties as appropriate; and

(3) provide recommendations to the Secretary for addressing issues identified in the study.

(b) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary shall provide a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that includes recommendations for legislation and for addressing the results of the study.

**SEC. 32912. PROHIBITION OF COERCION.**

Section 31136(a) is amended by—

(1) striking ''and'' at the end of paragraph (3);

(2) striking the period at the end of paragraph (4) and inserting ''; and''; and

(3) adding after subsection (4) the following:

"(5) an operator of a commercial motor vehicle is not coerced by a motor carrier, shipper, receiver, or transportation intermediary to operate a commercial motor vehicle in violation of a regulation promulgated under this section, or chapter 51 or chapter 313 of this title.".

**SEC. 32913. MOTOR CARRIER SAFETY ADVISORY COMMITTEE.**

(a) MEMBERSHIP.—Section 4144(b)(1) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (49 U.S.C. 31100 note), is amended by inserting "nonprofit employee labor organizations representing commercial motor vehicle drivers," after "industry,".

(b) TERMINATION DATE.—Section 4144(d) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (49 U.S.C. 31100 note), is amended by striking "March 31, 2012" and inserting "September 30, 2013".

**SEC. 32914. WAIVERS, EXEMPTIONS, AND PILOT PROGRAMS.**

(a) WAIVER STANDARDS.—Section 31315(a) is amended—

(1) by inserting "and" at the end of paragraph (2);

(2) by striking paragraph (3); and

(3) redesignating paragraph (4) as paragraph (3).

(b) EXEMPTION STANDARDS.—Section 31315(b)(4) is amended—

(1) in subparagraph (A), by inserting "(or, in the case of a request for an exemption from the physical qualification standards for commercial motor vehicle drivers, post on a web site established by the Secretary to implement the requirements of section 31149)" after "Federal Register";

(2) by amending subparagraph (B) to read as follows:

"(B) UPON GRANTING A REQUEST.—Upon granting a request and before the effective date of the exemption, the Secretary shall publish in the Federal Register (or, in the case of an exemption from the physical qualification standards for commercial motor vehicle drivers, post on a web site established by the Secretary to implement the requirements of section 31149) the name of the person granted the exemption, the provisions from which the person is exempt, the effective period, and the terms and conditions of the exemption."; and

(3) in subparagraph (C), by inserting ''(or, in the case of a request for an exemption from the physical qualification standards for commercial motor vehicle drivers, post on a web site established by the Secretary to implement the requirements of section 31149)'' after ''Federal Register''.

(c) PROVIDING NOTICE OF EXEMPTIONS TO STATE PERSONNEL.—Section 31315(b)(7) is amended to read as follows:

''(7) NOTIFICATION OF STATE COMPLIANCE AND ENFORCEMENT PERSONNEL.—Before the effective date of an exemption, the Secretary shall notify a State safety compliance and enforcement agency, and require the agency pursuant to section 31102(b)(1)(Y) to notify the State's roadside inspectors, that a person will be operating pursuant to an exemption and the terms and conditions that apply to the exemption.''.

(d) PILOT PROGRAMS.—Section 31315(c)(1) is amended by striking ''in the Federal Register''.

(e) REPORT TO CONGRESS.—Section 31315 is amended by adding after subsection (d) the following:

''(e) REPORT TO CONGRESS.—The Secretary shall submit an annual report to the Committee on Commerce, Science, and Transportation of the Senate and the Com-

mittee on Transportation and Infrastructure of the House of Representatives listing the waivers, exemptions, and pilot programs granted under this section, and any impacts on safety.

''(f) WEB SITE.—The Secretary shall ensure that the Federal Motor Carrier Safety Administration web site includes a link to the web site established by the Secretary to implement the requirements under sections 31149 and 31315. The link shall be in a clear and conspicuous location on the home page of the Federal Motor Carrier Safety Administration web site and be easily accessible to the public.''.

**SEC. 32915. REGISTRATION REQUIREMENTS.**

(a) REQUIREMENTS FOR REGISTRATION.—Section 13901 is amended to read as follows:

**''§ 13901. Requirements for registration**

''(a) IN GENERAL.—A person may not provide transportation as a motor carrier subject to jurisdiction under subchapter I of chapter 135 or service as a freight forwarder subject to jurisdiction under subchapter III of such chapter, or be a broker for transportation subject to jurisdiction under subchapter I of such chapter unless the person is registered under this chapter to provide such transportation or service.

''(b) REGISTRATION NUMBERS.—

"(1) IN GENERAL.—If the Secretary registers a person under this chapter to provide transportation or service, including as a motor carrier, freight forwarder, or broker, the Secretary shall issue a distinctive registration number to the person for each such authority to provide transportation or service for which the person is registered.

"(2) TRANSPORTATION OR SERVICE TYPE INDICATOR.—A number issued under paragraph (1) shall include an indicator of the type of transportation or service for which the registration number is issued, including whether the registration number is issued for registration of a motor carrier, freight forwarder, or broker.

"(c) SPECIFICATION OF AUTHORITY.—For each agreement to provide transportation or service for which registration is required under this chapter, the registrant shall specify, in writing, the authority under which the person is providing such transportation or service.".

(b) AVAILABILITY OF INFORMATION.—

(1) IN GENERAL.—Chapter 139 is amended by adding at the end the following:

**"§ 13909. Availability of information**

''The Secretary shall make information relating to registration and financial security required by this chapter publicly available on the Internet, including—

''(1) the names and business addresses of the principals of each entity holding such registration; and

''(2) the electronic address of the entity's surety provider for the submission of claims.''.

(2) CONFORMING AMENDMENT.—The analysis for chapter 139 is amended by adding at the end the following:

''13909. Availability of information.''.

**SEC. 32916. ADDITIONAL MOTOR CARRIER REGISTRATION REQUIREMENTS.**

Section 13902, as amended by sections 32101 and 32107(a) of this Act, is amended—

(1) in subsection (a)—

(A) in paragraph (1), by inserting ''using self-propelled vehicles the motor carrier owns or leases'' after ''motor carrier''; and

(B) by adding at the end the following:

''(6) SEPARATE REGISTRATION REQUIRED.—A motor carrier may not broker transportation services unless the motor carrier has registered as a broker under this chapter.''; and

(2) by inserting after subsection (h) the following:

"(i) REGISTRATION AS FREIGHT FORWARDER OR BROKER REQUIRED.—A motor carrier registered under this chapter—

"(1) may only provide transportation of property with self-propelled motor vehicles owned or leased by the motor carrier or interchanges under regulations issued by the Secretary if the originating carrier—

"(A) physically transports the cargo at some point; and

"(B) retains liability for the cargo and for payment of interchanged carriers; and

"(2) may not arrange transportation described in paragraph (1) unless the motor carrier has obtained a separate registration as a freight forwarder or broker for transportation under section 13903 or 13904, as applicable.".

**SEC. 32917. REGISTRATION OF FREIGHT FORWARDERS AND BROKERS.**

(a) REGISTRATION OF FREIGHT FORWARDERS.—Section 13903, as amended by section 32107(b) of this Act, is amended—

(1) in subsection (a)—

(A) by striking ''finds that the person is fit'' and inserting the following: ''determines that the person—

''(1) has sufficient experience to qualify the person to act as a freight forwarder; and

''(2) is fit''; and

(B) by striking ''and the Board'';

(2) by redesignating subsections (b) and (c) as subsections (d) and (e), respectively;

(3) by inserting after subsection (a) the following:

''(b) DURATION.—A registration issued under subsection (a) shall only remain in effect while the freight forwarder is in compliance with section 13906(c).

''(c) EXPERIENCE OR TRAINING REQUIREMENT.—Each freight forwarder shall employ, as an officer, an individual who—

''(1) has at least 3 years of relevant experience; or

''(2) provides the Secretary with satisfactory evidence of the individual's knowledge of related rules, regulations, and industry practices.''; and

(4) by amending subsection (d), as redesignated, to read as follows:

"(d) REGISTRATION AS MOTOR CARRIER REQUIRED.—A freight forwarder may not provide transportation as a motor carrier unless the freight forwarder has registered separately under this chapter to provide transportation as a motor carrier.".

(b) REGISTRATION OF BROKERS.—Section 13904, as amended by section 32107(c) of this Act, is amended—

(1) in subsection (a), by striking "finds that the person is fit" and inserting the following: "determines that the person—

"(1) has sufficient experience to qualify the person to act as a broker for transportation; and

"(2) is fit";

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (d), (e), (f), and (g) respectively;

(3) by inserting after subsection (a) the following:

"(b) DURATION.—A registration issued under subsection (a) shall only remain in effect while the broker for transportation is in compliance with section 13906(b).

"(c) EXPERIENCE OR TRAINING REQUIREMENTS.—Each broker shall employ, as an officer, an individual who—

"(1) has at least 3 years of relevant experience; or

"(2) provides the Secretary with satisfactory evidence of the individual's knowledge of related rules, regulations, and industry practices."; and

(4) by amending subsection (d), as redesignated, to read as follows:

"(d) REGISTRATION AS MOTOR CARRIER REQUIRED.—A broker for transportation may not provide transportation as a motor carrier unless the broker has registered separately under this chapter to provide transportation as a motor carrier.".

**SEC. 32918. EFFECTIVE PERIODS OF REGISTRATION.**

Section 13905(c) is amended to read as follows:

"(c) EFFECTIVE PERIOD.—

"(1) IN GENERAL.—Except as otherwise provided in this part, each registration issued under section 13902, 13903, or 13904—

"(A) shall be effective beginning on the date specified by the Secretary; and

"(B) shall remain in effect for such period as the Secretary determines appropriate by regulation.

"(2) REISSUANCE OF REGISTRATION.—

"(A) REQUIREMENT.—Not later than 4 years after the date of the enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012, the Secretary shall require a freight forwarder or broker to renew its registration issued under this chapter.

"(B) EFFECTIVE PERIOD.—Each registration renewal under subparagraph (A)—

"(i) shall expire not later than 5 years after the date of such renewal; and

"(ii) may be further renewed as provided under this chapter.

"(3) REGISTRATION UPDATE.—The Secretary shall require a motor carrier, freight forwarder, or broker to update its registration under this chapter periodically or not later than 30 days after any change in address, other contact information, officers, process agent, or other essential information, as determined by the Secretary and published in the Federal Register.".

**SEC. 32919. FINANCIAL SECURITY OF BROKERS AND FREIGHT FORWARDERS.**

(a) IN GENERAL.—Section 13906 is amended by striking subsections (b) and (c) and inserting the following:

"(b) BROKER FINANCIAL SECURITY REQUIREMENTS.—

"(1) REQUIREMENTS.—

"(A) IN GENERAL.—The Secretary may register a person as a broker under section 13904 only if the person files with the Secretary a surety bond, proof of trust fund, or other financial security, or a combination thereof, in a form and amount, and from a provider, determined by the Secretary to be adequate to ensure financial responsibility.

"(B) USE OF A GROUP SURETY BOND, TRUST FUND, OR OTHER SURETY.—In implementing the standards established by subparagraph (A), the Secretary may authorize the use of a group surety bond, trust fund, or other financial security, or a combination thereof, that meets the requirements of this subsection.

"(C) SURETY BONDS.—A surety bond obtained under this section may only be obtained from a bonding company that has been approved by the Secretary of the Treasury.

"(D) PROOF OF TRUST OR OTHER FINANCIAL SECURITY.—For purposes of subparagraph (A), a trust fund or other financial secu-

rity may be acceptable to the Secretary only if the trust fund or other financial security consists of assets readily available to pay claims without resort to personal guarantees or collection of pledged accounts receivable.

"(2) SCOPE OF FINANCIAL RESPONSIBILITY.—

"(A) PAYMENT OF CLAIMS.—A surety bond, trust fund, or other financial security obtained under paragraph (1) shall be available to pay any claim against a broker arising from its failure to pay freight charges under its contracts, agreements, or arrangements for transportation subject to jurisdiction under chapter 135 if—

"(i) subject to the review by the surety provider, the broker consents to the payment;

"(ii) in any case in which the broker does not respond to adequate notice to address the validity of the claim, the surety provider determines that the claim is valid; or

"(iii) the claim is not resolved within a reasonable period of time following a reasonable attempt by the claimant to resolve

the claim under clauses (i) and (ii), and the claim is reduced to a judgment against the broker.

"(B) RESPONSE OF SURETY PROVIDERS TO CLAIMS.—If a surety provider receives notice of a claim described in subparagraph (A), the surety provider shall—

"(i) respond to the claim on or before the 30th day following the date on which the notice was received; and

"(ii) in the case of a denial, set forth in writing for the claimant the grounds for the denial.

"(C) COSTS AND ATTORNEY'S FEES.—In any action against a surety provider to recover on a claim described in subparagraph (A), the prevailing party shall be entitled to recover its reasonable costs and attorney's fees.

"(3) MINIMUM FINANCIAL SECURITY.—Each broker subject to the requirements of this section shall provide financial security of $100,000 for purposes of this subsection, regardless of the number of branch offices or sales agents of the broker.

"(4) CANCELLATION NOTICE.—If a financial security required under this subsection is canceled—

"(A) the holder of the financial security shall provide electronic notification to the Secretary of the cancellation not later than 30 days before the effective date of the cancellation; and

"(B) the Secretary shall immediately post such notification on the public Internet Website of the Department of Transportation.

"(5) SUSPENSION.—The Secretary shall immediately suspend the registration of a broker issued under this chapter if the available financial security of that person falls below the amount required under this subsection.

"(6) PAYMENT OF CLAIMS IN CASES OF FINANCIAL FAILURE OR INSOLVENCY.—If a broker registered under this chapter experiences financial failure or insolvency, the surety provider of the broker shall—

"(A) submit a notice to cancel the financial security to the Administrator in accordance with paragraph (4);

"(B) publicly advertise for claims for 60 days beginning on the date of publication by the Secretary of the notice to cancel the financial security; and

"(C) pay, not later than 30 days after the expiration of the 60-day period for submission of claims—

"(i) all uncontested claims received during such period; or

"(ii) a pro rata share of such claims if the total amount of such claims exceeds the financial security available.

"(7) PENALTIES.—

"(A) CIVIL ACTIONS.—Either the Secretary or the Attorney General of the United States may bring a civil action in an appropriate district court of the United States to enforce the requirements of this subsection or a regulation prescribed or order issued under this subsection. The court may award appropriate relief, including injunctive relief.

"(B) CIVIL PENALTIES.—If the Secretary determines, after notice and opportunity for a hearing, that a surety provider of a broker registered under this chapter has violated the requirements of this subsection or a regulation prescribed under this subsection, the surety provider shall be liable to the United States for

a civil penalty in an amount not to exceed $10,000.

"(C) ELIGIBILITY.—If the Secretary determines, after notice and opportunity for a hearing, that a surety provider of a broker registered under this chapter has violated the requirements of this subsection or a regulation prescribed under this subsection, the surety provider shall be ineligible to provider broker financial security for 3 years.

"(8) FINANCIAL SECURITY AMOUNT ASSESSMENT.—Every 5 years, the Secretary shall review, with public notice and comment, the amount of the financial security required under this subsection to determine whether such amounts are sufficient to provide adequate financial security, and shall be authorized to increase those amounts, if necessary, based upon that determination.

"(c) FREIGHT FORWARDER FINANCIAL SECURITY REQUIREMENTS.—

"(1) REQUIREMENTS.—

"(A) IN GENERAL.—The Secretary may register a person as a freight forwarder under section 13903 only if the person files with the Secretary a surety bond, proof of trust fund,

other financial security, or a combination of such instruments, in a form and amount, and from a provider, determined by the Secretary to be adequate to ensure financial responsibility.

"(B) USE OF A GROUP SURETY BOND, TRUST FUND, OR OTHER FINANCIAL SECURITY.—In implementing the standards established under subparagraph (A), the Secretary may authorize the use of a group surety bond, trust fund, other financial security, or a combination of such instruments, that meets the requirements of this subsection.

"(C) SURETY BONDS.—A surety bond obtained under this section may only be obtained from a bonding company that has been approved by the Secretary of the Treasury.

"(D) PROOF OF TRUST OR OTHER FINANCIAL SECURITY.—For purposes of subparagraph (A), a trust fund or other financial security may not be accepted by the Secretary unless the trust fund or other financial security consists of assets readily available to pay claims without resort to personal guarantees or collection of pledged accounts receivable.

"(2) SCOPE OF FINANCIAL RESPONSIBILITY.—

"(A) PAYMENT OF CLAIMS.—A surety bond, trust fund, or other financial security obtained under paragraph (1) shall be available to pay any claim against a freight forwarder arising from its failure to pay freight charges under its contracts, agreements, or arrangements for transportation subject to jurisdiction under chapter 135 if—

"(i) subject to the review by the surety provider, the freight forwarder consents to the payment;

"(ii) in the case the freight forwarder does not respond to adequate notice to address the validity of the claim, the surety provider determines the claim is valid; or

"(iii) the claim—

"(I) is not resolved within a reasonable period of time following a reasonable attempt by the claimant to resolve the claim under clauses (i) and (ii); and

"(II) is reduced to a judgment against the freight forwarder.

"(B) RESPONSE OF SURETY PROVIDERS TO CLAIMS.—If a surety provider receives notice

of a claim described in subparagraph (A), the surety provider shall—

"(i) respond to the claim on or before the 30th day following receipt of the notice; and

"(ii) in the case of a denial, set forth in writing for the claimant the grounds for the denial.

"(C) COSTS AND ATTORNEY'S FEES.—In any action against a surety provider to recover on a claim described in subparagraph (A), the prevailing party shall be entitled to recover its reasonable costs and attorney's fees.

"(3) FREIGHT FORWARDER INSURANCE.—

"(A) IN GENERAL.—The Secretary may register a person as a freight forwarder under section 13903 only if the person files with the Secretary a surety bond, insurance policy, or other type of financial security that meets standards prescribed by the Secretary.

"(B) LIABILITY INSURANCE.—A financial security filed by a freight forwarder under subparagraph (A) shall be sufficient to pay an amount, not to exceed the amount of the financial security, for each final judgment against

the freight forwarder for bodily injury to, or death of, an individual, or loss of, or damage to, property (other than property referred to in subparagraph (C)), resulting from the negligent operation, maintenance, or use of motor vehicles by, or under the direction and control of, the freight forwarder while providing transfer, collection, or delivery service under this part.

"(C) CARGO INSURANCE.—The Secretary may require a registered freight forwarder to file with the Secretary a surety bond, insurance policy, or other type of financial security approved by the Secretary, that will pay an amount, not to exceed the amount of the financial security, for loss of, or damage to, property for which the freight forwarder provides service.

"(4) MINIMUM FINANCIAL SECURITY.—Each freight forwarder subject to the requirements of this section shall provide financial security of $100,000, regardless of the number of branch offices or sales agents of the freight forwarder.

"(5) CANCELLATION NOTICE.—If a financial security required under this subsection is canceled—

"(A) the holder of the financial security shall provide electronic notification to the Sec-

retary of the cancellation not later than 30 days before the effective date of the cancellation; and

"(B) the Secretary shall immediately post such notification on the public Internet web site of the Department of Transportation.

"(6) SUSPENSION.—The Secretary shall immediately suspend the registration of a freight forwarder issued under this chapter if its available financial security falls below the amount required under this subsection.

"(7) PAYMENT OF CLAIMS IN CASES OF FINANCIAL FAILURE OR INSOLVENCY.—If a freight forwarder registered under this chapter experiences financial failure or insolvency, the surety provider of the freight forwarder shall—

"(A) submit a notice to cancel the financial security to the Administrator in accordance with paragraph (5);

"(B) publicly advertise for claims for 60 days beginning on the date of publication by the Secretary of the notice to cancel the financial security; and

"(C) pay, not later than 30 days after the expiration of the 60-day period for submission of claims—

"(i) all uncontested claims received during such period; or

"(ii) a pro rata share of such claims if the total amount of such claims exceeds the financial security available.

"(8) PENALTIES.—

"(A) CIVIL ACTIONS.—Either the Secretary or the Attorney General may bring a civil action in an appropriate district court of the United States to enforce the requirements of this subsection or a regulation prescribed or order issued under this subsection. The court may award appropriate relief, including injunctive relief.

"(B) CIVIL PENALTIES.—If the Secretary determines, after notice and opportunity for a hearing, that a surety provider of a freight forwarder registered under this chapter has violated the requirements of this subsection or a regulation prescribed under this subsection, the surety provider shall be liable to the United States for a civil penalty in an amount not to exceed $10,000.

"(C) ELIGIBILITY.—If the Secretary determines, after notice and opportunity for a hear-

ing, that a surety provider of a freight forwarder registered under this chapter has violated the requirements of this subsection or a regulation prescribed under this subsection, the surety provider shall be ineligible to provide freight forwarder financial security for 3 years.

"(9) FINANCIAL SECURITY AND INSURANCE AMOUNT ASSESSMENT.—Not less frequently than once every 5 years, the Secretary—

"(A) shall review, with public notice and comment, the amount of the financial security and insurance required under this subsection to determine whether such amounts are sufficient to provide adequate financial security; and

"(B) may increase such amounts, if necessary, based upon the determination under subparagraph (A).".

(b) RULEMAKING.—Not later than 1 year after the date of enactment of this Act, the Secretary shall issue regulations to implement and enforce the requirements under subsections (b) and (c) of section 13906 of title 49, United States Code, as amended by subsection (a).

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date that is 1 year after the date of enactment of this Act.

**SEC. 32920. UNLAWFUL BROKERAGE ACTIVITIES.**

(a) IN GENERAL.—Chapter 149 is amended by adding at the end the following:

**"§ 14916. Unlawful brokerage activities**

''(a) PROHIBITED ACTIVITIES.—Any person that acts as a broker, other than a non-vessel-operating common carrier (as defined in section 40102(16) of title 46) or an ocean freight forwarder providing brokerage as part of an international through movement involving ocean transportation between the United States and a foreign port, is prohibited from providing interstate brokerage services as a broker unless that person—

''(1) is registered under, and in compliance with, section 13903; and

''(2) has satisfied the financial security requirements under section 13904.

''(b) CIVIL PENALTIES AND PRIVATE CAUSE OF ACTION.—Any person who knowingly authorizes, consents to, or permits, directly or indirectly, either alone or in conjunction with any other person, a violation of subsection (a) is liable—

''(1) to the United States Government for a civil penalty in an amount not to exceed $10,000 for each violation; and

''(2) to the injured party for all valid claims incurred without regard to amount.

"(c) LIABLE PARTIES.—The liability for civil penalties and for claims under this section for unauthorized brokering shall apply, jointly and severally—

"(1) to any corporate entity or partnership involved; and

"(2) to the individual officers, directors, and principals of such entities.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 149 is amended by adding at the end the following:

"14916. Unlawful brokerage activities.".

## PART II—HOUSEHOLD GOODS TRANSPORTATION

### SEC. 32921. ADDITIONAL REGISTRATION REQUIREMENTS FOR HOUSEHOLD GOODS MOTOR CARRIERS.

(a) Section 13902(a)(2) is amended—

(1) in subparagraph (B), by striking "section 13702(c);" and inserting "section 13702(c); and";

(2) by amending subparagraph (C) to read as follows:

"(C) demonstrates, before being registered, through successful completion of a proficiency examination established by the Secretary, knowledge and intent to comply with applicable Federal laws relating to consumer protection, estimating, consumers' rights and responsibilities, and options for limitations of liability for loss and damage."; and

(3) by striking subparagraph (D).

(b) COMPLIANCE REVIEWS OF NEW HOUSEHOLD GOODS MOTOR CARRIERS.—Section 31144(g), as amended by section 32102 of this Act, is amended by adding at the end the following:

"(6) ADDITIONAL REQUIREMENTS FOR HOUSEHOLD GOODS MOTOR CARRIERS.—(A) In addition to the requirements of this subsection, the Secretary shall require, by regulation, each registered household goods motor carrier to undergo a consumer protection standards review not later than 18 months after the household goods motor carrier begins operations under such authority.

"(B) ELEMENTS.—In the regulations issued pursuant to subparagraph (A), the Secretary shall establish the elements of the consumer protections standards review, including basic management controls. In establishing the elements, the Secretary shall consider the effects on small businesses and shall consider establishing alternate locations where such reviews may be conducted for the convenience of small businesses.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 2 years after the date of enactment of this Act.

**SEC. 32922. FAILURE TO GIVE UP POSSESSION OF HOUSEHOLD GOODS.**

(a) INJUNCTIVE RELIEF.—Section 14704(a)(1) is amended by striking ''and 14103'' and inserting '', 14103, and 14915(c)''.

(b) CIVIL PENALTIES.—Section 14915(a)(1) is amended by adding at the end the following:

''The United States may assign all or a portion of the civil penalty to an aggrieved shipper. The Secretary of Transportation shall establish criteria upon which such assignments shall be made. The Secretary may order, after notice and an opportunity for a proceeding, that a person found holding a household goods shipment hostage return the goods to an aggrieved shipper.''.

**SEC. 32923. SETTLEMENT AUTHORITY.**

(a) SETTLEMENT OF GENERAL CIVIL PENALTIES.—Section 14901 is amended by adding at the end the following:

''(h) SETTLEMENT OF HOUSEHOLD GOODS CIVIL PENALTIES.—Nothing in this section shall be construed to prohibit the Secretary from accepting partial payment of a civil penalty as part of a settlement agreement in the

public interest, or from holding imposition of any part of a civil penalty in abeyance.''.

(b) SETTLEMENT OF HOUSEHOLD GOODS CIVIL PENALTIES.—Section 14915(a) is amended by adding at the end the following:

''(4) SETTLEMENT AUTHORITY.—Nothing in this section shall be construed as prohibiting the Secretary from accepting partial payment of a civil penalty as part of a settlement agreement in the public interest, or from holding imposition of any part of a civil penalty in abeyance.''.

**SEC. 32924. HOUSEHOLD GOODS TRANSPORTATION ASSISTANCE PROGRAM.**

(a) JOINT ASSISTANCE PROGRAM.—Not later than 18 months after the date of enactment of this Act, the Secretary shall develop and implement a joint assistance program, through the Federal Motor Carrier Safety Administration—

(1) to educate consumers about the household goods motor carrier industry pursuant to the recommendations of the task force established under section 32925 of this Act;

(2) to improve the Federal Motor Carrier Safety Administration's implementation, monitoring, and

coordination of Federal and State household goods enforcement activities;

(3) to assist a consumer with the timely resolution of an interstate household goods hostage situation, as appropriate; and

(4) to conduct other enforcement activities as designated by the Secretary.

(b) JOINT ASSISTANCE PROGRAM PARTNERSHIP.—The Secretary—

(1) may partner with 1 or more household goods motor carrier industry groups to implement the joint assistance program under subsection (a); and

(2) shall ensure that each participating household goods motor carrier industry group—

(A) implements the joint assistance program in the best interest of the consumer;

(B) implements the joint assistance program in the public interest;

(C) accurately represents its financial interests in providing household goods mover services in the normal course of business and in assisting consumers resolving hostage situations;

(D) does not hold itself out or misrepresent itself as an agent of the Federal government;

(E) abides by Federal regulations and guidelines for the provision of assistance and receipt of compensation for household goods mover services; and

(F) accurately represents the Federal and State remedies that are available to consumers for resolving interstate household goods hostage situations.

(c) REPORT.—The Secretary shall submit a report annually to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives providing a detailed description of the joint assistance program under subsection (a).

(d) PROHIBITION.—The joint assistance program under subsection (a) may not include the provision of funds by the United States to a consumer for lost, stolen, or damaged items.

**SEC. 32925. HOUSEHOLD GOODS CONSUMER EDUCATION PROGRAM.**

(a) TASK FORCE.—The Secretary of Transportation shall establish a task force to develop recommendations

to ensure that a consumer is informed of Federal law concerning the transportation of household goods by a motor carrier, including recommendations—

(1) on how to condense publication ESA 03005 of the Federal Motor Carrier Safety Administration into a format that can be more easily used by a consumer; and

(2) on the use of state-of-the-art education techniques and technologies, including the use of the Internet as an educational tool.

(b) TASK FORCE MEMBERS.—The task force shall be comprised of—

(1) individuals with expertise in consumer affairs;

(2) educators with expertise in how people learn most effectively; and

(3) representatives of the household goods moving industry.

(c) RECOMMENDATIONS.—Not later than 1 year after the date of enactment of this Act, the task force shall complete its recommendations under subsection (a). Not later than 1 year after the task force completes its recommendations under subsection (a), the Secretary shall issue regulations implementing the recommendations, as appropriate.

(d) FEDERAL ADVISORY COMMITTEE ACT EXEMPTION.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the task force.

(e) TERMINATION.—The task force shall terminate 2 years after the date of enactment of this Act.

## PART III—TECHNICAL AMENDMENTS

### SEC. 32931. UPDATE OF OBSOLETE TEXT.

(a) Section 31137(e), as redesignated by section 32301 of this Act, is amended by striking ''Not later than December 1, 1990, the Secretary shall prescribe'' and inserting ''The Secretary shall maintain''.

(b) Section 31151(a) is amended—

(1) by amending paragraph (1) to read as follows:

''(1) IN GENERAL.—The Secretary of Transportation shall maintain a program to ensure that intermodal equipment used to transport intermodal containers is safe and systematically maintained.''; and

(2) by striking paragraph (4).

(c) Section 31307(b) is amended by striking ''Not later than December 18, 1994, the Secretary shall prescribe'' and inserting ''The Secretary shall maintain''.

(d) Section 31310(g)(1) is amended by striking ''Not later than 1 year after the date of enactment of this Act, the'' and inserting ''The''.

(e) Section 4123(f) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (119 Stat. 1736), is amended by striking ''Not later than 1 year after the date of enactment of this Act, the'' and inserting ''The''.

**SEC. 32932. CORRECTION OF INTERSTATE COMMERCE COMMISSION REFERENCES.**

(a) SAFETY INFORMATION AND INTERVENTION IN INTERSTATE COMMERCE COMMISSION PROCEEDINGS.—Chapter 3 is amended—

(1) by repealing section 307;

(2) in the analysis, by striking the item relating to section 307;

(3) in section 333(d)(1)(C), by striking ''Interstate Commerce Commission'' and inserting ''Surface Transportation Board''; and

(4) in section 333(e)—

(A) by striking ''Interstate Commerce Commission'' and inserting ''Surface Transportation Board''; and

(B) by striking ''Commission'' and inserting ''Board''.

(b) FILING AND PROCEDURE FOR APPLICATION TO ABANDON OR DISCONTINUE.—Section 10903(b)(2) is

amended by striking ''24706(c) of this title'' and inserting ''24706(c) of this title before May 31, 1998''.

(c) TECHNICAL AMENDMENTS TO PART C OF SUBTITLE V.—

(1) Section 24307(b)(3) is amended by striking ''Interstate Commerce Commission'' and inserting ''Surface Transportation Board''.

(2) Section 24311 is amended—

(A) by striking ''Interstate Commerce Commission'' and inserting ''Surface Transportation Board'';

(B) by striking ''Commission'' each place it appears and inserting ''Board''; and

(C) by striking ''Commission's'' and inserting ''Board's''.

(3) Section 24902 is amended—

(A) by striking ''Interstate Commerce Commission'' each place it appears and inserting ''Surface Transportation Board''; and

(B) by striking ''Commission'' each place it appears and inserting ''Board''.

(4) Section 24904 is amended—

(A) by striking ''Interstate Commerce Commission'' and inserting ''Surface Transportation Board''; and

(B) by striking ''Commission'' each place it appears and inserting ''Board''.

**SEC. 32933. TECHNICAL AND CONFORMING AMENDMENTS.**

(a) Section 13905(f)(1)(A) is amended by striking ''section 13904(c)'' and inserting ''section 13904(e)'';

(b) Section 14504a(c)(1) is amended—

(1) in subparagraph (C), by striking ''sections'' and inserting ''section''; and

(2) in subparagraph (D)(ii)(II) by striking the period at the end and inserting ''; and''.

(c) Section 31103(a) is amended by striking ''section 31102(b)(1)(E)'' and inserting ''section 31102(b)(2)(E)''.

(d) Section 31103(b) is amended by striking ''authorized by section 31104(f)(2)''.

(e) Section 31309(b)(2) is amended by striking ''31308(2)'' and inserting ''31308(3)''.

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

**SEC. 33001. SHORT TITLE.**

This title may be cited as the ''Surface Transportation and Freight Policy Act of 2012''.

**SEC. 33002. ESTABLISHMENT OF A NATIONAL SURFACE TRANSPORTATION AND FREIGHT POLICY.**

(a) IN GENERAL.—Subchapter I of chapter 3 of title 49, United States Code, as amended by section 32932 of the Commercial Motor Vehicle Safety Enhancement Act of 2012, is amended—

(1) by redesignating sections 304 through 306 as sections 307 through 309, respectively;

(2) by redesignating sections 308 and 309 as sections 310 and 311, respectively;

(3) by redesignating sections 303 and 303a as sections 305 and 306, respectively; and

(4) by inserting after section 302 the following:

**"§ 303. National surface transportation policy**

''(a) POLICY.—It is the policy of the United States to develop a comprehensive national surface transportation system that advances the national interest and defense, interstate and foreign commerce, the efficient and safe interstate mobility of people and goods, and the protection of the environment. The system shall be built, maintained, managed, and operated as a partnership between the Federal, State, and local governments and the private sector and shall be coordinated with the overall transportation system of the United States, including the Nation's air, rail, pipeline, and water transportation sys-

tems. The Secretary of Transportation shall be responsible for carrying out this policy.

"(b) OBJECTIVES.—The objectives of the policy shall be to facilitate and advance—

"(1) the improved accessibility and reduced travel times for persons and goods within and between nations, regions, States, and metropolitan areas;

"(2) the safety of the public;

"(3) the security of the Nation and the public;

"(4) environmental protection;

"(5) energy conservation and security, including reducing transportation-related energy use;

"(6) international and interstate freight movement, trade enhancement, job creation, and economic development;

"(7) responsible planning to address population distribution and employment and sustainable development;

"(8) the preservation and adequate performance of system-critical transportation assets, as defined by the Secretary;

"(9) reasonable access to the national surface transportation system for all system users, including rural communities;

"(10) the sustainable and adequate financing of the national surface transportation system; and

"(11) innovation in transportation services, infrastructure, and technology.

"(c) GOALS.—

"(1) SPECIFIC GOALS.—The goals of the policy shall be—

"(A) to reduce average per capita peak period travel times on an annual basis;

"(B) to reduce national motor vehicle-related and truck-related fatalities by 50 percent by 2030;

"(C) to reduce national surface transportation delays per capita on an annual basis;

"(D) to improve the access to employment opportunities and other economic activities;

"(E) to increase the percentage of system-critical surface transportation assets, as defined by the Secretary, that are in a state of good repair by 20 percent by 2030;

"(F) to improve access to public transportation, intercity passenger rail services, and non-motorized transportation where travel demand warrants;

"(G) to reduce passenger and freight transportation infrastructure-related delays entering into and out of international points of entry on an annual basis;

"(H) to increase travel time reliability on major freight corridors that connect major population centers to freight generators and international gateways on an annual basis;

"(I) to ensure adequate transportation of domestic energy supplies and promote energy security;

"(J) to maintain or reduce the percentage of gross domestic product consumed by transportation costs; and

"(K) to reduce transportation-related impacts on the environment and on communities.

"(2) BASELINES.—Not later than 2 years after the date of enactment of the Surface Transportation and Freight Policy Act of 2012, the Secretary shall develop baselines for the goals and shall determine appropriate methods of data collection to measure the attainment of the goals.".

(b) FREIGHT POLICY.—Subchapter I of chapter 3 of title 49, United States Code, as amended by section

33002(a) of this Act, is amended by adding at the end the following:

**"§ 312. National freight transportation policy.**

"(a) NATIONAL FREIGHT TRANSPORTATION POLICY.—It is the policy of the United States to improve the efficiency, operation, and security of the national transportation system to move freight by leveraging investments and promoting partnerships that advance interstate and foreign commerce, promote economic competitiveness and job creation, improve the safe and efficient mobility of goods, and protect the public health and the environment.

"(b) OBJECTIVES.—The objectives of the policy are—

"(1) to target investment in freight transportation projects that strengthen the economic competitiveness of the United States with a focus on domestic industries and businesses and the creation and retention of high-value jobs;

"(2) to promote and advance energy conservation and the environmental sustainability of freight movements;

"(3) to facilitate and advance the safety and health of the public, including communities adjacent to freight movements;

"(4) to provide for systematic and balanced investment to improve the overall performance and reliability of the national transportation system to move freight, including ensuring trade facilitation and transportation system improvements are mutually supportive;

"(5) to promote partnerships between Federal, State, and local governments, the private sector, and other transportation stakeholders to leverage investments in freight transportation projects; and

"(6) to encourage adoption of operational policies, such as intelligent transportation systems, to improve the efficiency of freight-related transportation movements and infrastructure.".

(c) CONFORMING AMENDMENTS.—The table of contents for chapter 3 of title 49, United States Code, is amended—

(1) by redesignating the items relating to sections 304 through 306 as sections 307 through 309, respectively;

(2) by redesignating the items relating to sections 308 and 309 as sections 310 and 311, respectively;

(3) by redesignating the items relating to sections 303 and 303a as sections 305 and 306, respectively;

(4) by inserting after the item relating to section 302 the following:

"303. National surface transportation policy."; and

(5) by inserting after the item relating to section 311 the following:

"312. National freight transportation policy.".

**SEC. 33003. SURFACE TRANSPORTATION AND FREIGHT STRATEGIC PLAN.**

(a) SURFACE TRANSPORTATION AND FREIGHT STRATEGIC PLAN.—Subchapter I of chapter 3 of title 49, United States Code, as amended by section 33002 of this Act, is amended by inserting after section 303 the following—

**"§ 304. National surface transportation and freight strategic performance plan.**

"(a) DEVELOPMENT.—Not later than 2 years after the date of enactment of the Surface Transportation and Freight Policy Act of 2012, the Secretary of Transportation shall develop and implement a National Surface Transportation and Freight Performance Plan to achieve the policy, objectives, and goals set forth in sections 303 and 312.

"(b) CONTENTS.—The plan shall include—

"(1) an assessment of the current performance of the national surface transportation system and an analysis of the system's ability to achieve the policy, objectives, and goals set forth in sections 303 and 312;

"(2) an analysis of emerging and long-term projected trends, including economic and national trade policies, that will impact the performance, needs, and uses of the national surface transportation system, including the system to move freight;

"(3) a description of the major challenges to effectively meeting the policy, objectives, and goals set forth in sections 303 and 312 and a plan to address such challenges;

"(4) a comprehensive strategy and investment plan to meet the policy, objectives, and goals set forth in sections 303 and 312, including a strategy to develop the coalitions, partnerships, and other collaborative financing efforts necessary to ensure stable, reliable funding and completion of freight corridors and projects;

"(5) initiatives to improve transportation modeling, research, data collection, and analysis, including those to assess impacts on public health, and environmental conditions;

"(6) guidelines to encourage the appropriate balance of means to finance the national transportation system to move freight to implement the plan and the investment plan proposed under paragraph (4); and

"(7) a list of priority freight corridors and gateways to be improved and developed to meet the policy, objectives, and goals set forth in section 312.

"(c) CONSULTATION.—In developing the plan required by subsection (a), the Secretary shall—

"(1) consult with appropriate Federal agencies, local, State, and tribal governments, public and private transportation stakeholders, non-profit organizations representing transportation employees, appropriate foreign governments, and other interested parties;

"(2) consider on-going Federal, State, and corridor-wide transportation plans;

"(3) provide public notice and hearings and solicit public comments on the plan, and

"(4) as appropriate, establish advisory committees to assist with developing the plan.

"(d) SUBMITTAL AND PUBLICATION.—The Secretary shall—

"(1) submit the completed plan to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives; and

"(2) post the completed plan on the Department of Transportation's public web site.

"(e) PROGRESS REPORTS.—The Secretary shall submit biennial progress reports on the implementation of the plan beginning 2 years after the date of submittal of the plan under subsection (d)(1). Each progress report shall—

"(1) describe progress made toward fully implementing the plan and achieving the policies, objectives, and goals established under sections 303 and 312;

"(2) describe challenges and obstacles to full implementation;

"(3) describe updates to the plan necessary to reflect changed circumstances or new developments; and

"(4) make policy and legislative recommendations the Secretary believes are necessary and appropriate to fully implement the plan.

"(f) DATA.—The Secretary shall have the authority to conduct studies, gather information, and require the

1 production of data necessary to develop or update this
2 plan, consistent with Federal privacy standards.
3 "(g) IMPLEMENTATION.—The Secretary shall—
4 "(1) develop appropriate performance criteria
5 and data collections systems for each Federal sur-
6 face transportation program consistent with this
7 chapter and the Secretary's statutory authority with-
8 in these programs to evaluate:
9 "(A) whether such programs are consistent
10 with the policy, objectives, and goals established
11 by sections 303 and 312; and
12 "(B) how effective such programs are in
13 contributing to the achievement of the policy,
14 objectives, and goals established by sections 303
15 and 312;
16 "(2) using the criteria developed under para-
17 graph (1), periodically evaluate each such program
18 and provide the results to the public;
19 "(3) based on the evaluation performed under
20 paragraph (2), make any necessary changes or im-
21 provements to such programs to ensure such consist-
22 ency and effectiveness consistent with the Sec-
23 retary's statutory authority within these programs;

"(4) implement this section in a manner that is consistent with sections 302, 5301, 5503, 10101, and 13101 of this title and section 101 of title 23;

"(5) review all relevant surface transportation planning requirements to determine whether such regional, State, and local surface transportation planning efforts funded with Federal funds are consistent with the policy, objectives, and goals established by this section; and

"(6) require States and metropolitan planning organizations to report on the use of Federal surface transportation funds, consistent with ongoing reporting requirements, to provide the Secretary with sufficient information to determine—

"(A) which projects and priorities were funded with such funds;

"(B) the rationale and method employed for apportioning such funds to the projects and priorities; and

"(C) how the obligation of such funds is consistent with or advances the policy, objectives, and goals established by sections 303 and 312 and the statutory sections referenced in paragraph (4).".

(b) CONFORMING AMENDMENT.—The table of contents for chapter 3 of title 49, United States Code, is amended by inserting after the item relating to section 303 the following:

"304. National surface transportation and freight strategic performance plan.".

**SEC. 33004. TRANSPORTATION INVESTMENT DATA AND PLANNING TOOLS.**

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall—

(1) develop new tools or improve existing tools to support an outcome-oriented, performance-based approach to evaluate proposed freight-related and other surface transportation projects. These new or improved tools shall include—

(A) a systematic cost-benefit analysis that supports a valuation of modal alternatives;

(B) an evaluation of external effects on congestion, pollution, the environment, and the public health; and

(C) other elements to assist in effective transportation planning; and

(2) facilitate the collection of transportation-related data to support a broad range of evaluation methods and techniques such as demand forecasts, modal diversion forecasts, estimates of the effect of proposed investments on congestion, pollution, public

health, and other factors, to assist in making transportation investment decisions. At a minimum, the Secretary, in consultation with other relevant Federal agencies, shall consider any improvements to the Commodity Flow Survey that reduce identified freight data gaps and deficiencies and help evaluate forecasts of transportation demand.

(b) CONSULTATION.—To the extent practicable, the Secretary shall consult with Federal, State, and local transportation planners to develop, improve, and implement the tools and collect the data under subsection (a).

(c) ESTABLISHMENT OF PILOT PROGRAM.—

(1) ESTABLISHMENT.—To assist in the development of tools under subsection (a) and to inform the National Surface Transportation and Freight Performance Plan required by section 304 of title 49, United States Code, the Secretary shall establish a pilot program under which the Secretary shall conduct case studies of States and metropolitan planning organizations that are designed—

(A) to provide more detailed, in-depth analysis and data collection with respect to transportation programs; and

(B) to apply rigorous methods of measuring and addressing the effectiveness of pro-

gram participants in achieving national transportation goals.

(2) PRELIMINARY REQUIREMENTS.—

(A) SOLICITATION.—The Secretary shall solicit applications to participate in the pilot program from States and metropolitan planning organizations.

(B) NOTIFICATION.—A State or metropolitan planning organization that desires to participate in the pilot program shall notify the Secretary of such desire before a date determined by the Secretary.

(C) SELECTION.—

(i) NUMBER OF PROGRAM PARTICIPANTS.—The Secretary shall select to participate in the pilot program—

(I) not fewer than 3, and not more than 5, States; and

(II) not fewer than 3, and not more than 5, metropolitan planning organizations.

(ii) TIMING.—The Secretary shall select program participants not later than 3 months after the date of enactment of this Act.

(iii) DIVERSITY OF PROGRAM PARTICIPANTS.—The Secretary shall, to the extent practicable, select program participants that represent a broad range of geographic and demographic areas (including rural and urban areas) and types of transportation programs.

(d) CASE STUDIES.—

(1) BASELINE REPORT.—Not later than 6 months after the date of enactment of this Act, each program participant shall submit to the Secretary a baseline report that—

(A) describes the reporting and data collection processes of the program participant for transportation investments that are in effect on the date of the report;

(B) assesses how effective the program participant is in achieving the national surface transportation goals in section 303 of title 49, United States Code;

(C) describes potential improvements to the methods and metrics used to measure the effectiveness of the program participant in achieving national surface transportation goals in section 303 of title 49, United States Code,

and the challenges to implementing such improvements; and

(D) includes an assessment of whether, and specific reasons why, the preparation and submission of the baseline report may be limited, incomplete, or unduly burdensome, including any recommendations for facilitating the preparation and submission of similar reports in the future.

(2) EVALUATION.—Each program participant shall work cooperatively with the Secretary to evaluate the methods and metrics used to measure the effectiveness of the program participant in achieving national surface transportation goals in section 303 of title 49, United States Code, including—

(A) by considering the degree to which such methods and metrics take into account—

(i) the factors that influence the effectiveness of the program participant in achieving the national surface transportation goals;

(ii) all modes of transportation; and

(iii) the transportation program as a whole, rather than individual projects within the transportation program; and

(B) by identifying steps that could be used to implement the potential improvements identified under paragraph (1)(C).

(3) FINAL REPORT.—Not later than 18 months after the date of enactment of this section, each program participant shall submit to the Secretary a comprehensive final report that—

(A) contains an updated assessment of the effectiveness of the program participant in achieving national surface transportation goals under section 303 of title 49, United States Code; and

(B) describes the ways in which the performance of the program participant in collecting and reporting data and carrying out the transportation program of the program participant has improved or otherwise changed since the date of submission of the baseline report under subparagraph (A).

**SEC. 33005. PORT INFRASTRUCTURE DEVELOPMENT INITIATIVE.**

Section 50302(c)(3)(C) of title 46, United States Code, is amended to read as follows:

"(C) TRANSFERS.—Amounts appropriated or otherwise made available for any fiscal year

for a marine facility or intermodal facility that includes maritime transportation may be transferred, at the option of the recipient of such amounts, to the Fund and administered by the Administrator as a component of a project under the program.''.

**SEC. 33006. SAFETY FOR MOTORIZED AND NONMOTORIZED USERS.**

(a) IN GENERAL.—Chapter 4 of title 23, United States Code, is amended by adding at the end the following:

**''§ 413. Safety for motorized and nonmotorized users**

''(a) IN GENERAL.—Not later than 2 years after the date of enactment of the Surface Transportation and Freight Policy Act of 2012, subject to subsection (b), the Secretary shall establish standards to ensure that the design of Federal surface transportation projects provides for the safe and adequate accommodation, in all phases of project planning, development, and operation, of all users of the transportation network, including motorized and nonmotorized users.

''(b) WAIVER FOR STATE LAW OR POLICY.—The Secretary may waive the application of standards established under subsection (a) to a State that has adopted a law or policy that provides for the safe and adequate accom-

modation as certified by the State (or other grantee), in all phases of project planning and development, of users of the transportation network on federally funded surface transportation projects, as determined by the Secretary.

"(c) COMPLIANCE.—

"(1) IN GENERAL.—Each State department of transportation shall submit to the Secretary, at such time, in such manner, and containing such information as the Secretary shall require, a report describing the implementation by the State of measures to achieve compliance with this section.

"(2) DETERMINATION BY SECRETARY.—On receipt of a report under paragraph (1), the Secretary shall determine whether the applicable State has achieved compliance with this section.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 4 of title 23, United States Code, is amended by adding at the end the following:

"413. Safety for motorized and nonmotorized users.".

**SEC. 33007. BUY AMERICA WAIVER REQUIREMENTS.**

(a) NOTICE AND COMMENT OPPORTUNITIES.—

(1) IN GENERAL.—If the Secretary receives a request for a waiver under section 313(b) of title 23, United States Code, or under section 24305(f)(4) or 24405(a)(2) of title 49, United States Code, the Secretary shall provide notice of, and an opportunity

for public comment on, the request not later than 15 days before making a finding based on such request.

(2) NOTICE REQUIREMENTS.—Each notice provided under paragraph (1)—

(A) shall include the information available to the Secretary concerning the request, including the requestor's justification for such request; and

(B) shall be provided electronically, including on the official public Internet website of the Department.

(3) PUBLICATION OF DETAILED JUSTIFICATION.—If the Secretary issues a waiver pursuant to the authority granted under a provision referenced in paragraph (1), the Secretary shall publish, in the Federal Register, a detailed justification for the waiver that—

(A) addresses the public comments received under paragraph (1); and

(B) is published before the waiver takes effect.

(b) CONSISTENCY WITH INTERNATIONAL AGREEMENTS.—This section shall be applied in a manner that is consistent with United States obligations under relevant international agreements.

(c) REVIEW OF NATIONWIDE WAIVERS.—Not later than 1 year after the date of the enactment of the Moving Ahead for Progress in the 21st Century Act, and at least once every 5 years thereafter, the Secretary shall review each standing nationwide waiver issued pursuant to the authority granted under any of the provisions referenced in paragraph (1) to determine whether continuing such waiver is necessary.

(d) BUY AMERICA REPORTING.—Section 308 of title 49, United States Code, is amended by inserting after subsection (c) the following:

''(d) Not later than February 1, 2013, and annually thereafter, the Secretary shall submit a report to Congress that—

''(1) specifies each highway, public transportation, or railroad project for which the Secretary issued a waiver from a Buy America requirement pursuant to the authority granted under section 313(b) of title 23, United States Code, or under section 24305(f)(4) or 24405(a)(2) of title 49, United States Code, during the preceding calendar year;

''(2) identifies the country of origin and product specifications for the steel, iron, or manufactured goods acquired pursuant to each of the waivers specified under paragraph (1); and

"(3) summarizes the monetary value of contracts awarded pursuant to each such waiver.".

**SEC. 33008. MAKE IT IN AMERICA INITIATIVE.**

(a) MEMORANDUM OF AGREEMENT.—The term "Memorandum of Agreement" means the August 2011 Memorandum of Agreement between the Department of Transportation and the Department of Commerce entitled "Development of a Domestic Supply Base for Intermodal Transportation in the U.S.".

(b) SENSE OF CONGRESS.—It is the sense of Congress that collaboration between the Department of Transportation and the Department of Commerce can significantly improve the scope and depth of the domestic supply base for transportation infrastructure, particularly for small businesses in the United States.

(c) IMPLEMENTATION.—

(1) IN GENERAL.—The Secretary of Transportation and the Secretary of Commerce shall prioritize the implementation of the Memorandum of Agreement.

(2) SAVINGS PROVISION.—The requirement under paragraph (1) may not be construed to require the expenditure of additional funds.

**SEC. 33009. CAPACITY-BUILDING FOR NATURAL DISASTERS AND EXTREME WEATHER.**

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

(1) EXTREME WEATHER.—The term ''extreme weather'' includes severe or unseasonable weather, heavy precipitation, a storm surge, flooding, drought, windstorms (including hurricanes, tornadoes, and associated storm surges), extreme heat, and extreme cold.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Transportation, in consultation with—

(A) the Director of the National Institute of Standards and Technology;

(B) the Administrator of the Federal Emergency Management Agency; and

(C) as appropriate—

(i) the Administrator of the National Oceanic and Atmospheric Administration;

(ii) the Director of the United States Geological Survey;

(iii) the Administrator of the National Aeronautics and Space Administration;

(iv) the Administrator of the Environmental Protection Agency; and

(v) the heads of other Federal agencies.

(b) DATA.—The Secretary shall determine and provide to transportation planners appropriate data on the impact on infrastructure of natural disasters and a higher frequency of extreme weather.

(c) TRANSPORTATION INFRASTRUCTURE.—

(1) IN GENERAL.—The Secretary shall issue guidance and establish design standards for transportation infrastructure to help States, metropolitan planning organizations, and local governments plan for natural disasters and a greater frequency of extreme weather events in the process of planning, siting, designing, and developing transportation infrastructure by assessing vulnerabilities to a changing climate and the costs and benefits of adaptation measures (including economic, social, and environmental costs and benefits).

(2) COORDINATION.—If appropriate, guidance and design standards under paragraph (1) shall, to the maximum extent practicable, be carried out through the coordination mechanism provided under—

(A) the National Windstorm Impact Reduction Program established under section 204

of the National Windstorm Impact Reduction Act of 2004 (42 U.S.C. 15703); and

(B) the National Earthquake Hazard Reduction Program established under section 5 of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7704).

**SEC. 33010. TOLL FAIRNESS STUDY.**

(a) REVIEW.—As soon as practicable after the date of the enactment of this Act, the Comptroller General of the United States shall conduct a review of toll rate setting practices by selected interstate tolling authorities—

(1) over any bridge constructed under the Act of March 23, 1906 (33 U.S.C. 491 et seq.) (commonly known as the Bridge Act of 1906), the General Bridge Act of 1946 (33 U.S.C. 525 et seq.), or the International Bridge Act of 1972 (33 U.S.C. 535 et seq.); and

(2) over or through any bridge or tunnel constructed on a Federal-aid highway (as defined in section 101(a) of title 23, United States Code).

(b) EVALUATION.—The review under subsection (a) shall include an evaluation of—

(1) the extent to which the use of tolling revenue by interstate authorities is consistent with their mandates; and

(2) the transparency and accountability of the funding and management decisions by those authorities.

(c) REPORT TO CONGRESS.—The Comptroller General of the United States shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that contains—

(1) the results of the review conducted under this section; and

(2) any appropriate recommendations.

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

**SEC. 34001. SHORT TITLE.**

This title may be cited as the ''Hazardous Materials Transportation Safety Improvement Act of 2012''.

**SEC. 34002. DEFINITION.**

In this title, the term ''Secretary'' means the Secretary of Transportation.

**SEC. 34003. REFERENCES TO TITLE 49, UNITED STATES CODE.**

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms

of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

**SEC. 34004. TRAINING FOR EMERGENCY RESPONDERS.**

(a) TRAINING CURRICULUM.—Section 5115 is amended—

(1) in subsection (b)(1)(B), by striking ''basic'';

(2) in subsection (b)(2), by striking ''basic''; and

(3) in subsection (c), by striking ''basic''.

(b) OPERATIONS LEVEL TRAINING.—Section 5116 is amended—

(1) in subsection (b)(1), by adding at the end the following: ''To the extent that a grant is used to train emergency responders, the State or Indian tribe shall provide written certification to the Secretary that the emergency responders who receive training under the grant will have the ability to protect nearby persons, property, and the environment from the effects of accidents or incidents involving the transportation of hazardous material in accordance with existing regulations or National Fire Protection Association standards for competence of responders to hazardous materials.'';

(2) in subsection (j)—

(A) by redesignating paragraph (5) as paragraph (7); and

(B) by inserting after paragraph (4) the following:

''(5) The Secretary may not award a grant to an organization under this subsection unless the organization ensures that emergency responders who receive training under the grant will have the ability to protect nearby persons, property, and the environment from the effects of accidents or incidents involving the transportation of hazardous material in accordance with existing regulations or National Fire Protection Association standards for competence of responders to hazardous materials.

''(6) Notwithstanding paragraphs (1) and (3), to the extent determined appropriate by the Secretary, a grant awarded by the Secretary to an organization under this subsection to conduct hazardous material response training programs may be used to train individuals with responsibility to respond to accidents and incidents involving hazardous material.''; and

(3) in subsection (k)—

(A) by striking ''annually'' and inserting ''an annual report'';

(B) by inserting ''the report'' after ''make available'';

(C) by striking ''information'' and inserting ''. The report submitted under this subsection shall include information''; and

(D) by striking ''The report shall identify'' and all that follows and inserting the following: ''The report submitted under this subsection shall identify the ultimate recipients of such grants and include—

''(A) a detailed accounting and description of each grant expenditure by each grant recipient, including the amount of, and purpose for, each expenditure;

''(B) the number of persons trained under the grant program, by training level;

''(C) an evaluation of the efficacy of such planning and training programs; and

''(D) any recommendations the Secretary may have for improving such grant programs.''.

**SEC. 34005. PAPERLESS HAZARD COMMUNICATIONS PILOT PROGRAM.**

(a) IN GENERAL.—The Secretary may conduct pilot projects to evaluate the feasibility and effectiveness of using paperless hazard communications systems. At least

1 of the pilot projects under this section shall take place in a rural area.

(b) REQUIREMENTS.—In conducting pilot projects under this section, the Secretary—

(1) may not waive the requirements under section 5110 of title 49, United States Code; and

(2) shall consult with organizations representing—

(A) fire services personnel;

(B) law enforcement and other appropriate enforcement personnel;

(C) other emergency response providers;

(D) persons who offer hazardous material for transportation;

(E) persons who transport hazardous material by air, highway, rail, and water; and

(F) employees of persons who transport or offer for transportation hazardous material by air, highway, rail, and water.

(c) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall—

(1) prepare a report on the results of the pilot projects carried out under this section, including—

(A) a detailed description of the pilot projects;

(B) an evaluation of each pilot project, including an evaluation of the performance of each paperless hazard communications system in such project;

(C) an assessment of the safety and security impact of using paperless hazard communications systems, including any impact on the public, emergency response, law enforcement, and the conduct of inspections and investigations; and

(D) a recommendation on whether paperless hazard communications systems should be permanently incorporated into the Federal hazardous material transportation safety program under chapter 51 of title 49, United States Code; and

(2) submit a final report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that contains the results of the pilot projects carried out under this section, including the matters described in paragraph (1).

(d) PAPERLESS HAZARD COMMUNICATIONS SYSTEM DEFINED.—In this section, the term ''paperless hazard

communications system'' means the use of advanced communications methods, such as wireless communications devices, to convey hazard information between all parties in the transportation chain, including emergency responders and law enforcement personnel. The format of communication may be equivalent to that used by the carrier.

**SEC. 34006. IMPROVING DATA COLLECTION, ANALYSIS, AND REPORTING.**

(a) ASSESSMENT.—

(1) IN GENERAL.—Not later than 6 months after the date of the enactment of this Act, the Secretary, in coordination with the Secretary of Homeland Security, as appropriate, shall conduct an assessment to improve the collection, analysis, reporting, and use of data related to accidents and incidents involving the transportation of hazardous material.

(2) REVIEW.—The assessment conducted under this subsection shall review the methods used by the Pipeline and Hazardous Materials Safety Administration (referred to in this section as the ''Administration'') for collecting, analyzing, and reporting accidents and incidents involving the transportation of hazardous material, including the adequacy of—

(A) information requested on the accident and incident reporting forms required to be submitted to the Administration;

(B) methods used by the Administration to verify that the information provided on such forms is accurate and complete;

(C) accident and incident reporting requirements, including whether such requirements should be expanded to include shippers and consignees of hazardous materials;

(D) resources of the Administration related to data collection, analysis, and reporting, including staff and information technology; and

(E) the database used by the Administration for recording and reporting such accidents and incidents, including the ability of users to adequately search the database and find information.

(b) DEVELOPMENT OF ACTION PLAN.—Not later than 9 months after the date of the enactment of this Act, the Secretary shall develop an action plan and timeline for improving the collection, analysis, reporting, and use of data by the Administration, including revising the database of the Administration, as appropriate.

(c) SUBMISSION TO CONGRESS.—Not later than 15 days after the completion of the action plan and timeline under subsection (c), the Secretary shall submit the action plan and timeline to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(d) REPORTING REQUIREMENTS.—Section 5125(b)(1)(D) is amended by inserting ''and other hazardous materials transportation incident reporting to the 9–1–1 emergency system or involving State or local emergency responders in the initial response to the incident'' before the period at the end.

**SEC. 34007. LOADING AND UNLOADING OF HAZARDOUS MATERIALS.**

(a) RULEMAKING.—Not later than 2 years after date of the enactment of this Act, the Secretary, after consultation with the Department of Labor and the Environmental Protection Agency, as appropriate, and after providing notice and an opportunity for public comment shall prescribe regulations establishing uniform procedures among facilities for the safe loading and unloading of hazardous materials on and off tank cars and cargo tank trucks.

(b) INCLUSION.—The regulations prescribed under subsection (a) may include procedures for equipment inspection, personnel protection, and necessary safeguards.

(c) CONSIDERATION.—In prescribing regulations under subsection (a), the Secretary shall give due consideration to carrier rules and procedures that produce an equivalent level of safety.

**SEC. 34008. HAZARDOUS MATERIAL TECHNICAL ASSESSMENT, RESEARCH AND DEVELOPMENT, AND ANALYSIS PROGRAM.**

(a) IN GENERAL.—Chapter 51 is amended by inserting after section 5117 the following:

**"§ 5118. Hazardous material technical assessment, research and development, and analysis program**

''(a) RISK REDUCTION.—

''(1) PROGRAM AUTHORIZED.—The Secretary of Transportation may develop and implement a hazardous material technical assessment, research and development, and analysis program for the purpose of—

''(A) reducing the risks associated with the transportation of hazardous material; and

"(B) identifying and evaluating new technologies to facilitate the safe, secure, and efficient transportation of hazardous material.

"(2) COORDINATION.—In developing the program under paragraph (1), the Secretary shall—

"(A) utilize information gathered from other modal administrations with similar programs; and

"(B) coordinate with other modal administrations, as appropriate.

"(b) COOPERATION.—In carrying out subsection (a), the Secretary may work cooperatively with regulated and other entities, including shippers, carriers, emergency responders, State and local officials, and academic institutions.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 51 is amended by inserting after the item relating to section 5117 the following:

"5118. Hazardous material technical assessment, research and development, and analysis program.".

**SEC. 34009. HAZARDOUS MATERIAL ENFORCEMENT TRAINING PROGRAM.**

(a) IN GENERAL.—The Secretary shall establish a multimodal hazardous material enforcement training program for government hazardous materials inspectors and investigators—

(1) to develop uniform performance standards for training hazardous material inspectors and investigators; and

(2) to train hazardous material inspectors and investigators on—

(A) how to collect, analyze, and publish findings from inspections and investigations of accidents or incidents involving the transportation of hazardous material; and

(B) how to identify noncompliance with regulations issued under chapter 51 of title 49, United States Code, and take appropriate enforcement action.

(b) STANDARDS AND GUIDELINES.—Under the program established under this section, the Secretary may develop—

(1) guidelines for hazardous material inspector and investigator qualifications;

(2) best practices and standards for hazardous material inspector and investigator training programs; and

(3) standard protocols to coordinate investigation efforts among Federal, State, and local jurisdictions on accidents or incidents involving the transportation of hazardous material.

(c) AVAILABILITY.—The standards, protocols, and findings of the program established under this section—

(1) shall be mandatory for—

(A) the Department of Transportation's multimodal personnel conducting hazardous material enforcement inspections or investigations; and

(B) State employees who conduct federally funded compliance reviews, inspections, or investigations; and

(2) shall be made available to Federal, State, and local hazardous materials safety enforcement personnel.

**SEC. 34010. INSPECTIONS.**

(a) NOTICE OF ENFORCEMENT MEASURES.—Section 5121(c)(1) is amended—

(1) in subparagraph (E), by striking ''and'' at the end;

(2) in subparagraph (F), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(G) shall provide to the affected offeror, carrier, packaging manufacturer or tester, or other person responsible for the package reasonable notice of—

"(i) his or her decision to exercise his or her authority under paragraph (1);

"(ii) any findings made; and

"(iii) any actions being taken as a result of a finding of noncompliance.".

(b) REGULATIONS.—Section 5121(e) is amended by adding at the end the following:

"(3) MATTERS TO BE ADDRESSED.—The regulations issued under this subsection shall address—

"(A) the safe and expeditious resumption of transportation of perishable hazardous material, including radiopharmaceuticals and other medical products, that may require timely delivery due to life-threatening situations;

"(B) the means by which—

"(i) noncompliant packages that present an imminent hazard are placed out-of-service until the condition is corrected; and

"(ii) noncompliant packages that do not present a hazard are moved to their final destination;

"(C) appropriate training and equipment for inspectors; and

"(D) the proper closure of packaging in accordance with the hazardous material regulations.".

(c) GRANTS AND COOPERATIVE AGREEMENTS.—Section 5121(g)(1) is amended by inserting "safety and" before "security".

**SEC. 34011. CIVIL PENALTIES.**

Section 5123 is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "$50,000" and inserting "$75,000"; and

(B) in paragraph (2), by striking "$100,000" and inserting "$175,000"; and

(2) by adding at the end the following:

"(h) PENALTY FOR OBSTRUCTION OF INSPECTIONS AND INVESTIGATIONS.—The Secretary may impose a penalty on a person who obstructs or prevents the Secretary from carrying out inspections or investigations under subsection (c) or (i) of section 5121.

"(i) PROHIBITION ON HAZARDOUS MATERIAL OPERATIONS AFTER NONPAYMENT OF PENALTIES.—

"(1) IN GENERAL.—Except as provided under paragraph (2), a person subject to the jurisdiction of the Secretary under this chapter who fails to pay a civil penalty assessed under this chapter, or fails to

arrange and abide by an acceptable payment plan for such civil penalty, may not conduct any activity regulated under this chapter beginning on the 91st day after the date specified by order of the Secretary for payment of such penalty unless the person has filed a formal administrative or judicial appeal of the penalty.

"(2) EXCEPTION.—Paragraph (1) shall not apply to any person who is unable to pay a civil penalty because such person is a debtor in a case under chapter 11 of title 11.

"(3) RULEMAKING.—Not later than 2 years after the date of the enactment of this subsection, the Secretary, after providing notice and an opportunity for public comment, shall issue regulations that—

"(A) set forth procedures to require a person who is delinquent in paying civil penalties to cease any activity regulated under this chapter until payment has been made or an acceptable payment plan has been arranged; and

"(B) ensures that the person described in subparagraph (A)—

"(i) is notified in writing; and

"(ii) is given an opportunity to respond before the person is required to cease the activity.".

**SEC. 34012. REPORTING OF FEES.**

Section 5125(f)(2) is amended by striking ", upon the Secretary's request," and inserting "biennially".

**SEC. 34013. SPECIAL PERMITS, APPROVALS, AND EXCLUSIONS.**

(a) IN GENERAL.—Section 5117 is amended to read as follows:

**"§ 5117. Special permits, approvals, and exclusions**

"(a) AUTHORITY TO ISSUE SPECIAL PERMITS.—

"(1) CONDITIONS.—The Secretary of Transportation may issue, modify, or terminate a special permit implementing new technologies or authorizing a variance from a provision under this chapter or a regulation prescribed under section 5103(b), 5104, 5110, or 5112 to a person performing a function regulated by the Secretary under section 5103(b)(1) to achieve—

"(A) a safety level at least equal to the safety level required under this chapter; or

"(B) a safety level consistent with the public interest and this chapter, if a required safety level does not exist.

"(2) FINDINGS REQUIRED.—

"(A) IN GENERAL.—Before issuing, renewing, or modifying a special permit or granting party status to a special permit, the Secretary shall determine that the person is fit to conduct the activity authorized by such permit in a manner that achieves the level of safety required under paragraph (1).

"(B) CONSIDERATIONS.—In making the determination under subparagraph (A), the Secretary shall consider—

"(i) the person's safety history (including prior compliance history);

"(ii) the person's accident and incident history; and

"(iii) any other information the Secretary considers appropriate to make such a determination.

"(3) EFFECTIVE PERIOD.—A special permit issued under this section—

"(A) shall be for an initial period of not more than 2 years;

"(B) may be renewed by the Secretary upon application—

"(i) for successive periods of not more than 4 years each; or

"(ii) in the case of a special permit relating to section 5112, for an additional period of not more than 2 years.

"(b) APPLICATIONS.—

"(1) REQUIRED DOCUMENTATION.—When applying for a special permit or the renewal or modification of a special permit or requesting party status to a special permit under this section, the Secretary shall require the person to submit an application that contains—

"(A) a detailed description of the person's request;

"(B) a listing of the person's current facilities and addresses where the special permit will be utilized;

"(C) a safety analysis prescribed by the Secretary that justifies the special permit;

"(D) documentation to support the safety analysis;

"(E) a certification of safety fitness; and

"(F) proof of registration, as required under section 5108.

"(2) PUBLIC NOTICE.—The Secretary shall—

"(A) publish notice in the Federal Register that an application for a special permit has been filed; and

"(B) provide the public an opportunity to inspect and comment on the application.

"(3) SAVINGS CLAUSE.—This subsection does not require the release of information protected by law from public disclosure.

"(c) COORDINATE AND COMMUNICATE WITH MODAL CONTACT OFFICIALS.—

"(1) IN GENERAL.—In evaluating applications under subsection (b), and making the findings and determinations under subsections (a), (e), and (h), the Administrator of the Pipeline and Hazardous Materials Safety Administration shall consult, coordinate, or notify the modal contact official responsible for the specified mode of transportation that will be utilized under a special permit or approval before—

"(A) issuing, modifying, or renewing the special permit;

"(B) granting party status to the special permit; or

"(C) issuing or renewing the special permit or approval.

"(2) MODAL CONTACT OFFICIAL DEFINED.—In this section, the term 'modal contact official' means—

"(A) the Administrator of the Federal Aviation Administration;

"(B) the Administrator of the Federal Motor Carrier Safety;

"(C) the Administrator of the Federal Railroad Administration; and

"(D) the Commandant of the Coast Guard.

"(d) APPLICATIONS TO BE DEALT WITH PROMPTLY.—The Secretary shall—

"(1) issue, modify, renew, or grant party status to a special permit or approval for which a request was filed under this section, or deny the issuance, modification, renewal, or grant, on or before the last day of the 180-day period beginning on the first day of the month following the date of the filing of the request; or

"(2) publish a statement in the Federal Register that—

"(A) describes the reason for the delay of the Secretary's decision on the special permit or approval; and

"(B) includes an estimate of the additional time necessary before the decision is made.

"(e) EMERGENCY PROCESSING OF SPECIAL PERMITS.—

"(1) FINDINGS REQUIRED.—The Secretary may not grant a request for emergency processing of a special permit unless the Secretary determines that—

"(A) a special permit is necessary for national security purposes;

"(B) processing on a routine basis under this section would result in significant injury to persons or property; or

"(C) a special permit is necessary to prevent significant economic loss or damage to the environment that could not be prevented if the application were processed on a routine basis.

"(2) WAIVER OF FITNESS TEST.—The Secretary may waive the requirement under subsection (a)(2) for a request for which the Secretary makes a determination under subparagraph (A) or (B) of paragraph (1).

"(3) NOTIFICATION.—Not later than 90 days after the date of issuance of a special permit under this subsection, the Secretary shall publish a notice

in the Federal Register of the issuance that includes—

"(A) a statement of the basis for the finding of emergency; and

"(B) the scope and duration of the special permit.

"(4) EFFECTIVE PERIOD.—A special permit issued under this subsection shall be effective for a period not to exceed 180 days.

"(f) EXCLUSIONS.—

"(1) IN GENERAL.—The Secretary shall exclude, in any part, from this chapter and regulations prescribed under this chapter—

"(A) a public vessel (as defined in section 2101 of title 46);

"(B) a vessel exempted under section 3702 of title 46 or from chapter 37 of title 46; and

"(C) a vessel to the extent it is regulated under the Ports and Waterways Safety Act of 1972 (33 U.S.C. 1221, et seq.).

"(2) FIREARMS.—This chapter and regulations prescribed under this chapter do not prohibit—

"(A) or regulate transportation of a firearm (as defined in section 232 of title 18), or

ammunition for a firearm, by an individual for personal use; or

"(B) transportation of a firearm or ammunition in commerce.

"(g) LIMITATION ON AUTHORITY.—Unless the Secretary decides that an emergency exists, a person subject to this chapter may only be granted a variance from this chapter through a special permit or renewal granted under this section.

"(h) APPROVALS.—

"(1) FINDINGS REQUIRED.—

"(A) IN GENERAL.—The Secretary may not issue an approval or grant the renewal of an approval pursuant to part 107 of title 49, Code of Federal Regulations until the Secretary has determined that the person is fit, willing, and able to conduct the activity authorized by the approval in a manner that achieves the level of safety required under subsection (a)(1).

"(B) CONSIDERATIONS.—In making a determination under subparagraph (A), the Secretary shall consider—

"(i) the person's safety history (including prior compliance history);

"(ii) the person's accident and incident history; and

"(iii) any other information the Secretary considers appropriate to make such a determination.

"(2) REQUIRED DOCUMENTATION.—When applying for an approval or renewal or modification of an approval under this section, the Secretary shall require the person to submit an application that contains—

"(A) a detailed description of the person's request;

"(B) a listing of the persons current facilities and addresses where the approval will be utilized;

"(C) a safety analysis prescribed by the Secretary that justifies the approval;

"(D) documentation to support the safety analysis;

"(E) a certification of safety fitness; and

"(F) the verification of registration required under section 5108.

"(3) SAVINGS PROVISION.—Nothing in this subsection may be construed to require the release of information protected by law from public disclosure.

"(i) NONCOMPLIANCE.—The Secretary may modify, suspend, or terminate a special permit or approval if the Secretary determines that—

"(1) the person who was granted the special permit or approval has violated the special permit or approval or the regulations issued under this chapter in a manner that demonstrates that the person is not fit to conduct the activity authorized by the special permit or approval; or

"(2) the special permit or approval is unsafe.

"(j) RULEMAKING.—Not later than 2 years after the date of the enactment of the Hazardous Materials Transportation Safety Improvement Act of 2012, the Secretary, after providing notice and an opportunity for public comment, shall issue regulations that establish—

"(1) standard operating procedures to support administration of the special permit and approval programs; and

"(2) objective criteria to support the evaluation of special permit and approval applications.

"(k) ANNUAL REVIEW OF CERTAIN SPECIAL PERMITS.—

"(1) REVIEW.—The Secretary shall conduct an annual review and analysis of special permits—

"(A) to identify consistently used and long-standing special permits with an established safety record; and

"(B) to determine whether such permits may be converted into the hazardous materials regulations.

"(2) FACTORS.—In conducting the review and analysis under paragraph (1), the Secretary may consider—

"(A) the safety record for hazardous materials transported under the special permit;

"(B) the application of a special permit;

"(C) the suitability of provisions in the special permit for incorporation into the hazardous materials regulations; and

"(D) rulemaking activity in related areas.

"(3) RULEMAKING.—After completing the review and analysis under paragraph (1) and providing notice and opportunity for public comment, the Secretary shall issue regulations, as needed.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 51 is amended by striking the item relating to section 5117 and inserting the following:

"5117. Special permits, approvals, and exclusions.".

**SEC. 34014. HIGHWAY ROUTING DISCLOSURES.**

(a) LIST OF ROUTE DESIGNATIONS.—Section 5112(c) is amended—

(1) by striking ''In coordination'' and inserting the following:

''(1) IN GENERAL.—In coordination''; and

(2) by adding at the end the following:

''(2) STATE RESPONSIBILITIES.—

''(A) IN GENERAL.—Each State shall submit to the Secretary, in a form and manner to be determined by the Secretary and in accordance with subparagraph (B)—

''(i) the name of the State agency responsible for hazardous material highway route designations; and

''(ii) a list of the State's currently effective hazardous material highway route designations.

''(B) FREQUENCY.—Each State shall submit the information described in subparagraph (A)(ii)—

''(i) at least once every 2 years; and

''(ii) not later than 60 days after a hazardous material highway route designation is established, amended, or discontinued.''.

(b) COMPLIANCE WITH SECTION 5112.—Section 5125(c)(1) is amended by inserting ", and is published in the Department's hazardous materials route registry under section 5112(c)" before the period at the end.

**SEC. 34015. AUTHORIZATION OF APPROPRIATIONS.**

Section 5128 is amended to read as follows:

**"§ 5128. Authorization of appropriations**

"(a) IN GENERAL.—There are authorized to be appropriated to the Secretary to carry out this chapter (except sections 5107(e), 5108(g)(2), 5113, 5115, 5116, and 5119)—

"(1) $42,338,000 for fiscal year 2012; and

"(2) $42,762,000 for fiscal year 2013.

"(b) HAZARDOUS MATERIALS EMERGENCY PREPAREDNESS FUND.—From the Hazardous Materials Emergency Preparedness Fund established under section 5116(i), the Secretary may expend, during each of fiscal years 2012 and 2013—

"(1) $188,000 to carry out section 5115;

"(2) $21,800,000 to carry out subsections (a) and (b) of section 5116, of which not less than $13,650,000 shall be available to carry out section 5116(b);

"(3) $150,000 to carry out section 5116(f);

"(4) $625,000 to publish and distribute the Emergency Response Guidebook under section 5116(i)(3); and

"(5) $1,000,000 to carry out section 5116(j).

"(c) HAZARDOUS MATERIALS TRAINING GRANTS.—From the Hazardous Materials Emergency Preparedness Fund established pursuant to section 5116(i), the Secretary may expend $4,000,000 for each of the fiscal years 2012 and 2013 to carry out section 5107(e).

"(d) CREDITS TO APPROPRIATIONS.—

"(1) EXPENSES.—In addition to amounts otherwise made available to carry out this chapter, the Secretary may credit amounts received from a State, Indian tribe, or other public authority or private entity for expenses the Secretary incurs in providing training to the State, authority, or entity.

"(2) AVAILABILITY OF AMOUNTS.—Amounts made available under this section shall remain available until expended.".

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

**SEC. 35001. SHORT TITLE.**

This title may be cited as the ''National Rail System Preservation, Expansion, and Development Act of 2012''.

**SEC. 35002. REFERENCES TO TITLE 49, UNITED STATES CODE.**

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

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

**SEC. 35101. RAIL PLANS.**

(a) LONG-RANGE NATIONAL RAIL PLAN.—Section 103 is amended by amending subsection (j)(2) to read as follows:

''(2) in coordination with the Secretary of Transportation, develop and routinely update a long-range national rail plan pursuant to chapter 227;''.

(b) NATIONAL RAIL PLAN.—Chapter 227 is amended to read as follows:

**"§ 22701. National Rail Plan**

"(a) IN GENERAL.—The Secretary of Transportation shall—

"(1) not later than 1 year after the date of enactment of the National Rail System Preservation, Expansion, and Development Act of 2012—

"(A) develop a long-range national rail plan—

"(i) in coordination with the Administrator of the Federal Railroad Administration and the Surface Transportation Board; and

"(ii) in consultation with Amtrak, freight railroads, nonprofit employee labor organizations, and other rail industry stakeholders; and

"(B) submit the national rail plan under subparagraph (A) to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives;

"(2) routinely update the national rail plan—

"(A) in coordination with the Administrator of the Federal Railroad Administration and the Surface Transportation Board; and

"(B) in consultation with Amtrak, freight railroads, nonprofit employee labor organizations, and other rail industry stakeholders; and

"(3) submit the updated national rail plan under paragraph (2) at the same time as the President's budget submission.

"(b) NATIONAL RAIL PLAN.—The national rail plan shall—

"(1) be subject to refinement by regional and State rail plans;

"(2) be consistent with the rail needs of the Nation and Federal surface transportation or multimodal policies and plans, as determined by the Secretary;

"(3) promote an integrated, cohesive, safe, efficient, and optimized national rail system for the movement of goods and people and to support the national economy and other national needs; and

"(4) contain a specific national intercity passenger rail development plan and a freight rail plan that are consistent with other Federal strategy, planning, and investment efforts.

"(c) OBJECTIVES.—The objectives of the national rail plan are—

"(1) to implement a national policy and strategy to support, preserve, improve, and further develop existing and future high-speed and intercity passenger rail transportation and freight rail transportation; and

"(2) to provide a national framework to be refined and implemented by regional rail plans under section 22702 and State rail plans under 22703.

"(d) CONTENTS.—The national rail plan shall include—

"(1) the conditions under which Federal investments in intercity passenger rail and freight rail are justified, including consideration of—

"(A) population size and density;

"(B) projected population and economic growth and changing demographic characteristics;

"(C) connections to local rail and bus transit, alternative transportation options, and multi-modal freight transportation nodes;

"(D) economic profile of specific markets;

"(E) congestion on existing transportation facilities and constraints on future capacity en-

hancements, in relation to efficient movement of both goods and people;

"(F) distances between markets;

"(G) geographic characteristics;

"(H) demand for present and future freight rail transportation services;

"(I) ability to serve underserved communities and enhance intra-and inter-regional connectivity of mega-regions;

"(J) transportation safety data and analyses;

"(K) travel market size; and

"(L) availability and quality of service from other transportation modes within a market;

"(2) a national map with a prioritized designation of existing and developing markets to be served by specific rail routes and services that meet the criteria described in paragraph (1);

"(3) defined corridor and service categories, including—

"(A) services to be offered;

"(B) peak or average speeds to be achieved;

"(C) frequencies to be offered; and

"(D) populations to be served;

"(4) a schedule and strategy for the phased implementation of corridors and services identified in the plan;

"(5) a discussion of benefits and costs of potential investments in high-speed or intercity passenger rail or freight rail that considers all system user and public benefits and costs from a network perspective, including factors such as potential ridership, travel time reductions and improved reliability, benefits of enhanced mobility of goods and people, environmental benefits, economic development benefits, and other public benefits;

"(6) a strategy for investments in passenger stations, including investment in intermodal stations that are linked to local public transportation, other intercity transportation modes, and non-motorized transportation options, and that connect residential areas, commercial areas, and other nearby transportation facilities that support intercity passenger rail and high-speed rail service, and in freight-related facilities, that is consistent with other Federal strategy, planning, and investment efforts;

"(7) performance standards for fiscal and operational performance of new and enhanced high-speed and intercity passenger rail services;

"(8) analysis of the environmental impacts of the national rail plan;

"(9) recommendations for project financing, management and implementation for corridor development, station development, freight capacity development, and similar projects;

"(10) recommendations for the integration of freight and passenger service in a manner that provides for mutual and complementary growth;

"(11) a plan for integrating any proposed new services with existing services;

"(12) service design and project execution protocols, including design and construction standards, requirements needed to ensure interoperability, and any other protocols the Secretary deems appropriate; and

"(13) additional factors that the Secretary deems relevant.

**"§ 22702. Regional rail plans**

"(a) IN GENERAL.—The Secretary shall—

"(1) develop a regional rail plan for each region, except the Northeast Corridor, that contains a

detailed plan for implementing the national rail plan, including any plans for public investment in projects that contribute to efficient movement and increased capacity for freight by—

"(A) regional rail authorities, as defined by the Secretary; or

"(B) any 2 or more States that have entered into interstate compacts, agreements, or organizations for the purpose of developing such plans; and

"(2) in developing each regional rail plan, coordinate with—

"(A) States;

"(B) local communities;

"(C) railroad infrastructure owners;

"(D) regional air quality planning agencies;

"(E) Amtrak;

"(F) passenger rail service operators;

"(G) freight railroad operators;

"(H) metropolitan planning organizations;

"(I) governing authorities for transit systems or airports;

"(J) tribal governments;

"(K) the general public, including low-income and minority populations, people with disabilities, and older Americans; and

"(L) non-profit labor employee organizations.

"(b) PURPOSES.—The purposes of a regional rail plan shall be to refine and advance the implementation of the national rail plan under section 22701.

"(c) CONTENTS.—A regional rail plan shall include—

"(1) a map—

"(A) that indicates detailed alignment alternatives for any new corridor identified in the national rail plan under section 22701; and

"(B) that identifies the location of each potential new station;

"(2) a phasing plan for developing or upgrading specific segments of the regional network;

"(3) the identification of any environmental impact analyses required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) or other laws (including regulations);

"(4) a full capital cost estimate for developing the regional network;

"(5) an analysis of operating financial forecasts;

"(6) a benefit-cost analysis for the regional network that considers both user and public benefits and the costs from a network perspective, including factors such as ridership projections, travel time reductions, enhanced mobility benefits, environmental benefits, economic benefits, and other public benefits;

"(7) an analysis of potential land use policies and strategies for areas near high-speed and intercity passenger rail stations;

"(8) potential non-Federal funding sources, including a detailed consideration of anticipated private sector participation;

"(9) a proposal for the institutional and governance structures that will be necessary to develop the regional network;

"(10) other project implementation considerations, including an analysis of the readiness of specific corridors to proceed for development;

"(11) an examination of multi-modal connections that considers the most cost-effective means for achieving the region's transportation goals and objectives;

"(12) identification of plans for cost-effective, public investment in intercity passenger rail projects

that contribute toward the efficient movement and increased capacity for freight rail operations;

"(13) a list of capital projects needed to implement a region's portion of the national rail plan;

"(14) a plan for coordinating service and capital projects with adjacent regions;

"(15) a plan for crossing international borders, as appropriate;

"(16) a plan for integrating any proposed new services with existing service; and

"(17) a description of how the regional rail plan refines and advances the implementation of the national rail plan.

"(d) UPDATES.—Not later than 1 year after the publication of the national rail plan under section 22701 and periodically thereafter, the Secretary shall update each regional rail plan—

"(1) to reflect any material changes to the contents under subsection (c); and

"(2) to include any changes made to the national rail plan under section 22701.

"(e) WAIVER.—The Secretary may waive a content requirement under subsection (c) as necessary to accommodate a unique characteristic or situation in a region.

**"§ 22703. State rail plans**

''(a) IN GENERAL.—A State may prepare and maintain a State rail plan. A State rail plan shall—

''(1) be consistent with the national rail plan under section 22701;

''(2) be consistent with the regional rail plans under section 22702;

''(3) coordinate with other State transportation planning goals and programs, including the statewide transportation plans under section 135 of title 23, and

''(4) set forth rail transportation's role within the State's transportation system.

''(b) PURPOSES.—The purposes of a State rail plan shall be to refine and advance the implementation of the national rail plan and relevant regional rail plan under sections 22701 and 22702.

''(c) OBJECTIVES.—The objectives of a State rail plan shall be—

''(1) to set forth the State's policy on freight and intercity passenger rail transportation, including commuter rail operations, within the State;

''(2) to establish the time period covered by the State rail plan;

"(3) to present the priorities and strategies to enhance rail service within the State that benefits the public; and

"(4) to serve as the basis for Federal and State rail investments within the State.

"(d) REQUIREMENTS.—

"(1) ESTABLISHMENT.—The Secretary shall establish minimum requirements, consistent with sections 22701 and 22702, for the preparation and periodic revision of a State rail plan, including—

"(A) the establishment or designation of a State rail transportation authority to prepare, maintain, coordinate, and administer the State rail plan;

"(B) the establishment or designation of a State approval authority to approve the State rail plan;

"(C) the submission of the State's approved State rail plan to the Secretary for review and approval; and

"(D) the revision and resubmittal of a State-approved State rail plan for review and approval by the Secretary not less than once every 5 years.

"(2) REVIEW.—The Secretary shall prescribe procedures for a State to submit a State rail plan for review and approval, including standardized format and data requirements.

"(3) COMPLIANCE.—The Secretary shall deem a State rail plan to be in compliance with this chapter if the State rail plan—

"(A) is completed before the date of enactment of the National Rail System Preservation, Expansion, and Development Act of 2012; and

"(B) substantially meets the requirements of chapter 227 as in effect on the day before the date of enactment of the National Rail System Preservation, Expansion, and Development Act of 2012.

"(4) UPDATES.—A State rail plan that is deemed in compliance under paragraph (3) shall be updated not later than 1 year after the date of enactment of the National Rail System Preservation, Expansion, and Development Act of 2012.

"(e) CONTENTS.—A State rail plan shall include—

"(1) an inventory of the existing overall rail transportation system and rail services and facilities within the State;

"(2) an analysis of the role of rail transportation within the State's surface transportation system;

"(3) a review of all rail lines within the State, including any proposed high-speed rail corridors and significant rail line segments not currently in service;

"(4) a statement of the State's passenger rail service objectives, including minimum service levels, for rail transportation routes within the State;

"(5) a general analysis of rail's transportation, economic, and environmental impacts within the State, including congestion mitigation, trade and economic development, air quality, land-use, energy-use, and community impacts;

"(6) a long-range rail service and investment program for current and future freight and intercity passenger infrastructure within the State that meets the requirements under subsection (f);

"(7) a statement of the public financing issues for rail projects or service within the State, including a list of current and prospective public capital and operating funding resources, public subsidies, State taxation, and other financial policies relating to rail infrastructure development;

"(8) the identification of rail infrastructure issues within the State, after consulting with relevant stakeholders;

"(9) a review of major passenger and freight intermodal rail connections and facilities within the State, including seaports;

"(10) a list of prioritized options to maximize service integration and efficiency between rail and other modes of transportation within the State;

"(11) a review of publicly funded projects within the State to improve rail transportation safety and security, including major projects funded under section 130 of title 23;

"(12) a performance evaluation of passenger rail services operating in the State, including possible improvements to those services and a description of strategies to achieve the improvements;

"(13) a compilation of studies and reports on high-speed rail corridor development within the State that were not included in a prior plan under this chapter;

"(14) a plan for funding any recommended development of a high-speed rail corridor within the State; and

"(15) a statement that the State is in compliance with the requirements of section 22102.

"(f) LONG-RANGE RAIL SERVICE AND INVESTMENT PROGRAM.—

"(1) CONTENTS.—A long-range rail service and investment program under subsection (e)(6) shall include—

"(A) a prioritized list of any freight or intercity passenger rail capital projects expected to be commenced or supported in whole or in part by the State; and

"(B) a detailed capital and operating funding plan for each rail capital project under subparagraph (A).

"(2) RAIL CAPITAL PROJECTS LIST.—

"(A) CONTENTS.—A list of rail capital projects under paragraph (1)(A) shall include—

"(i) a description of the anticipated public and private benefits of each rail capital project; and

"(ii) a statement of the correlation between—

"(I) public funding contributions for each rail capital project; and

"(II) the public benefits.

"(B) CONSIDERATIONS.—A State rail transportation authority shall consider, when preparing a list of rail capital projects under this subsection—

"(i) contributions made by non-Federal and non-State sources through user fees, matching funds, or other private capital involvement;

"(ii) rail capacity and congestion effects;

"(iii) effects on highway, aviation, and maritime capacity, congestion, and safety;

"(iv) regional balance;

"(v) environmental impact;

"(vi) economic and employment impacts; and

"(vii) projected ridership and other service measures for passenger rail projects.

"(g) A State shall not be eligible to receive financial assistance under chapter 244 or 261 unless the State completes a State rail plan pursuant to this section.

**"§ 22704. Transparency and coordination**

"(a) PREPARATION AND REVIEW.—

"(1) FEDERAL TRANSPARENCY.—The Secretary of Transportation shall provide adequate and reasonable notice and an opportunity for comment to the public, rail carriers, commuter and transit authorities (operating in or affected by rail operations within the region or State), units of local government, and other interested parties when the Secretary prepares or reviews the national rail plan under section 22701 or a regional rail plan under section 22702.

"(2) STATE TRANSPARENCY.—A State shall provide adequate and reasonable notice and an opportunity for comment to the public, rail carriers, commuter and transit authorities (operating in or affected by rail operations within the region or the State), units of local government, and other interested parties, when the State prepares or reviews a State rail plan under section 22703.

"(b) INTERGOVERNMENTAL COORDINATION.—A State shall—

"(1) review the freight and passenger rail service activities and initiatives by regional planning agencies, regional transportation authorities, and municipalities (within the State or within the region

in which the State is located) when preparing a State rail plan; and

"(2) include any recommendations made by the regional planning agencies, regional transportation authorities, and municipalities (within the State or within the region in which the State is located), as deemed appropriate by the State.

**"§ 22705. Definitions**

"In this chapter:

"(1) PRIVATE BENEFIT.—The term 'private benefit' means a benefit—

"(A) that is determined on a project-by-project basis, based upon an agreement between the parties;

"(B) that is accrued to a person or private entity, other than Amtrak, that directly improves the economic and competitive condition of the person or private entity through improved assets, cost reductions, service improvements, or other means as defined by the Secretary; or

"(C) that is defined by the Secretary, with advice from the States and rail carriers if the Secretary deems such advice necessary.

"(2) PUBLIC BENEFIT.—The term 'public benefit' means a benefit—

"(A) that is determined on a project-by-project basis, based upon an agreement between the parties;

"(B) that is accrued to the public, including Amtrak, in the form of enhanced mobility of people or goods, environmental protection or enhancement, congestion mitigation, enhanced trade and economic development, improved air quality or land use, more efficient energy use, enhanced public safety or security, reduction of public expenditures due to improved transportation efficiency or infrastructure preservation, and any other positive community effects as defined by the Secretary; or

"(C) that is defined by the Secretary, with advice from the States and rail carriers if the Secretary deems such advice necessary.

"(3) STATE.—The term 'State' means any of the 50 States and the District of Columbia.

"(4) STATE RAIL TRANSPORTATION AUTHORITY.—The term 'State rail transportation authority' means the State agency or official responsible under the direction of the Governor of the State or a State

law for the preparation, maintenance, coordination, and administration of the State rail plan.''.

**SEC. 35102. IMPROVED DATA ON DELAY.**

Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation, in coordination with Amtrak, freight railroads, and other parties, as appropriate, shall develop guidance for developing improved, including automated, means of measuring on-time performance delays.

**SEC. 35103. DATA AND MODELING.**

(a) DATA.—Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall conduct a data needs assessment, in consultation with the Surface Transportation Board, Amtrak, freight railroads, and State and local governments, to support the development of an efficient and effective intercity passenger rail network. The data needs assessment shall, among other things—

(1) identify the data needed to conduct cost-effective modeling and analysis for high-speed and intercity passenger rail development programs;

(2) determine limitations to the data used for inputs and develop a strategy to address the limitations;

(3) identify barriers to accessing existing data;

(4) include recommendations regarding whether the authorization of additional data collection for intercity passenger rail travel is warranted; and

(5) determine which entities will be responsible for generating or collecting needed data.

(b) MODELING.—Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall develop or improve modeling capabilities to support the development of an efficient and effective intercity passenger rail network, including service development, capacity expansion, cost-effectiveness, and ridership estimates.

(c) BENEFIT-COST ANALYSIS.—Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall enhance the usefulness of assessments of benefits and costs, for both intercity passenger rail and freight rail projects by—

(1) providing ongoing guidance and training on developing benefit and cost information for rail projects;

(2) providing more direct and consistent requirements for assessing benefits and costs across transportation funding programs, including the appropriate use of discount rates;

(3) requiring an applicant to clearly communicate the methodology that is used to calculate the

project benefits and costs, including information on assumptions underlying calculations, strengths and limitations of data used, and the level of uncertainty in estimates of project benefits and costs; and

(4) ensuring that an applicant receives clear and consistent guidance on values to apply for key assumptions used to estimate potential project benefits and costs.

(d) CONFIDENTIAL DATA.—For the purposes of this section, the Secretary of Transportation shall protect any confidential data from public disclosure and such confidential data shall only be provided on the basis of a voluntary agreement.

**SEC. 35104. SHARED-USE CORRIDOR STUDY.**

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall complete a shared-use corridor study, in consultation with the Surface Transportation Board, Amtrak, freight railroads, States, non-profit employee labor organizations, and other users of the rail system, as appropriate, to evaluate the best means to enhance and support the further development of high-speed and intercity passenger rail service within United States shared-use corridors.

(b) CONTENTS.—In conducting the shared-use corridor study, the Secretary shall—

(1) survey the access arrangements for high-speed and intercity passenger rail service for use of rail infrastructure, assets and facilities owned by freight railroads, commuter authorities, or other entities, and standard processes for the resolution of disputes relating to such access;

(2) evaluate the roles and responsibilities of high-speed and intercity passenger rail, freight rail, and commuter rail service providers and infrastructure owners in complying with Federal, State, and local applicable requirements within United States shared-use corridors;

(3) evaluate the roles and responsibilities of Federal, State, and local governments, infrastructure owners, and high speed and intercity passenger rail, freight rail, and commuter rail service providers in supporting both the preservation and expansion of high-speed and intercity passenger rail service, freight transportation, and commuter transportation on shared infrastructure or rights-of-way;

(4) evaluate the roles and responsibilities of high-speed and intercity passenger rail, freight rail, and commuter rail service providers in achieving satisfactory on time performance for passenger and freight rail services in shared use corridors; and

(5) evaluate other issues identified by the Secretary.

(c) REPORT.—Not later than 90 days after the date the shared-use corridor study is completed under subsection (a), the Secretary shall—

(1) report the results of the shared-use corridor study to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure; and

(2) make the shared-use corridor study available to the public on the Department of Transportation's website.

**SEC. 35105. COOPERATIVE EQUIPMENT POOL.**

(a) IN GENERAL.—The Next Generation Corridor Equipment Pool Committee established under section 305 of the Passenger Rail Investment and Improvement Act of 2008 (49 U.S.C. 24101 note) shall continue to implement its authorized functions, as appropriate, and shall maintain and update, as needed, the specifications created by the Committee.

(b) EQUIPMENT POOLING ENTITY.—Section 305 of the Passenger Rail Investment and Improvement Act of 2008 (49 U.S.C. 24101 note), is amended by adding at the end the following:

1 "(f) EQUIPMENT POOLING ENTITY.—

2 "(1) ESTABLISHMENT.—Not later than 1 year
3 after the date of enactment of the National Rail
4 System Preservation, Expansion, and Development
5 Act of 2012, the Committee shall create an equip-
6 ment pooling entity that includes—

7 "(A) Amtrak;

8 "(B) States that purchase, with Federal
9 funds, intercity passenger rail rolling stock and
10 equipment that is built in accordance with the
11 specifications created by the Next Generation
12 Corridor Equipment Pool Committee; and

13 "(C) other States and entities, as appro-
14 priate.

15 "(2) IN GENERAL.—The equipment pooling en-
16 tity—

17 "(A) may—

18 "(i) be a corporation or other coopera-
19 tive entity; and

20 "(ii) be owned or jointly-owned by
21 Amtrak, a participating State, or other en-
22 tity; and

23 "(B) shall be authorized to—

24 "(i) lease or acquire intercity pas-
25 senger rail rolling stock and equipment

used in State-supported corridor services on routes that are not more than 750 miles between end points, including by entering into agreements for the funding, financing, procurement, remanufacture, ownership, and disposal of the intercity passenger rail rolling stock and equipment;

''(ii) maintain, manage, and allocate intercity passenger rail rolling stock and equipment for use in State-supported corridor services, including by charging appropriate amounts for the use (including depreciation and financing costs) of the intercity passenger rail rolling stock and equipment; and

''(iii) ensure adequate quantity and quality of appropriate intercity passenger rail rolling stock and equipment to support the State-supported corridor services' needs as identified in the national rail plan, regional rail plans, or State rail plans under chapter 227.

''(3) TRANSFER OF EQUIPMENT.—Amtrak, after consultation with the Secretary, may sell, lease, or otherwise transfer equipment currently owned or

leased by Amtrak to the equipment pooling entity. The operation and utilization of any equipment transferred to the equipment pooling entity shall be covered by section 24405(b).

''(4) TRANSFER REQUIREMENT.—A State shall sell, lease, or otherwise transfer equipment built in accordance with the specifications created by the Next Generation Corridor Equipment Pool Committee and purchased with Federal funds to the equipment pooling entity unless the Secretary exempts a State from this requirement.

''(g) GRANT FUNDING.—A capital project to carry out this section shall be eligible for grants under chapter 244. The equipment pooling entity shall be an eligible grant recipient under chapter 244.''.

**SEC. 35106. PROJECT MANAGEMENT OVERSIGHT AND PLANNING.**

Section 101(d) of the Passenger Rail Investment and Improvement Act of 2008 (122 Stat. 4908) is amended—

(1) by striking ''½ of''; and

(2) by inserting ''and joint capital planning'' after ''oversight''.

**SEC. 35107. IMPROVEMENTS TO THE CAPITAL ASSISTANCE PROGRAMS.**

(a) AMENDMENTS TO CHAPTER 244.—Chapter 244 is amended—

(1) in section 24401(1)—

(A) by striking ''or'' the first place it appears; and

(B) by striking ''service.'' and inserting ''service, or Amtrak.'';

(2) by amending section 24402(b) to read as follows:

''(b) PROJECT AS PART OF THE NATIONAL RAIL PLAN, REGIONAL RAIL PLANS, OR STATE RAIL PLANS.—

''(1) GRANT APPROVAL.—The Secretary may not approve a grant for a project under this section unless the Secretary finds that—

''(A) the project is part of the national rail plan, a regional rail plan, or a State rail plan under chapter 227; or

''(B) the project is part of the capital spending plan under section 211 of the Passenger Rail Investment and Improvement Act of 2008 (49 U.S.C. 24902 note); and

''(C) the applicant or recipient has or will have directly or through appropriate agree-

ments with other entities, as approved by the Secretary—

"(i) the legal, financial, and technical capacity to carry out the project;

"(ii) satisfactory continuing control over the use of the equipment or facilities; and

"(iii) the capability and willingness to maintain the equipment or facilities.

"(2) PROVISION OF INFORMATION.—An applicant or recipient shall provide sufficient information for the Secretary to make the required findings under this subsection.

"(3) JUSTIFICATION.—An applicant or recipient, except for Amtrak, that did not select the proposed operator of its service competitively shall provide written justification to the Secretary substantiating—

"(A) why the proposed operator is the best, taking into account price and other factors; and

"(B) that the use of the proposed operator will not unnecessarily increase the cost of the project.";

(3) in section 24402(c)—

(A) by amending paragraph (1)(A) to read as follows:

''(1) that the project be part of the national rail plan, a regional rail plan, or a State rail plan under chapter 227, or the capital spending plan under section 211 of the Passenger Rail Investment and Improvement Act of 2008 (49 U.S.C. 24902 note);'';

(B) in paragraph (1)(D), by inserting '', except for Amtrak,'' after ''an applicant'';

(C) by amending paragraph (1)(F) to read as follows:

''(F) that each project be compatible with and operate in conformance with plans developed pursuant to the requirements of section 135 of title 23, United States Code;'';

(D) in paragraph (2)(C), by striking ''and'';

(E) in paragraph (3)(B)(iii), by striking the period and inserting ''; and''; and

(F) by adding at the end the following:

''(4) achieve the appropriate mix of projects selected for funding to ensure the advancement of the national rail plan, including both the development of new or expanded routes and services and the maintenance and improvement of the current rail system.'';

(4) by amending section 24402(d) to read as follows:

''(d) STATE RAIL PLANS.—State rail plans completed before the date of enactment of the Passenger Rail Investment and Improvement Act of 2008 (122 Stat. 4907) that substantially meet the requirements of chapter 227 as in effect on the day before the date of enactment of the National Rail System Preservation, Expansion, and Development Act of 2012, shall be deemed by the Secretary to have met the requirements of subsection (c)(1)(A) of this section.'';

(5) by amending section 24402(e) to read as follows:

''(e) PROJECT TRANSFERS.—The Secretary may permit a recipient under this section to enter into a cooperative agreement to transfer the grant and related responsibilities and requirements to Amtrak to expedite, enhance, or otherwise facilitate the completion of the project and any such transfer shall be subject to the requirements of this chapter.'';

(6) in the heading of section 24402(f), by striking ''AND EARLY SYSTEMS WORK AGREEMENTS'';

(7) by amending section 24402(f)(1) to read as follows:

"(1) In implementing this section, the Secretary may issue a letter of intent to an applicant announcing an intention to obligate, for a major capital project under this section, an amount from future available budget authority specified in law that is not more than the amount stipulated as the financial participation of the Secretary in the project.";

(8) in section 24402(g) by—

(A) amending paragraph (1)(B) to read as follows:

"(B) A grant—

"(i) for a project designated as part of a priority corridor or service by the national rail plan and scheduled within the national rail plan to be implemented within a time frame consistent with the grant application shall not exceed 80 percent of the project net capital cost;

"(ii) for a project to implement a performance improvement plan under section 24710 shall not exceed 100 percent of the net project capital cost; and

"(iii) for any other project shall not exceed 50 percent of the net project capital cost."; and

(B) by adding at the end the following:

''(5) When Amtrak is an applicant under this chapter, it may use ticket and other revenues generated from its operations and other sources to satisfy the non-Federal share requirements under this subsection, except that Amtrak may not use Federal funds authorized under subsections (a) or (c) of section 101 of the Passenger Rail Investment and Improvement Act of 2008 (122 Stat. 4908).'';

(9) in section 24402(h), by striking ''2'' each place it appears and inserting ''3'';

(10) in section 24402(i)(1), by striking ''A metropolitan planning organization, State transportation department, or other project sponsor'' and inserting ''An applicant'';

(11) by amending section 24402(k) to read as follows:

''(k) SMALL CAPITAL PROJECTS.—The Secretary shall make not less than 5 percent annually available from the amounts appropriated under section 24406 beginning in fiscal year 2009 for grants for capital projects eligible under this section not exceeding $10,000,000, including costs eligible under section 209(d) of the Passenger Rail Investment and Improvement Act of 2008 (49 U.S.C. 24101 note). For grants awarded under this subsection,

the Secretary may waive one or more of the requirements of this section, including State rail plan requirements, or of section 24405(c)(1)(B), as appropriate.'';

(12) by amending section 24403(b) to read as follows:

''(b) SECRETARIAL OVERSIGHT AND PARTICIPATION.—

''(1) The Secretary may use not more than 1 percent of amounts made available in a fiscal year for capital projects under this chapter to participate in the planning, management, and oversight of the development and implementation of any such projects.

''(2) The Secretary may use amounts available under paragraph (1) to directly undertake or make contracts for project planning and design participation or safety, procurement, management, and financial compliance reviews and audits of a recipient of grants awarded under this chapter.

''(3) The Federal Government shall pay the entire cost of carrying out a contract under this subsection.''; and

(13) in section 24405 by adding ''or between Amtrak and the railroad'' after ''railroad'' in subsection (c)(1).

(b) CHAPTER 244 GRANT PROCEDURES.—Not later than 180 days after the date of enactment of this Act, the Secretary of Transportation shall issue a final rule establishing grant procedures, as required by section 24402(a) of title 49, United States Code.

(c) AMENDMENTS TO CHAPTER 261.—Chapter 261 is amended—

(1) in section 26106—

(A) by amending subsection (a) to read as follows:

''(a) IN GENERAL.—The Secretary of Transportation shall establish and implement a high-speed rail corridor program consistent with the national rail plan, regional rail plans, and State rail plans required by chapter 227 of title 49, United States Code.'';

(B) by amending subsection (b)(2) to read as follows:

''(2) CORRIDOR.—The term 'corridor' means—

''(A) a corridor designated by the Secretary pursuant to section 104(d)(2) of title 23; or

''(B) a corridor expected to achieve high-speed service pursuant to section 22701 of title 49.'';

(C) in subsection (e)(2)(A)—

(i) in clause (ii), by inserting ", directly or through appropriate agreements with other entities," after "have";

(ii) in clause (v), by inserting ", except for Amtrak," after "applicant";

(iii) in clause (vi), by striking "; and" and inserting a semicolon;

(iv) in clause (vii)(II), by striking "(if it is available)"; and

(v) by adding at the end the following:

"(viii) that the project and the high-speed rail services it supports are coordinated and integrated with existing and planned conventional intercity passenger rail services;

"(ix) that the Secretary, and Amtrak at the Secretary's request, are permitted to participate in the planning, design, management, and delivery of the project, as necessary to ensure project success and promote interstate commerce; and

"(x) that the Federal government is accorded an appropriate participation, oversight, ownership, or control in the project commensurate with the level of

Federal investment as determined by the Secretary;''; and

(D) in subsection (e)(4), by striking ''pursuant to section 22506 of this title''.

(d) CONGESTION GRANTS.—Section 24105 is amended—

(1) in subsection (a)—

(A) by striking ''in cooperation with States'' and ''high priority rail corridor'';

(B) by striking ''congestion'' and inserting ''freight or commuter railroad congestion that impacts intercity passenger trains, enhance route performance, preserve service,''; and

(C) by striking the period and inserting ''on routes defined under section 24102(5)(C).'';

(2) in subsection (b)—

(A) by inserting ''or the Federal Railroad Administration'' after ''Amtrak'';

(B) by striking ''congestion'' and inserting ''freight or commuter railroad congestion that impacts intercity passenger trains, enhance route performance, preserve service,'';

(C) by striking ''; and'' and inserting a period; and

(D) by striking paragraph (3);

(3) in subsection (c), by striking ''80'' and inserting ''100''; and

(4) in subsection (d), by inserting '', except that the Secretary may waive the requirements of section 24405(c)(1)(B), as appropriate, for grants totaling less than $10,000,000'' after ''title''.

(e) ADDITIONAL HIGH-SPEED RAIL PROJECTS.—The Passenger Rail Investment and Improvement Act of 2008 (122 Stat. 4907) is amended by striking section 502.

**SEC. 35108. LIABILITY.**

(a) CLARIFICATION OF COMMUTER RAIL LIABILITY.—Section 28103 is amended—

(1) in subsection (a)(2), by inserting, '', including commuter rail passengers,'' after ''rail passengers,'';

(2) by amending subsection (b) to read as follows:

''(b) CONTRACTUAL OBLIGATIONS.—A provider of rail passenger transportation may enter into contracts that allocate financial responsibility for claims. Such contracts shall be enforceable notwithstanding any other provision of law, common law, or public policy, or the nature of the conduct giving rise to the damages or liability.''; and

(3) in subsection (e)—

(A) by striking ''and'' at the end of paragraph (2);

(B) by striking the period at the end of paragraph (3) and inserting ''; and''; and

(C) by adding at the end the following:

''(4) the term 'rail passenger transportation' includes commuter rail transportation.''.

(b) STUDY.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall conduct a study regarding options for clarifying and improving passenger rail liability requirements and arrangements, including those related to environmental liability, necessary for supporting the continued development and improvement of the national passenger rail system and the furtherance of the national rail plan under chapter 227 of title 49, United States Code. The study shall consider—

(A) whether to expand statutory liability limits to third parties; and

(B) whether to revise the current statutory liability limits based on inflation or other meth-

ods to improve the certainty of liability coverage.

(2) REPORT.—Not later than 90 days after the date of completion of the study, the Secretary shall submit the results of the study and any associated recommendations to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

**SEC. 35109. DISADVANTAGED BUSINESS ENTERPRISES.**

(a) DEFINITIONS.—In this section:

(1) SECRETARY.—The term ''Secretary'' means the Secretary of Transportation.

(2) SMALL BUSINESS CONCERN.—The term ''small business concern'' has the meaning given the term in section 3 of the Small Business Act (15 U.S.C. 632), except the term does not include any concern or group of concerns that—

(A) are controlled by the same socially and economically disadvantaged individual or individuals; and

(B) have average annual gross receipts over the preceding 3 fiscal years in excess of $22,410,000, as adjusted annually by the Secretary for inflation.

(3) SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS.—

(A) IN GENERAL.—

(i) SOCIALLY DISADVANTAGED INDIVIDUALS.—The term ''socially disadvantaged individuals'' has the meaning given the term in section 8(a)(5)of the Small Business Act (15 U.S.C. 637(a)(5)), and relevant subcontracting regulations issued pursuant to that Act.

(ii) ECONOMICALLY DISADVANTAGED INDIVIDUALS.—The term ''economically disadvantaged individuals'' has the meaning given the term in section 8(a)(6) of the Small Business Act (15 U.S.C. 637(a)(6)), and relevant subcontracting regulations issued pursuant to that Act.

(B) INCLUSIONS.—For purposes of this section, women shall be presumed to be socially and economically disadvantaged individuals.

(b) IN GENERAL.—Except to the extent that the Secretary determines otherwise, not less than 10 percent of the amounts made available for any program under chapter 244, section 24105, or section 26106 of title 49, United States Code, shall be expended through a small

business concern owned and controlled by 1 or more socially and economically disadvantaged individuals.

(c) ANNUAL LISTING OF DISADVANTAGED SMALL BUSINESS CONCERNS.—Each State shall annually—

(1) survey each small business concern in the State;

(2) compile a list of all of the small business concerns in the State, including the location of each small business concern in the State; and

(3) notify the Secretary, in writing, of the percentage of the small business concerns that—

(A) are controlled by women;

(B) are controlled by socially and economically disadvantaged individuals (except for women); and

(C) are controlled by individuals who are women and who are socially and economically disadvantaged individuals.

(d) UNIFORM CERTIFICATION.—The Secretary shall establish minimum uniform criteria for State governments to use in certifying whether a small business concern qualifies under this section. The minimum uniform criteria shall include—

(1) an on-site visit;

(2) a personal interview;

(3) a license;

(4) an analysis of stock ownership;

(5) an analysis of bonding capacity;

(6) the listing of equipment;

(7) the listing of work completed; and

(8) a resume of each principal owner, the financial capacity, and the type of work preferred.

(e) REPORTING.—The Secretary shall establish minimum requirements for State governments to use in reporting to the Secretary information concerning disadvantaged business enterprise awards, commitments, and achievements, and such other information as the Secretary determines appropriate for the proper monitoring of the disadvantaged business enterprise program.

(f) COMPLIANCE WITH COURT ORDERS.—Nothing in this section shall limit the eligibility of a person to receive funds made available under chapter 244, section 24105, or section 26106 of title 49, United States Code, if the person is prevented, in whole or in part, from complying with subsection (b) because a Federal court issues a final order in which the court finds that the requirement of subsection (b) or the program established under subsection (b) is unconstitutional.

**SEC. 35110. WORKFORCE DEVELOPMENT.**

Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall, in consultation with the States, local governments, Amtrak, freight railroad, and non-profit employee labor organizations—

(1) complete a study regarding workforce development needs in the passenger and freight rail industry, including what knowledge and skill gaps in planning, financing, engineering, and operating passenger and freight rail systems exist, to assist in creating programs to help improve the rail industry;

(2) make recommendations based on the results of the study; and

(3) report the findings and recommendations to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

**SEC. 35111. VETERANS EMPLOYMENT.**

Not later than 180 days after the date of enactment of this Act, the Secretary of Transportation shall—

(1) conduct a study to evaluate the best means for providing a preference to veterans in the awarding of contracts and subcontracts using amounts

made available under chapter 244, and sections 24105 and 26104 of title 49, United States Code;

(2) make recommendations based on the results of the study; and

(3) report the findings and recommendations to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

# Subtitle B—Amtrak

**SEC. 35201. STATE-SUPPORTED ROUTES.**

(a) GRANT AVAILABILITY.—In addition to the uses permitted under section 209(d) of the Passenger Rail Investment and Improvement Act of 2008 (49 U.S.C. 24101 note), a State may use funds provided under section 24406 of title 49, United States Code, to temporarily pay Amtrak some or all of the operating costs for services identified under section 24102(5)(D) of title 49, United States Code, determined under the methodology established pursuant to section 209 of the Passenger Rail Investment and Improvement Act of 2008 (49 U.S.C. 24101 note), that exceed—

(1) the operating costs (adjusted for inflation) that the State paid Amtrak for the same services in

the year prior to the implementation of section 209 of that Act; or

(2) if the services were not fully State-supported in that year, the full cost the State would have paid Amtrak under the State-supported service costing methodology then in effect.

(b) TRANSITION ASSISTANCE GUIDANCE.—Not later than 180 days after the Surface Transportation Board determines the appropriate methodology pursuant to section 209 of the Passenger Rail Investment and Improvement Act of 2008 (49 U.S.C. 24101 note), the Secretary shall develop a transition assistance guidance that includes—

(1) criteria for phasing-out the temporary operating assistance under this section not later than October 1, 2017;

(2) a grant application process that permits—

(A) States to apply for such funds individually or collectively; and

(B) Amtrak to be considered the grant recipient of such funds upon an agreement between a State or States and Amtrak; and

(3) policies governing financial terms, repayment conditions, and other terms of financial assistance.

(c) ELIGIBILITY.—To be eligible for Federal transition assistance, an intercity passenger rail service shall provide high-speed or intercity passenger rail revenue operation on routes that are subject to section 209 of the Passenger Rail Investment and Improvement Act of 2008 (49 U.S.C. 24101 note).

(d) FEDERAL SHARE.—The Federal share of grants under this paragraph for eligible costs may be up to 100 percent of the total costs under subsection (a).

**SEC. 35202. NORTHEAST CORRIDOR INFRASTRUCTURE AND OPERATIONS ADVISORY COMMISSION.**

(a) NORTHEAST CORRIDOR INFRASTRUCTURE AND OPERATIONS ADVISORY COMMISSION IMPROVEMENTS.—Section 24905 is amended—

(1) by amending the section heading to read as follows:

**"SEC. 24905. NORTHEAST CORRIDOR INFRASTRUCTURE AND OPERATIONS ADVISORY COMMISSION IMPROVEMENTS.";**

(2) by redesignating subsection (e) as subsection (g);

(3) by striking subsections (a), (b), (c), (d), and (f) and inserting before subsection (g), as redesignated, the following:

"(a) NORTHEAST CORRIDOR INFRASTRUCTURE AND OPERATIONS ADVISORY COMMISSION.—

"(1) IN GENERAL.—The Secretary of Transportation shall establish a Northeast Corridor Infrastructure and Operations Advisory Commission (referred to in this section as the 'Commission') to foster the creation and implementation of a unified, regional, long-term investment strategy for the Northeast Corridor and to promote mutual cooperation and planning pertaining to the capital investment, rail operations and related activities of the Northeast Corridor. The Commission shall be made up of—

"(A) members representing Amtrak;

"(B) members representing the Department of Transportation, including the Federal Railroad Administration and the Office of the Secretary;

"(C) 1 member from each of the States (including the District of Columbia) that constitute the Northeast Corridor as defined in section 24102, designated by, and serving at the pleasure of, the chief executive officer thereof; and

"(D) non-voting representatives of freight railroad carriers using the Northeast Corridor selected by the Secretary.

"(2) MEMBERSHIP.—The Secretary shall ensure that the membership belonging to any of the groups enumerated under paragraph (1) shall not constitute a majority of the Commission's memberships.

"(3) MEETINGS.—The Commission shall—

"(A) establish a schedule and location for convening meetings;

"(B) meet not less than 4 times per fiscal year; and

"(C) develop rules and procedures to govern the Commission's proceedings.

"(4) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

"(5) TRAVEL EXPENSES.—Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5.

"(6) CHAIRPERSON.—The Chairperson of the Commission shall be elected by the members.

"(7) PERSONNEL.—The Commission may appoint and fix the pay of such personnel as the Commission considers appropriate.

"(8) DETAILEES.—Upon request of the Commission, the head of any department or agency of the United States may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this section.

"(9) ADMINISTRATIVE SUPPORT.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this section.

"(10) CONSULTATION WITH OTHER ENTITIES.—The Commission shall consult with other entities as appropriate.

"(b) STATEMENT OF GOALS AND RECOMMENDATIONS.—

"(1) STATEMENT OF GOALS.—The Commission shall develop a statement of goals concerning the future of Northeast Corridor rail infrastructure and operations based on achieving expanded and improved intercity, commuter, and freight rail services

operating with greater safety and reliability, reduced travel times, increased frequencies, and enhanced intermodal connections designed to address airport and highway congestion, reduce transportation energy consumption, improve air quality, and increase economic development of the Northeast Corridor region.

"(2) RECOMMENDATIONS.—The Commission shall develop recommendations based on the statement of goals developed under this section addressing, as appropriate—

"(A) short-term and long-term capital investment needs beyond those specified in the state-of-good-repair plan under section 211 of the Passenger Rail Investment and Improvement Act of 2008 (49 U.S.C. 24902 note);

"(B) future funding requirements for capital improvements and maintenance;

"(C) operational improvements of intercity passenger rail, commuter rail, and freight rail services;

"(D) opportunities for additional non-rail uses of the Northeast Corridor;

"(E) scheduling and dispatching;

"(F) safety and security enhancements;

"(G) equipment design;

"(H) marketing of rail services;

"(I) future capacity requirements; and

"(J) potential funding and financing mechanisms for projects of corridor-wide significance.

"(c) NORTHEAST CORRIDOR HIGH SPEED AND INTERCITY SERVICE DEVELOPMENT PLAN.—

"(1) LONG-RANGE NORTHEAST CORRIDOR SERVICE DEVELOPMENT PLAN.—The Federal Railroad Administration, in coordination with the Commission, Amtrak, the States, and other corridor users, shall complete a long-range Northeast Corridor Service Development Plan not later than December 31, 2014.

"(2) COLLABORATION AND COOPERATION.—The parties comprising the Commission, acting separately and collectively, shall collaborate and cooperate to the maximum extent permitted by law in—

"(A) the preparation of the service development plan;

"(B) the programmatic environmental review process; and

"(C) the subsequent requirements required by the National Environmental Policy Act of

1969 (42 U.S.C. 4321 et seq.), including the development of supporting documentation.

"(d) COMPREHENSIVE LONG-RANGE NORTHEAST CORRIDOR STRATEGY.—

"(1) IN GENERAL.—Not later than 1 year after completion of the service development plan under subsection (c), the Commission shall develop a comprehensive long-range strategy for the future high-speed, intercity, commuter, and freight rail utilization of the Northeast Corridor that considers—

"(A) the statement of goals developed under subsection (b)(1);

"(B) the recommendations developed under subsection (b)(2);

"(C) the economic development report under subsection (h);

"(D) the service development plan and related alternatives developed through the programmatic environmental review for the Northeast Corridor;

"(E) the capital and operating plans of all entities operating on the Northeast Corridor;

"(F) improvement programs and service initiatives planned by corridor owners and users;

"(G) relevant local, State, and Federal transportation plans; and

"(H) other plans, as appropriate.

"(2) STRATEGY COMPONENTS.—The comprehensive long-range strategy shall include—

"(A) a comprehensive program containing a description and the planned phasing of all Northeast Corridor improvement programs, investments, and other anticipated changes;

"(B) the impacts of the comprehensive program on:

"(i) highway and aviation congestion;

"(ii) economic development;

"(iii) job creation; and

"(iv) the environment;

"(C) the potential financing sources for the comprehensive program, including Federal, State, local, and private sector sources;

"(D) new institutional or other structures necessary to implement the comprehensive program;

"(E) the types of collaboration, participation, arrangements, and support between Amtrak and the Federal Government, the State and local governments in the Northeast Cor-

ridor, the commuter rail authorities and freight railroads that utilize the Northeast Corridor, the private sector, and others, as appropriate, that are necessary to achieve the comprehensive program; and

"(F) any regulatory or statutory changes necessary to efficiently advance the comprehensive program.

"(e) ACCESS COSTS.—

"(1) DEVELOPMENT OF STANDARDIZED FORMULA.—Not later than September 30, 2013, the Commission shall—

"(A) develop a standardized formula for determining and allocating costs, revenues, and compensation for Northeast Corridor commuter rail passenger transportation (as defined in section 24102) on the Northeast Corridor main line between Boston, Massachusetts, and Washington, District of Columbia, and the Northeast Corridor branch lines connecting to Harrisburg, Pennsylvania, Springfield, Massachusetts, and Spuyten Duyvil, New York, that use Amtrak facilities or services or that provide such facilities or services to Amtrak that ensures that—

"(i) there is no cross-subsidization of commuter rail passenger, intercity rail passenger, or freight rail transportation;

"(ii) each service is assigned the costs incurred only for the benefit of that service, and a proportionate share, based upon factors that reasonably reflect relative use, of costs incurred for the common benefit of more than 1 service; and

"(iii) all financial contributions made by an operator of a service that benefit an infrastructure owner other than the operator are considered, including any capital infrastructure investments and in-kind services;

"(B) develop a proposed timetable for implementing the formula not later than December 31, 2014;

"(C) transmit the proposed timetable to the Surface Transportation Board; and

"(D) at the request of a Commission member, petition the Surface Transportation Board to appoint a mediator to assist the Commission members through non-binding mediation to reach an agreement under this section.

"(2) IMPLEMENTATION.—Amtrak and public authorities providing commuter rail passenger transportation on the Northeast Corridor shall implement new agreements for usage of facilities or services based on the standardized formula under paragraph (1) in accordance with the timetable established therein. If the entities fail to implement the new agreements in accordance with the timetable, the Commission shall petition the Surface Transportation Board to determine the appropriate compensation amounts for such services under section 24904(c). The Surface Transportation Board shall enforce its determination on the party or parties involved.

"(3) REVISIONS.—The Commission may make necessary revisions to the standardized formula developed under paragraph (1), including revisions based on Amtrak's financial accounting system developed under section 203 of the Passenger Rail Investment and Improvement Act of 2008 (49 U.S.C. 24101 note).

"(f) TRANSMISSION OF STATEMENT OF GOALS, RECOMMENDATIONS, AND PLANS.—The Commission shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on

Transportation and Infrastructure of the House of Representatives—

"(1) not later than 60 days after the date of enactment of the National Rail System Preservation, Expansion, and Development Act of 2012, the statement of goals under subsection (b);

"(2) annually beginning on December 31, 2012, the recommendations under subsection (b)(2) and the standardized formula and timetable under subsection (e)(1); and

"(3) the comprehensive long-range strategy under this section.".; and

(4) by inserting after subsection (g), as redesignated, the following

"(h) REPORT ON NORTHEAST CORRIDOR ECONOMIC DEVELOPMENT.—Not later than September 30, 2013, the Commission shall transmit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on the role of Amtrak's Northeast Corridor service between Washington, District of Columbia, and Boston, Massachusetts, in the economic development of the Northeast Corridor region. The report shall examine how to enhance the utilization of the North-

east Corridor for greater economic development, including—

"(1) improving real estate utilization;

"(2) improved intercity, commuter, and freight services; and

"(3) improving optimum utility utilization.

"(i) NORTHEAST CORRIDOR SAFETY COMMITTEE.—

"(1) IN GENERAL.—The Secretary shall establish a Northeast Corridor Safety Committee composed of members appointed by the Secretary. The members shall be representatives of—

"(A) the Department of Transportation, including the Federal Railroad Administration;

"(B) Amtrak;

"(C) freight carriers operating more than 150,000 train miles a year on the main line of the Northeast Corridor;

"(D) commuter rail agencies;

"(E) rail passengers;

"(F) rail labor; and

"(G) other individuals and organizations the Secretary decides have a significant interest in rail safety or security.

"(2) FUNCTION; MEETINGS.—The Secretary shall consult with the Committee about safety and

security improvements on the Northeast Corridor main line. The Committee shall meet not less than 2 times per year to consider safety and security matters on the main line.

"(3) REPORT.—At the beginning of the first session of each Congress, the Secretary shall submit a report to the Commission and to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on the status of efforts to improve safety and security on the Northeast Corridor main line. The report shall include the safety and security recommendations of the Committee and the comments of the Secretary on those recommendations.".

(b) CONFORMING AMENDMENT.—The table of contents for chapter 249 is amended by striking the item relating to section 24905 and inserting the following:

"24905. Northeast corridor infrastructure and operations advisory commission improvements.".

**SEC. 35203. NORTHEAST CORRIDOR HIGH-SPEED RAIL IMPROVEMENT PLAN.**

(a) PLANS.—Not later than 180 days after the date of enactment of this Act, Amtrak shall—

(1) complete a refined vision for an integrated program of improvements on the Northeast Corridor that will result in, by 2040—

(A) the development and operation of a new high-speed rail system capable of high capacity, 200 mile-per-hour or greater operation between Washington, District of Columbia and Boston, Massachusetts;

(B) the completion of the improvements identified in the Northeast Corridor Infrastructure Master Plan published by Amtrak on May 19, 2010; and

(C) the continued operation of existing and currently planned intercity, commuter, and freight services utilizing the Northeast Corridor during the implementation of the program; and

(2) complete a business and financing plan to achieve the program under paragraph (1) that identifies the estimated—

(A) benefits and costs of the program, including ridership, revenues, capital and operating costs, and cash flow projections;

(B) implementation schedule, including the phasing of the program into achievable seg-

ments that maximize the benefits and support the ultimate completion of the program;

(C) potential financing sources for the program, including Federal, State, local, and private sector sources; and

(D) organization changes, new institutional or corporate arrangements, partnerships, procurement techniques, and other structures necessary to implement the program.

(b) SUPPORT.—The Secretary of Transportation shall provide appropriate support, assistance, oversight, and guidance to Amtrak during the preparation of the plans under subsection (a).

(c) SUBMISSION.—Amtrak shall submit the refined vision and an appropriate elements of the business and financing plan to the Federal Railroad Administration and the Northeast Corridor Infrastructure and Operations Advisory Commission for use in the development of the Northeast Corridor High Speed and Intercity Service Development Plan and the Comprehensive Long-Range Northeast Corridor Strategy.

(d) HIGH-SPEED RAIL EQUIPMENT.—The Secretary of Transportation shall not preclude the use of Federal funds made available to purchase rolling stock to purchase any equipment used for ''high-speed rail'' (as defined in

section 26106(b)(4) of title 49, United States Code) that otherwise complies with all applicable Federal standards.

**SEC. 35204. NORTHEAST CORRIDOR ENVIRONMENTAL REVIEW PROCESS.**

(a) NORTHEAST CORRIDOR.—Not later than 90 days after the date of enactment of this Act, the Secretary shall complete a plan and a schedule for the completion of the programmatic environmental review for the Northeast Corridor. The schedule shall require the completion of the programmatic environmental review for the Northeast Corridor not later than 3 years after the date of enactment of this Act.

(b) COORDINATION WITH THE NORTHEAST CORRIDOR INFRASTRUCTURE AND OPERATIONS ADVISORY COMMISSION.—The Federal Railroad Administration shall closely coordinate the programmatic environmental review process with the Northeast Corridor Infrastructure and Operations Advisory Commission.

**SEC. 35205. DELEGATION AUTHORITY.**

(a) DELEGATION OF AUTHORITY.—In carrying out programmatic or project level environmental reviews for high speed and intercity passenger rail programs, projects, or services, the Secretary may delegate to Amtrak any or all of the Secretary's authority and responsibility under the National Environmental Policy Act of 1969 (42 U.S.C.

4321 et seq.), section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. 470f), section 4(f) of the Department of Transportation Act (80 Stat. 934), section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344), and section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536), and may provide to Amtrak any related funding provided to the Secretary for such purposes as the Secretary deems necessary if—

(1) Amtrak agrees in writing to assume the delegated authority and responsibility;

(2) Amtrak has or can obtain sufficient resources or the Secretary provides such resources to Amtrak to appropriately carry out such authority or responsibility; and

(3) delegating the authority and responsibility will improve the quality or timeliness of the environmental review.

**SEC. 35206. AMTRAK INSPECTOR GENERAL.**

(a) IN GENERAL.—Chapter 243 is amended by adding after section 24316 the following:

**"§ 24317. Inspector general**

''(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Office of the Inspector General of Amtrak the following amounts:

''(1) For fiscal year 2009, $20,000,000.

"(2) For fiscal year 2010, $21,000,000.

"(3) For fiscal year 2011, $22,000,000.

"(4) For fiscal year 2012, $22,000,000.

"(5) For fiscal year 2013, $23,000,000.

"(b) AUTHORITY.—

"(1) IN GENERAL.—The Inspector General of Amtrak shall have the authority available to other Inspectors General, as necessary in carrying out the duties specified in the Inspector General Act 1978 (5 U.S.C. App. 3), to investigate any alleged violation of sections 286, 287, 371, 641, 1001, 1002 and 1516 of title 18.

"(2) AGENCY.—Solely for purposes of sections 286, 287, 371, 641, 1001, 1002, and 1516 of title 18, Amtrak and the Amtrak Office of the Inspector General, shall be considered a corporation in which the United States has a proprietary interest as set forth in section 6 of such title.

"(c) FALSE CLAIMS.—Claims made or presented to Amtrak shall be considered as claims under section 3729(b)(2)(A)(ii) of title 31. Statements made or presented to Amtrak shall be considered as statements under subparagraphs (B) and (G) of section 3729(a)(1) of such title.

"(d) LIMITATION.—Subsections (b) and (c) shall be effective only with respect to a fiscal year for which Amtrak receives a Federal subsidy.

"(e) QUALIFIED IMMUNITY.—

"(1) IN GENERAL.—An employee of the Amtrak Office of Inspector General shall enjoy the same personal qualified immunity from lawsuit or liability as the employees of the Department of Transportation Office of Inspector General with respect to the performance of investigative, audit, inspection, or evaluation functions authorized under the Inspector General Act of 1978 (5 U.S.C. App.) that are carried out for the Amtrak Office of Inspector General.

"(2) FEDERAL GOVERNMENT LIABILITY.—No liability of any kind shall attach to or rest upon the United States for any damages from or by any actions of the Amtrak Office of Inspector General, its employees, agents, or representatives.

"(f) SERVICES.—Amtrak and the Inspector General of Amtrak may obtain services under sections 502(a) and 602 of title 40, including travel programs, from the Administrator of General Services. The Administrator of General Services shall provide services under sections 502(a) and 602 of title 40, to Amtrak and the Inspector General.".

(b) MANAGEMENT ASSESSMENT.—Section 24310 is amended to read as follows:

"(a) IN GENERAL.—Not later than 3 years after the date of enactment of the Passenger Rail Investment and Improvement Act of 2008 (122 Stat. 4907) and 2 years thereafter—

"(1) the Inspector General of the Department of Transportation shall complete an overall assessment of the progress made by the Department of Transportation in implementing the provisions of that Act; and

"(2) the Inspector General of Amtrak shall complete an overall assessment of the progress made by Amtrak management in implementing the provisions of the Passenger Rail Investment and Improvement Act of 2008 (122 Stat. 4907).

"(b) ASSESSMENT.—The management assessment by the Amtrak Inspector General may include a review of—

"(1) the effectiveness in improving annual financial planning;

"(2) the effectiveness in improving financial accounting;

"(3) Amtrak management's efforts to implement minimum train performance standards;

"(4) Amtrak management's progress toward maximizing revenues, minimizing Federal subsidies, and improving financial results; and

"(5) any other aspect of Amtrak operations that the Amtrak Inspector General finds appropriate.".

(c) INSPECTOR GENERAL POLICIES AND PROCEDURES.—The Amtrak Inspector General and Amtrak shall—

(1) continue to follow the policies and procedures for interacting with one another in a manner that is consistent with the Inspector General Act of 1978 (5 U.S.C. App.), as approved by the Council of the Inspectors General on Integrity and Efficiency; and

(2) work toward establishing proper protocols and firewalls to maintain the Amtrak Inspector General's independence, as appropriate.

(d) IMPROVEMENTS.—The Amtrak Inspector General and Amtrak shall identify any funding needs and authority improvements necessary to effectuate the policies, procedures, protocols, and firewalls under subsection (c) and submit a report of the necessary funding and authority improvements as part of their annual budget requests.

(e) TECHNICAL AMENDMENT.—Section 101 of the Passenger Rail Investment and Improvement Act of 2008 (122 Stat. 4907), is amended by striking subsection (b) and inserting the following:

"(b) [Reserved].".

(f) CLERICAL AMENDMENT.—The table of contents for chapter 243 is amended by adding at the end the following:

"24317. Inspector General.".

**SEC. 35207. COMPENSATION FOR PRIVATE-SECTOR USE OF FEDERALLY-FUNDED ASSETS.**

If capital assets that are owned by a public entity or Amtrak built or improved with Federal funds authorized under subtitle V of title 49, United States Code, are made available for exclusive use by a for-profit entity, except for an entity owned or controlled by the Department of Transportation, for the purpose of providing intercity passenger rail service, the Secretary may require, as appropriate, that the for-profit entity provide adequate compensation, as determined by the Secretary, to the United States for the use of the capital assets in an amount that reflects the benefit of the Federal funding to the for-profit entity.

**SEC. 35208. ON-TIME PERFORMANCE.**

Where the on time performance of any intercity passenger train averages less than 80 percent for any 2 con-

secutive calendar quarters and the failure to meet such performance levels is solely the responsibility of the host railroad, Amtrak shall not pay the host railroad any incentive payments for on time performance of the subject intercity passenger train during such calendar quarters.

**SEC. 35209. BOARD OF DIRECTORS.**

Section 24302(a)(3) is amended by striking ''5'' the second place it appears and inserting ''4''.

**SEC. 35210. AMTRAK.**

Section 24305(f) of title 49, United States Code, is amended by adding at the end the following:

''(5) The requirements under this subsection shall apply to all contracts eligible for assistance under this chapter for a project carried out within the scope of the applicable finding, determination, or decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), regardless of the funding source of such contracts, if at least 1 contract for the project is funded with amounts made available to carry out this chapter.''.

# Subtitle C—Rail Safety Improvements

**SEC. 35301. POSITIVE TRAIN CONTROL.**

(a) REVIEW AND APPROVAL.—Section 20157(c) is amended to read as follows:

"(c) REVIEW AND APPROVAL.—

"(1) REVIEW.—Not later than 90 days after the Secretary receives a proposed plan, the Secretary shall review and approve or disapprove it. If a proposed plan is not approved, the Secretary shall notify the affected railroad carrier or other entity as to the specific deficiencies in the proposed plan. The railroad carrier or other entity shall correct the deficiencies not later than 30 days after receipt of the written notice.

"(2) AMENDMENTS.—The Secretary shall review any amendments to a plan in the time frame required by section (1).

"(3) ANNUAL REVIEW.—The Secretary shall conduct an annual review to ensure that each railroad carrier and entity is complying with its plan, including a railroad carrier or entity that elects to fully implement a positive train control system prior to the required deadline.".

(b) REPORT CRITERIA.—Section 20157(d) is amended to read as follows:

"(d) REPORT.—Not later than June 30, 2012, the Secretary shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the

House of Representatives on the progress of the railroad carriers in implementing the positive train control systems, including—

"(1) the likelihood that each railroad will meet the December 31, 2015 deadline;

"(2) the obstacles to each railroad's successful implementation, including the obstacles identified in the General Accountability Office's report issued on December 15, 2010, and titled 'Rail Safety: Federal Railroad Administration Should Report on Risks to Successful Implementation of Mandated Safety Technology' (GAO–11–133); and

"(3) the actions that Congress, railroads, relevant Federal entities, and other stakeholders can take to mitigate obstacles to successful implementation.".

(c) EXTENSION AUTHORITY.—Section 20157 is amended—

(1) by redesignating subsections (h) and (i) as subsections (i) and (j), respectively; and

(2) by inserting after subsection (g) the following:

"(h) EXTENSION.—

"(1) IN GENERAL.—After completing the report under subsection (d), the Secretary may extend in 1

year increments, upon application, the implementation deadline, if the Secretary—

"(A) determines that—

"(i) full implementation will likely be infeasible due to circumstances beyond the control of the applicant, including funding availability, spectrum acquisition, resource and technology availability, and interoperability standards;

"(ii) the applicant has demonstrated good faith in its positive train control implementation;

"(iii) the applicant has presented a revised positive train control implementation plan indicating how it will fully implement positive train control as soon as feasible, and not later than December 31, 2018; and

"(iv) such extension will not extend beyond December 31, 2018; and

"(B) takes into consideration—

"(i) whether the affected areas of track have been identified as areas of greater risk to the public and railroad employees in the applicant's positive train

control implementation plan under section 236.1011(a)(4) of title 49, Code of Federal Regulations; and

"(ii) the risk of operational failure to the affected service areas and the applicant.

"(2) APPLICATION REVIEW.—The Secretary shall review an application submitted pursuant to paragraph (1) and approve or disapprove the application not later than 10 days after the application is received.".

(d) APPLICABILITY.—Section 20157 is amended by striking "transported;" in subsection (a)(1)(B) and inserting "transported on or after December 31, 2015;".

**SEC. 35302. ADDITIONAL ELIGIBILITY FOR RAILROAD REHABILITATION AND IMPROVEMENT FINANCING.**

(a) POSITIVE TRAIN CONTROL SYSTEMS.—Section 502(b)(1) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822(b)(1)), is amended—

(1) in subparagraph (B) by striking "or";

(2) in subparagraph (C) by striking "facilities." and inserting "facilities; or"; and

(3) by adding at the end the following:

"(D) implement a positive train control system, as required by section 20157 of title 49, United States Code.".

(b) POSITIVE TRAIN CONTROL COLLATERAL.—Section 502(h)(2) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822(h)(2)), is amended by adding at the end the following:

"For purposes of making a finding under subsection (g)(4) for a loan for positive train control, the total cost of the labor and materials associated with installing positive train control shall be deemed to be equal to the collateral value of that asset.".

**SEC. 35303. FCC STUDY OF SPECTRUM AVAILABILITY.**

(a) SPECTRUM NEEDS ASSESSMENT.—Not later than 120 days after the date of enactment of this Act, the Secretary of Transportation and the Chairman of the Federal Communications Commission shall coordinate to assess spectrum needs and availability for implementing positive train control systems, as defined in section 20157 of title 49, United States Code. In conducting the spectrum needs assessment, the Secretary and the Chairman shall—

(1) evaluate the information provided in the Federal Communications Commission WT–11–79 proceeding;

(2) evaluate the positive train control implementations plans and any subsequent amendments or waivers to those plans provided to the Federal Railroad Administration; and

(3) evaluate individual railroad spectrum demand studies.

(b) RECOMMENDATIONS.—Not later than 90 days after the completion of the spectrum needs assessment under subsection (a), the Secretary and the Chairman shall submit a plan to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives, for approximate resolution to any issues that may prevent railroad carriers or entities from complying with the December 31, 2015, positive train control implementation deadline.

# Subtitle D—Freight Rail

**SEC. 35401. RAIL LINE RELOCATION.**

Section 20154 is amended—

(1) in subsection (b)—

(A) by striking ''either'';

(B) by striking ''or'' at the end of paragraph (1);

(C) by striking the period at the end of paragraph (2) and inserting ''; or''; and

(D) by adding at the end the following:

''(3) involves a lateral or vertical relocation of any portion of a road.'';

(2) in subsection (e)(1), by striking ''10'' and inserting ''20''; and

(3) in subsection (h)(3), by inserting ''a public agency,'' after ''of a State,''.

**SEC. 35402. COMPILATION OF COMPLAINTS.**

(a) IN GENERAL.—Section 704 is amended—

(1) by striking the section heading and inserting the following:

**''§ 704. Reports'';**

(2) by inserting ''(a) ANNUAL REPORT.—'' before ''The Board''; and

(3) by adding at the end the following:

''(b) COMPLAINTS.—

''(1) IN GENERAL.—The Board shall establish and maintain a database of complaints received by the Board.

''(2) QUARTERLY REPORT.—The Board shall post a quarterly report of formal and informal service complaints received by the Board during the previous quarter that includes—

''(A) a list of the type of each complaint;

"(B) the geographic region of the complaint; and

"(C) the resolution of the complaint, if appropriate.

"(3) WRITTEN CONSENT.—The quarterly report may identify a complainant that submitted an informal complaint only upon the written consent of the complainant.

"(4) WEBSITE POSTING.—The report shall be posted on the Board's public website.".

(b) CONFORMING AMENDMENT.—The table of contents for chapter 7 is amended by striking the item relating to section 704 and inserting the following:

"704. Reports.".

**SEC. 35403. MAXIMUM RELIEF IN CERTAIN RATE CASES.**

(a) IN GENERAL.—The Surface Transportation Board shall revise the maximum amount of rate relief available to railroad shippers in cases brought pursuant to the method developed under section 10701(d)(3) of title 49, United States Code, as that section existed as of the date of enactment of this Act, to be as follows:

(1) $1,500,000 in a rate case brought using the Surface Transportation Board's "three-benchmark" procedure.

(2) $10,000,000 in a rate case brought using the Surface Transportation Board's ''simplified stand-alone cost'' procedure.

(b) PERIODIC REVIEW.—The Board shall periodically review the amounts established by subsection (a) and revise the amounts, as appropriate.

**SEC. 35404. RATE REVIEW TIMELINES.**

In stand-alone cost rate challenges, the Surface Transportation Board shall comply with the following timelines unless it extends them, after a request from any party or in the interest of due process:

(1) For discovery, 150 days after the date on which the challenge is initiated.

(2) For development of the evidentiary record, 155 days after that date.

(3) For submission of parties' closing briefs, 60 days after that date.

(4) For a final Board decision, 180 days after the date on which the parties submit closing briefs.

**SEC. 35405. REVENUE ADEQUACY STUDY.**

(a) REVENUE ADEQUACY STUDY.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Surface Transportation Board shall initiate a study to pro-

vide further guidance on how it will apply its revenue adequacy constraint.

(2) CONSIDERATIONS.—In conducting the study, the Surface Transportation Board shall consider whether to apply the revenue adequacy constrain using replacement costs to value the assets of rail facilities and equipment.

(b) PUBLIC NOTICE.—In conducting the study under subsection (a), the Surface Transportation Board shall—

(1) provide public notice;

(2) an opportunity for comment; and

(3) conduct 1 or more public hearings.

(c) REPORT.—Not later than 60 days after the study under subsection (a) is complete, the Surface Transportation Board shall submit the findings of the study to the Commerce, Science, and Transportation Committee of the Senate and the Transportation and Infrastructure Committee of the House of Representatives.

**SEC. 35406. QUARTERLY REPORTS.**

Not later than 60 days after the date of enactment of this Act, the Surface Transportation Board shall provide quarterly reports to the Commerce, Science, and Transportation Committee of the Senate and the Transportation and Infrastructure Committee of the House of Representatives on the Surface Transportation Board's

progress toward addressing issues raised in unfinished regulatory proceedings, regardless of whether a proceeding is subject to a statutory or regulatory deadline.

**SEC. 35407. WORKFORCE REVIEW.**

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Chairman of the Surface Transportation Board, in consultation with the Director of the Office of Personnel Management, shall conduct a review of the Surface Transportation Board workforce to assist in the development of a comprehensive, long-term human capital improvement plan.

(b) PLAN.—Not later than 180 days after the review under subsection (a) is complete, the Chairman shall develop a comprehensive, long-term human capital improvement plan for Surface Transportation Board personnel to identify—

(1) the optimal workforce size of the Surface Transportation Board to address its current and future program needs;

(2) the hiring, training, managing, and compensation needs to recruit and retain qualified personnel, including experts to assess long-standing and emerging railroad industry trends;

(3) the means for improving the current organizational structure and workforce to most efficiently

execute the Surface Transportation Board's mission; and

(4) any recommendations for potential coordination with colleges, universities, or other non-profit organizations for training programs to support workforce development.

(c) REPORT.—The Chairman shall submit the plan to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

**SEC. 35408. RAILROAD REHABILITATION AND IMPROVEMENT FINANCING.**

(a) CONDITIONS OF ASSISTANCE.—Section 502(h)(2) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822(h)(2)), as amended by section 36302 of this Act, is amended by adding at the end the following:

''The Secretary shall accept, for the purpose of making a finding with regard to adequate collateral for a public entity, the net present value on a future stream of State or local subsidy income or a dedicated revenue as collateral offered to secure a loan.''.

(b) ELIGIBLE PURPOSES.—Section 502(b)(1) of the Railroad Revitalization and Regulatory Reform Act of

1976 (45 U.S.C. 822(b)(1)), as amended by section 36302 of this Act, is further amended—

(1) by striking ''or'' at the end of subparagraph (C);

(2) by striking the period at the end of subparagraph (D) and inserting ''; or''; and

(3) by adding at the end the following:

''(E) conduct preliminary engineering, environmental review, permitting, or other preconstruction activities.''.

(c) STUDY.—The Secretary shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives detailing recommendations for improving the Railroad Rehabilitation and Improvement Financing program administration, including timely processing of applications, expansion of eligibilities, and other issues that impede passenger and rail carriers from utilizing the program.

# Subtitle E—Technical Corrections

**SEC. 35501. TECHNICAL CORRECTIONS.**

(a) RAIL SAFETY IMPROVEMENT ACT OF 2008.—

(1) The table of contents in section 1(b) of the Rail Safety Improvement Act of 2008 (122 Stat. 4848) is amended—

(A) by striking the item relating to section 201 and inserting the following:

"Sec. 201. Pedestrian safety at or near railroad passenger stations."; and

(B) by striking the item relating to section 403 and inserting the following:

"Sec. 403. Study and rulemaking on track inspection time; rulemaking on concrete crossties.".

(2) Section 2(a)(1) of the Rail Safety Improvement Act of 2008 (49 U.S.C. 20102 note), is amended by inserting a comma after "railroad tracks at grade".

(3) Section 102(a) of the Rail Safety Improvement Act of 2008 (49 U.S.C. 20101 note), is amended—

(A) by striking ", at a minimum,";

(B) in paragraph (1), by inserting a comma after "railroads"; and

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

"(6) Improving the safety of railroad bridges, tunnels, and related infrastructure to prevent accidents, incidents, injuries, and fatalities caused by catastrophic and other failures of such infrastructure.".

(4) Section 108(f)(1) of the Rail Safety Improvement Act of 2008 (49 U.S.C. 21101 note), is

amended by striking ''requirements for record-keeping and reporting for Hours of Service of Railroad Employees'' and inserting ''requirements for record keeping and reporting for hours of service of railroad employees''.

(5) Section 201 of the Rail Safety Improvement Act of 2008 (49 U.S.C. 20134 note), is amended—

(A) in the section heading, by striking ''**PEDESTRIAN CROSSING SAFETY.**'' and inserting ''**PEDESTRIAN SAFETY AT OR NEAR RAILROAD PASSENGER STATIONS.**'';

(B) by striking ''strategies and methods to prevent pedestrian accidents, incidents, injuries, and fatalities at or near passenger stations, including'' and inserting ''strategies and methods to prevent train-related accidents, incidents, injuries, and fatalities that involve a pedestrian at or near a railroad passenger station, including''; and

(C) in paragraph (1) by striking ''at railroad passenger stations''.

(6) Section 206(a) of the Rail Safety Improvement Act of 2008 (49 U.S.C. 22501 note), is amended by striking ''Public Service Announce-

ments'' and inserting ''public service announcements''.

(7) Section 403 of the Rail Safety Improvement Act of 2008 (49 U.S.C. 20142 note), is amended—

(A) in the section heading, by striking ''**TRACK INSPECTION TIME STUDY.**'' and inserting ''**STUDY AND RULEMAKING ON TRACK INSPECTION TIME; RULEMAKING ON CONCRETE CROSSTIES.**''; and

(B) in subsection (d)—

(i) by striking ''CROSS TIES'' in the subsection heading and inserting ''CROSSTIES'';

(ii) by striking ''cross ties'' and inserting ''crossties''; and

(iii) in paragraph (2), by striking ''cross tie'' and inserting ''crosstie''.

(8) Section 405 of the Rail Safety Improvement Act of 2008 (49 U.S.C. 20103 note), is amended—

(A) in subsection (a), by striking ''cell phones'' and inserting ''cellular telephones''; and

(B) in subsection (d)—

(i) by striking ''of Transportation''; and

(ii) by striking ''cell phones'' and inserting ''cellular telephones''.

(9) Section 411(a) of the Rail Safety Improvement Act of 2008 (49 U.S.C. 5103 note), is amended—

(A) by striking ''5101(a)'' and inserting ''5105(a)''; and

(B) by striking ''5101(b)'' and inserting ''5105(b)''.

(10) Section 412 of the Rail Safety Improvement Act of 2008 (49 U.S.C. 20140 note), is amended by striking ''of Transportation''.

(11) Section 414(2) of the Rail Safety Improvement Act of 2008 (49 U.S.C. 20103 note), is amended—

(A) by striking ''parts'' and inserting ''sections''; and

(B) by striking ''part'' and inserting ''section''.

(12) Section 416 of the Rail Safety Improvement Act of 2008 (49 U.S.C. 20107 note), is amended—

(A) by striking ''of Transportation'';

(B) in paragraphs (3) and (4), by striking ''Federal Railroad Administration'' and inserting ''Secretary''; and

(C) in paragraph (4), by striking ''subsection'' and inserting ''section''.

(13) Section 417(c) of the Rail Safety Improvement Act of 2008 (49 U.S.C. 20103 note), is amended by striking ''each railroad'' and inserting ''each railroad carrier''.

(14) Section 503 of the Rail Safety Improvement Act of 2008 (49 U.S.C. 1139 note), is amended—

(A) in subsection (a), by striking ''rail accidents'' and inserting ''rail passenger accidents'';

(B) in subsection (b)—

(i) by striking ''passenger rail accidents'' and inserting ''rail passenger accidents''; and

(ii) by striking ''passenger rail accident'' each place it appears and inserting ''rail passenger accidents''; and

(C) by adding at the end the following:

''(d) DEFINITIONS.—In this section, the terms 'passenger', 'rail passenger accident', and 'rail passenger car-

rier' have the meanings given the terms in section 1139 of title 49, United States Code.''

''(e) FUNDING.—Out of the funds appropriated pursuant to section 20117(a)(1)(A) of title 49, United States Code, there shall be made available to the Secretary of Transportation $500,000 for fiscal year 2009 to carry out this section. Amounts made available pursuant to this subsection shall remain available until expended.''.

(b) PASSENGER RAIL INVESTMENT AND IMPROVEMENT ACT OF 2008.—

(1) Section 206(a) of the Passenger Rail Investment and Improvement Act of 2008 (49 U.S.C. 24101 note), is amended by inserting ''of this division'' after ''302''.

(2) Section 211 of the Passenger Rail Investment and Improvement Act of 2008 (49 U.S.C. 24902 note), is amended—

(A) in subsection (d), by inserting ''of this division'' after ''101(c)''; and

(B) in subsection (e), by inserting ''of this division'' after ''101(d)''.

(c) TITLE 49 OF THE UNITED STATE CODE.—

(1) Section 1139 is amended—

(A) in subsection (a)(1), by striking ''phone number'' and inserting ''telephone number'';

(B) in subsection (a)(2), by striking ''post trauma'' and inserting ''post-trauma'';

(C) in subsections (h)(1)(A) and (h)(2)(A)—

(i) by striking ''interstate''; and

(ii) by striking ''such term is'';

(D) in subsection (g)(1), by striking ''board'' in the heading and inserting ''BOARD'';

(E) in subsections (h)(1)(B) and (h)(2)(B)—

(i) by striking ''interstate or intrastate''; and

(ii) by striking ''such term is'';

(F) in subsection (j)(1)—

(i) by striking ''(other than subsection (g))'' and inserting ''(except for subsections (g) and (k))''; and

(ii) by striking ''railroad passenger accident'' and inserting ''rail passenger accident''; and

(G) in subsection (j)(2), by striking ''railroad passenger accident'' and inserting ''rail passenger accident''.

(2) Section 10909(b) is amended—

(A) by striking ''Railroad'' and inserting ''Railroads''; and

(B) in paragraph (2), by inserting a comma after ''comment''.

(3) Section 20109 is amended—

(A) in subsection (c)(1), by striking ''the railroad shall promptly arrange'' and inserting ''the railroad carrier shall promptly arrange'';

(B) in subsection (d)(2)(A)(i), by striking ''(d)'' and inserting ''paragraph'' after ''under'';

(C) in subsection (d)(2)(A)(iii), by inserting ''section'' after ''set forth in''; and

(D) in subsection (d)(4)(i), by striking ''must'' and inserting ''shall''.

(4) Section 20120(a) is amended—

(A) by striking ''(a) IN GENERAL'' and inserting ''Not'';

(B) in paragraph (2)(G), by inserting ''and'' after the semicolon;

(C) in paragraph (4), by striking ''provide'' and inserting ''provides'';

(D) in paragraph (5)(B), by striking ''Administrative Hearing Officer or Administrative Law Judge'' and inserting ''administrative hearing officer or administrative law judge''; and

(E) in paragraph (7), by striking ''its'' and inserting ''the Secretary's or the Federal Railroad Administrator's''.

(5) Section 20151(d)(1) is amended by striking ''to drive around a grade crossing gate'' and inserting ''to drive through, around, or under a grade crossing gate''.

(6) Section 20152(b) is amended by striking ''rail carriers'' and inserting ''railroad carriers''.

(7) Section 20156 is amended—

(A) in subsection (c), by inserting a comma after ''In developing its railroad safety risk reduction program''; and

(B) in subsection (g)(1), by striking ''nonprofit'' and inserting ''nonprofit''.

(8) Section 20157(a)(1) is amended—

(A) by striking ''Class I railroad carrier'' and inserting ''Class I railroad''; and

(B) by striking ''parts'' and inserting ''sections''.

(9) Section 20158(b)(3) is amended by striking ''20156(e)(2)'' and inserting ''20156(e)''.

(10) Section 20159 is amended by inserting ''of Transportation'' after ''the Secretary''.

(11) Section 20160 is amended—

(A) in subsection (a)(1), by striking ''or with respect to'' and inserting ''with respect to'';

(B) in subsection (b)(1), by striking ''On a periodic basis beginning not'' and inserting ''Not''; and

(C) in subsection (b)(1)(A), by striking ''or with respect to'' and inserting ''with respect to''.

(12) Section 20162(a)(3) is amended by striking ''railroad compliance with Federal standards'' and inserting ''railroad carrier compliance with Federal standards''.

(13) Section 20164(a) is amended by striking ''Railroad Safety Enhancement Act of 2008'' and inserting ''Rail Safety Improvement Act of 2008''.

(14) Section 21102(c)(4) is amended by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(15) Section 22106(b) is amended by striking ''interest thereof'' and inserting ''interest thereon''.

(16) Section 24101(b) is amended by striking ''subsection (d)'' and inserting ''subsection (c)''.

(17) Section 24316 is amended by striking subsection (g).

(18) The item relating to section 24316 in the table of contents for chapter 243 is amended by striking ''assist'' and inserting ''address needs of''.

(19) Section 24702(a) is amended by striking ''not included in the national rail passenger transportation system''.

(20) Section 24706 is amended—

(A) in subsection (a)(1), by striking ''a discontinuance under section 24704 or or'';

(B) in subsection (a)(2), by striking ''section 24704 or''; and

(C) in subsection (b), by striking ''section 24704 or''.

(21) Section 24709 is amended by striking ''The Secretary of the Treasury and the Attorney General,'' and inserting ''The Secretary of Homeland Security,''.

**SEC. 35502. CONDEMNATION AUTHORITY.**

Section 24311(c) is amended—

(1) in paragraph (1), by striking ''Interstate Commerce Commission'' and inserting ''Surface Transportation Board'';

(2) in paragraph (2), by striking ''Commission's'' and inserting ''Board's''; and

(3) by striking ''Commission'' each place it appears and inserting ''Board''.

# Subtitle F—Licensing and Insurance Requirements for Passenger Rail Carriers

**SEC. 35601. CERTIFICATION OF PASSENGER RAIL CARRIERS.**

(a) Section 10901 is amended by adding at the end the following:

''(e) Not later than 2 years after the date of enactment of the National Rail System Preservation, Expansion, and Development Act of 2012, the Board shall establish a certification process to authorize a person to provide passenger rail transportation over a railroad line that is subject to the jurisdiction of the Board, except that such certification shall not be required for or apply to a freight railroad providing or hosting passenger rail transportation over its own railroad line.

''(f) After the certification process is established under subsection (e), no person may provide passenger rail

transportation over a railroad line subject to the jurisdiction of the Board unless the person is granted a certificate under subsection (e).

"(g) The certification process under subsection (e) shall—

"(1) permit a person to initiate a proceeding for a certificate by filing an application with the Board; and

"(2) require the Board to provide reasonable public notice that a proceeding was initiated, including notice to the Governor of any affected State, not later than 30 days after receipt of the application under paragraph (1).

"(h) The Board may grant a certificate under subsection (e) if the Board determines after consultation with the Secretary of Transportation or the Secretary of Homeland Security, as appropriate, that the applicant—

"(1) has or will have in effect a voluntary agreement with the infrastructure owner over which the passenger rail transportation will be provided or contractual or statutory authority that provides for access to such infrastructure;

"(2) demonstrates sufficient financial capacity and operating experience to provide passenger rail transportation;

"(3) meets all applicable safety and security requirements under the law;

"(4) maintains a total minimum liability coverage for claims through insurance and self-insurance of not less than the amount required by section 28103(a)(2) per accident or incident; and

"(5) complies with any additional requirements the Board determines are appropriate, including reporting requirements to ensure continued compliance with this section.

"(i) A certificate granted under subsection (e) shall specify the person to provide or authorized to provide passenger rail transportation, if different from the applicant.

"(j) The Board may promulgate regulations—

"(1) for determining the adequacy of liability insurance coverage, including self-insurance; and

"(2) for suspending or canceling a certificate if the person to provide or authorized to provide passenger rail transportation fails to comply with subsection (h).

"(k) This section shall not apply to tourist, historical, or excursion passenger rail transportation or other rail carrier that has already obtained construction or operating authority from the Board.".

(b) Section 24301(c) is amended by adding "10901(e)," after "sections" in the first sentence.

(c) Section 10501(c)(3)(A) is amended—

(1) in clause (ii), by striking "and";

(2) in clause (iii), by striking the period at the end and inserting " ; and"; and

(3) by adding at the end the following:

"(iv) section 10901(e).".

(d) Section 14901 is amended—

(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively;

(2) by inserting after subsection (e) the following:

"(f) CERTIFICATION REQUIRED.—A person shall be subject to a penalty of $300 for each passenger transported if the person—

"(1) provides passenger rail transportation subject to jurisdiction under section 10501(a); and

"(2) does not hold a certificate required under section 10901(e)."; and

(3) in subsection (g), as redesignated, by striking "through (e)" and inserting "through (f)".

(e) Section 10502(g) is amended to read as follows:

"(g) The Board may not exercise its authority under this section to relieve a rail carrier of its obligation to pro-

tect the interests of employees as required by this part, or of the requirements of section 10901(g).''.

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

**SEC. 36001. SHORT TITLE.**

This title may be cited as the ''Sport Fish Restoration and Recreational Boating Safety Act of 2012''.

**SEC. 36002. AMENDMENT OF FEDERAL AID IN SPORT FISH RESTORATION ACT.**

Section 4 of the Federal Aid in Fish Restoration Act (16 U.S.C. 777c) is amended—

(1) in subsection (a), by striking ''of fiscal years 2006 through 2011 and for the period beginning on October 1, 2011, and ending on March 31, 2012,'' and inserting ''fiscal year through 2013,''; and

(2) in subsection (b)(1)(A), by striking ''of fiscal years 2006 through 2011 and for the period beginning on October 1, 2011, and ending on March 31, 2012,'' and inserting ''fiscal year through 2013,''.

# TITLE VII—MISCELLANEOUS

**SEC. 37001. AIRCRAFT NOISE ABATEMENT.**

(a) IN GENERAL.—Section 3(b)(2) of Public Law 100–91 (16 U.S.C. 1a–1 note) is amended by adding at the end the following: ''The plan shall not apply to or otherwise affect the regulation of flights over the Grand Canyon at altitudes above the Special Flight Rules Area for the Grand Canyon in effect as of the date of the enactment of the MAP–21, or as subsequently modified by mutual agreement of the Secretary and the Administrator.''.

(b) SAVINGS PROVISIONS.—

(1) JURISDICTION OF NATIONAL AIRSPACE.—None of the recommendations required under section 3(b)(1) of Public Law 100–91 (16 U.S.C. 1a–1 note), including recommendations to raise the flight-free zone altitude ceilings, shall adversely affect the national airspace system, as determined by the Administrator of the Federal Aviation Administration. If the Administrator determines that implementing the recommendations would adversely affect the national airspace system, the Administrator shall consult with the Secretary of the Interior to eliminate the adverse effects.

(2) EFFECT OF NEPA DETERMINATIONS.—None of the environmental thresholds, analyses, impact de-

terminations, or conditions prepared or used by the Secretary to develop recommendations regarding the substantial restoration of natural quiet and experience for the Grand Canyon National Park required under section 3(b)(1) of Public Law 100–91 shall have broader application or be given deference with respect to the Administrator's compliance with the National Environmental Policy Act for proposed aviation actions and decisions. Nothing in this section may be construed to limit the ability of the National Park Service to use its own methods of analysis and impact determinations for air tour management planning within its purview under the National Parks Air Tour Management Act of 2000 (title VIII of Public Law 106–181).

(c) CONVERSION TO QUIET TECHNOLOGY AIRCRAFT.—

(1) IN GENERAL.—Not later than 15 years after the date of the enactment of this Act, all commercial air tour aircraft operating in the Grand Canyon National Park Special Flight Rules Area shall be required to fully convert to quiet aircraft technology (as determined in accordance with regulations in effect on the day before the date of the enactment of this Act).

(2) CONVERSION INCENTIVES.—Not later than 60 days after the date of the enactment of this Act, the Secretary and the Administrator of the Federal Aviation Administration shall provide incentives for commercial air tour operators that convert to quiet aircraft technology (as determined in accordance with the regulations in effect on the day before the date of the enactment of this Act) before the date specified in paragraph (1), such as increasing the flight allocations for such operators on a net basis consistent with section 804(c) of the National Park Air Tours Management Act of 2000 (title VIII of Public Law 106–181), provided that the cumulative impact of such operations does not increase noise at Grand Canyon National Park.

# DIVISION D—FINANCE

**SEC. 40001. SHORT TITLE.**

This division may be cited as the ''Highway Investment, Job Creation, and Economic Growth Act of 2012''.

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

**SEC. 40101. EXTENSION OF TRUST FUND EXPENDITURE AUTHORITY.**

(a) HIGHWAY TRUST FUND.—Section 9503 of the Internal Revenue Code of 1986 is amended—

(1) by striking ''April 1, 2012'' in subsections (b)(6)(B), (c)(1), and (e)(3) and inserting ''October 1, 2013''; and

(2) by striking ''Surface Transportation Extension Act of 2011, Part II'' in subsections (c)(1) and (e)(3) and inserting ''Moving Ahead for Progress in the 21st Century Act''.

(b) SPORT FISH RESTORATION AND BOATING TRUST FUND.—Section 9504 of the Internal Revenue Code of 1986 is amended—

(1) by striking ''Surface Transportation Extension Act of 2011, Part II'' each place it appears in subsection (b)(2) and inserting ''Moving Ahead for Progress in the 21st Century Act''; and

(2) by striking ''April 1, 2012'' in subsection (d)(2) and inserting ''October 1, 2013''.

(c) LEAKING UNDERGROUND STORAGE TANK TRUST FUND.—Paragraph (2) of section 9508(e) of the Internal Revenue Code of 1986 is amended by striking ''April 1, 2012'' and inserting ''October 1, 2013''.

(d) ESTABLISHMENT OF SOLVENCY ACCOUNT.—Section 9503 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

''(g) ESTABLISHMENT OF SOLVENCY ACCOUNT.—

''(1) CREATION OF ACCOUNT.—There is established in the Highway Trust Fund a separate account to be known as the 'Solvency Account' consisting of such amounts as may be transferred or credited to the Solvency Account as provided in this section or section 9602(b).

''(2) TRANSFERS TO SOLVENCY ACCOUNT.—The Secretary of the Treasury shall transfer to the Solvency Account the excess of—

''(A) any amount appropriated to the Highway Trust Fund before October 1, 2013, by reason of the provisions of, and amendments made by, the Highway Investment, Job Creation, and Economic Growth Act of 2012, over

''(B) the amount necessary to meet the required expenditures from the Highway Trust

Fund under subsection (c) for the period ending before October 1, 2013.

"(3) EXPENDITURES FROM ACCOUNT.—Amounts in the Solvency Account shall be available for transfers to the Highway Account (as defined in subsection (e)(5)(B)) and the Mass Transit Account in such amounts as determined necessary by the Secretary to ensure that each account has a surplus balance of $2,800,000,000 on September 30, 2013.

"(4) TERMINATION OF ACCOUNT.—The Solvency Account shall terminate on September 30, 2013, and the Secretary shall transfer any remaining balance in the Account on such date to the Highway Trust Fund.".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on April 1, 2012.

**SEC. 40102. EXTENSION OF HIGHWAY-RELATED TAXES.**

(a) IN GENERAL.—

(1) Each of the following provisions of the Internal Revenue Code of 1986 is amended by striking "March 31, 2012" and inserting "September 30, 2015":

(A) Section 4041(a)(1)(C)(iii)(I).

(B) Section 4041(m)(1)(B).

(C) Section 4081(d)(1).

(2) Each of the following provisions of such Code is amended by striking ''April 1, 2012'' and inserting ''October 1, 2015'':

(A) Section 4041(m)(1)(A).

(B) Section 4051(c).

(C) Section 4071(d).

(D) Section 4081(d)(3).

(b) EXTENSION OF TAX, ETC., ON USE OF CERTAIN HEAVY VEHICLES.—Each of the following provisions of the Internal Revenue Code of 1986 is amended by striking ''2012'' and inserting ''2015'':

(1) Section 4481(f).

(2) Subsections (c)(4) and (d) of section 4482.

(c) FLOOR STOCKS REFUNDS.—Section 6412(a)(1) of the Internal Revenue Code of 1986 is amended—

(1) by striking ''April 1, 2012'' each place it appears and inserting ''October 1, 2015'';

(2) by striking ''September 30, 2012'' each place it appears and inserting ''March 31, 2016''; and

(3) by striking ''July 1, 2012'' and inserting ''January 1, 2016''.

(d) EXTENSION OF CERTAIN EXEMPTIONS.—Sections 4221(a) and 4483(i) of the Internal Revenue Code

of 1986 are each amended by striking ''April 1, 2012'' and inserting ''October 1, 2015''.

(e) EXTENSION OF TRANSFERS OF CERTAIN TAXES.—

(1) IN GENERAL.—Section 9503 of the Internal Revenue Code of 1986 is amended—

(A) in subsection (b)—

(i) by striking ''April 1, 2012'' each place it appears in paragraphs (1) and (2) and inserting ''October 1, 2015'';

(ii) by striking ''APRIL 1, 2012'' in the heading of paragraph (2) and inserting ''OCTOBER 1, 2015'';

(iii) by striking ''March 31, 2012'' in paragraph (2) and inserting ''September 30, 2015''; and

(iv) by striking ''January 1, 2013'' in paragraph (2) and inserting ''July 1, 2016''; and

(B) in subsection (c)(2), by striking ''January 1, 2013'' and inserting ''July 1, 2016''.

(2) MOTORBOAT AND SMALL-ENGINE FUEL TAX TRANSFERS.—

(A) IN GENERAL.—Paragraphs (3)(A)(i) and (4)(A) of section 9503(c) of such Code are

each amended by striking ''April 1, 2012'' and inserting ''October 1, 2015''.

(B) CONFORMING AMENDMENTS TO LAND AND WATER CONSERVATION FUND.—Section 201(b) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–11(b)) is amended—

(i) by striking ''April 1, 2013'' each place it appears and inserting ''October 1, 2016''; and

(ii) by striking ''April 1, 2012'' and inserting ''October 1, 2015''.

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on April 1, 2012.

# TITLE II—OTHER PROVISIONS

## SEC. 40201. TEMPORARY INCREASE IN SMALL ISSUER EXCEPTION TO TAX-EXEMPT INTEREST EXPENSE ALLOCATION RULES FOR FINANCIAL INSTITUTIONS.

(a) IN GENERAL.—Subparagraph (G) of section 265(b)(3) of the Internal Revenue Code of 1986 is amended—

(1) by striking ''2009 or 2010'' each place it appears in clauses (i), (ii), and (iii) and inserting

"2009, 2010, or the period beginning after June 30, 2012, and before July 1, 2013", and

(2) by striking "2009 AND 2010" in the heading and inserting "2009, 2010, 2012, AND 2013".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after June 30, 2012.

**SEC. 40202. TEMPORARY MODIFICATION OF ALTERNATIVE MINIMUM TAX LIMITATIONS ON TAX-EXEMPT BONDS.**

(a) INTEREST ON PRIVATE ACTIVITY BONDS NOT TREATED AS TAX PREFERENCE ITEMS.—Clause (vi) of section 57(a)(5)(C) of the Internal Revenue Code of 1986 is amended—

(1) in subclause (I) by inserting ", or after the date of enactment of the Highway Investment, Job Creation, and Economic Growth Act of 2012 and before January 1, 2013" after "January 1, 2011";

(2) in subclause (III) by inserting "before January 1, 2011" after "which is issued"; and

(3) by striking "AND 2010" in the heading and inserting ", 2010, AND PORTIONS OF 2012".

(b) NO ADJUSTMENT TO ADJUSTED CURRENT EARNINGS.—Clause (iv) of section 56(g)(4)(B) of the Internal Revenue Code of 1986 is amended—

(1) in subclause (I) by inserting ", or after the date of enactment of the Highway Investment, Job Creation, and Economic Growth Act of 2012 and before January 1, 2013" after "January 1, 2011";

(2) in subclause (III) by inserting "before January 1, 2011" after "which is issued"; and

(3) by striking "AND 2010" in the heading and inserting ", 2010, AND PORTIONS OF 2012".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of enactment of this Act.

**SEC. 40203. ISSUANCE OF TRIP BONDS BY STATE INFRASTRUCTURE BANKS.**

Section 610(d) of title 23, United States Code, is amended—

(1) by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively,

(2) by inserting after paragraph (3) the following new paragraph:

"(4) TRIP BOND ACCOUNT.—

"(A) IN GENERAL.—A State, through a State infrastructure bank, may issue TRIP bonds and deposit proceeds from such issuance into the TRIP bond account of the bank.

"(B) TRIP BOND.—For purposes of this section, the term 'TRIP bond' means any bond issued as part of an issue if—

"(i) 100 percent of the available project proceeds of such issue are to be used for expenditures incurred after the date of the enactment of this paragraph for 1 or more qualified projects pursuant to an allocation of such proceeds to such project or projects by a State infrastructure bank,

"(ii) the bond is issued by a State infrastructure bank and is in registered form (within the meaning of section 149(a) of the Internal Revenue Code of 1986),

"(iii) the State infrastructure bank designates such bond for purposes of this section, and

"(iv) the term of each bond which is part of such issue does not exceed 30 years.

"(C) QUALIFIED PROJECT.—For purposes of this subparagraph, the term 'qualified project' means the capital improvements to any transportation infrastructure project of any

governmental unit or other person, including roads, bridges, rail and transit systems, ports, and inland waterways proposed and approved by a State infrastructure bank, but does not include costs of operations or maintenance with respect to such project.'',

(3) by adding at the end of paragraph (5), as redesignated by paragraph (1), the following new subparagraph:

''(D) TRIP BOND ACCOUNT.—Funds deposited into the TRIP bond account shall constitute for purposes of this section a capitalization grant for the TRIP bond account of the bank.'', and

(4) by adding at the end the following new paragraph:

''(8) SPECIAL RULES FOR TRIP BOND ACCOUNT FUNDS.—

''(A) IN GENERAL.—The State shall develop a transparent competitive process for the award of funds deposited into the TRIP bond account that considers the impact of qualified projects on the economy, the environment, state of good repair, and equity.

"(B) APPLICABILITY OF FEDERAL LAW.—The requirements of any Federal law, including this title and titles 40 and 49, which would otherwise apply to projects to which the United States is a party or to funds made available under such law and projects assisted with those funds shall apply to—

"(i) funds made available under the TRIP bond account for similar qualified projects, and

"(ii) similar qualified projects assisted through the use of such funds.".

**SEC. 40204. EXTENSION OF PARITY FOR EXCLUSION FROM INCOME FOR EMPLOYER-PROVIDED MASS TRANSIT AND PARKING BENEFITS.**

(a) IN GENERAL.—Paragraph (2) of section 132(f) of the Internal Revenue Code of 1986 is amended by striking "January 1, 2012" and inserting "January 1, 2013".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to months after December 31, 2011.

**SEC. 40205. EXEMPT-FACILITY BONDS FOR SEWAGE AND WATER SUPPLY FACILITIES.**

(a) BONDS FOR WATER AND SEWAGE FACILITIES TEMPORARILY EXEMPT FROM VOLUME CAP ON PRIVATE

ACTIVITY BONDS.—Subsection (g) of section 146 of the Internal Revenue Code of 1986 is amended—

(1) by striking ''and'' at the end of paragraph (3),

(2) by striking the period at the end of paragraph (4) and inserting '', and'', and

(3) by inserting after paragraph (4) the following new paragraph:

''(5) any exempt facility bonds issued before January 1, 2018, as part of an issue described in paragraph (4) or (5) of section 142(a).''.

(b) CONFORMING CHANGE.—Paragraphs (2) and (3)(B) of section 146(k) of the Internal Revenue Code of 1986 are both amended by striking ''paragraph (4), (5), (6), or (10) of section 142(a)'' and inserting ''paragraph (4) or (5) of section 142(a) with respect to bonds issued after December 31, 2017, or paragraph (6) or (10) of section 142(a)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

# TITLE III—REVENUE PROVISIONS

**SEC. 40301. TRANSFER FROM LEAKING UNDERGROUND STORAGE TANK TRUST FUND TO HIGHWAY TRUST FUND.**

(a) IN GENERAL.—Subsection (c) of section 9508 of the Internal Revenue Code of 1986 is amended—

(1) by striking ''Amounts'' and inserting:

''(1) IN GENERAL.—Except as provided in paragraph (2), amounts'', and

(2) by adding at the end the following new paragraph:

''(2) TRANSFER TO HIGHWAY TRUST FUND.—Out of amounts in the Leaking Underground Storage Tank Trust Fund there is hereby appropriated $3,000,000,000 to be transferred under section 9503(f)(3) to the Highway Trust Fund.''.

(b) TRANSFER TO HIGHWAY TRUST FUND.—

(1) IN GENERAL.—Subsection (f) of section 9503 of the Internal Revenue Code of 1986 is amended by inserting after paragraph (2) the following new paragraph:

''(3) INCREASE IN FUND BALANCE.—There is hereby transferred to the Highway Trust Fund amounts appropriated from the Leaking Under-

ground Storage Tank Trust Fund under section 9508(c)(2).''.

(2) CONFORMING AMENDMENTS.—Paragraph (4) of section 9503(f) of such Code is amended—

(A) by inserting ''or transferred'' after ''appropriated'', and

(B) by striking ''APPROPRIATED'' in the heading thereof.

**SEC. 40302. PORTION OF LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE TRANSFERRED TO HIGHWAY TRUST FUND.**

(a) IN GENERAL.—Subsection (b) of section 9503 of the Internal Revenue Code of 1986 is amended by inserting after paragraph (2) the following new paragraph:

''(3) PORTION OF LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE.—There are hereby appropriated to the Highway Trust Fund amounts equivalent to one-third of the taxes received in the Treasury under—

''(A) section 4041(d) (relating to additional taxes on motor fuels),

''(B) section 4081 (relating to tax on gasoline, diesel fuel, and kerosene) to the extent attributable to the Leaking Underground Storage

Tank Trust Fund financing rate under such section, and

"(C) section 4042 (relating to tax on fuel used in commercial transportation on inland waterways) to the extent attributable to the Leaking Underground Storage Tank Trust Fund financing rate under such section.

For purposes of this paragraph, there shall not be taken into account the taxes imposed by sections 4041 and 4081 on diesel fuel sold for use or used as fuel in a diesel-powered boat.".

(b) CONFORMING AMENDMENTS.—

(1) Paragraphs (1), (2), and (3) of section 9508(b) of the Internal Revenue Code of 1986 are each amended by inserting "two-thirds of the" before "taxes".

(2) Paragraph (4) of section 9503(b) of such Code is amended by striking subparagraphs (A) and (B) and by redesignating subparagraphs (C) and (D) as subparagraphs (A) and (B), respectively.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxes received after the date of the enactment of this Act.

**SEC. 40303. TRANSFER OF GAS GUZZLER TAXES TO HIGHWAY TRUST FUND.**

(a) IN GENERAL.—Paragraph (1) of section 9503(b) of the Internal Revenue Code of 1986 is amended by redesignating subparagraphs (C), (D), and (E) as subparagraphs (D), (E), and (F), respectively, and by inserting after subparagraph (B) the following new subparagraph:

"(B) section 4064 (relating to gas guzzler tax),".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxes received after the date of the enactment of this Act.

**SEC. 40304. REVOCATION OR DENIAL OF PASSPORT IN CASE OF CERTAIN UNPAID TAXES.**

(a) IN GENERAL.—Subchapter D of chapter 75 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

**"SEC. 7345. REVOCATION OR DENIAL OF PASSPORT IN CASE OF CERTAIN TAX DELINQUENCIES.**

"(a) IN GENERAL.—If the Secretary receives certification by the Commissioner of Internal Revenue that any individual has a seriously delinquent tax debt in an amount in excess of $50,000, the Secretary shall transmit such certification to the Secretary of State for action with respect to denial, revocation, or limitation of a passport pursuant to section 4 of the Act entitled 'An Act to regu-

1 late the issue and validity of passports, and for other pur-
2 poses', approved July 3, 1926 (22 U.S.C. 211a et seq.),
3 commonly known as the 'Passport Act of 1926'.

4 "(b) SERIOUSLY DELINQUENT TAX DEBT.—For pur-
5 poses of this section, the term 'seriously delinquent tax
6 debt' means an outstanding debt under this title for which
7 a notice of lien has been filed in public records pursuant
8 to section 6323 or a notice of levy has been filed pursuant
9 to section 6331, except that such term does not include—

10 "(1) a debt that is being paid in a timely man-
11 ner pursuant to an agreement under section 6159 or
12 7122, and

13 "(2) a debt with respect to which collection is
14 suspended because a collection due process hearing
15 under section 6330, or relief under subsection (b),
16 (c), or (f) of section 6015, is requested or pending.

17 "(c) ADJUSTMENT FOR INFLATION.—In the case of
18 a calendar year beginning after 2012, the dollar amount
19 in subsection (a) shall be increased by an amount equal
20 to—

21 "(1) such dollar amount, multiplied by

22 "(2) the cost-of-living adjustment determined
23 under section 1(f)(3) for the calendar year, deter-
24 mined by substituting 'calendar year 2011' for 'cal-
25 endar year 1992' in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $1,000, such amount shall be rounded to the next highest multiple of $1,000.''.

(b) CLERICAL AMENDMENT.—The table of sections for subchapter D of chapter 75 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

''Sec. 7345. Revocation or denial of passport in case of certain tax delinquencies.''.

(c) AUTHORITY FOR INFORMATION SHARING.—

(1) IN GENERAL.—Subsection (l) of section 6103 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(23) DISCLOSURE OF RETURN INFORMATION TO DEPARTMENT OF STATE FOR PURPOSES OF PASSPORT REVOCATION UNDER SECTION 7345.—

''(A) IN GENERAL.—The Secretary shall, upon receiving a certification described in section 7345, disclose to the Secretary of State return information with respect to a taxpayer who has a seriously delinquent tax debt described in such section. Such return information shall be limited to—

''(i) the taxpayer identity information with respect to such taxpayer, and

"(ii) the amount of such seriously delinquent tax debt.

"(B) RESTRICTION ON DISCLOSURE.—Return information disclosed under subparagraph (A) may be used by officers and employees of the Department of State for the purposes of, and to the extent necessary in, carrying out the requirements of section 4 of the Act entitled 'An Act to regulate the issue and validity of passports, and for other purposes', approved July 3, 1926 (22 U.S.C. 211a et seq.), commonly known as the 'Passport Act of 1926'.".

(2) CONFORMING AMENDMENT.—Paragraph (4) of section 6103(p) of such Code is amended by striking "or (22)" each place it appears in subparagraph (F)(ii) and in the matter preceding subparagraph (A) and inserting "(22), or (23)".

(d) REVOCATION AUTHORIZATION.—The Act entitled "An Act to regulate the issue and validity of passports, and for other purposes", approved July 3, 1926 (22 U.S.C. 211a et seq.), commonly known as the "Passport Act of 1926", is amended by adding at the end the following:

**"SEC. 4. AUTHORITY TO DENY OR REVOKE PASSPORT.**

"(a) INELIGIBILITY.—

"(1) ISSUANCE.—Except as provided under subsection (b), upon receiving a certification described in section 7345 of the Internal Revenue Code of 1986 from the Secretary of the Treasury, the Secretary of State may not issue a passport or passport card to any individual who has a seriously delinquent tax debt described in such section.

"(2) REVOCATION.—The Secretary of State shall revoke a passport or passport card previously issued to any individual described in subparagraph (A).

"(b) EXCEPTIONS.—

"(1) EMERGENCY AND HUMANITARIAN SITUATIONS.—Notwithstanding subsection (a), the Secretary of State may issue a passport or passport card, in emergency circumstances or for humanitarian reasons, to an individual described in subsection (a)(1).

"(2) LIMITATION FOR RETURN TO UNITED STATES.—Notwithstanding subsection (a)(2), the Secretary of State, before revocation, may—

"(A) limit a previously issued passport or passport card only for return travel to the United States; or

"(B) issue a limited passport or passport card that only permits return travel to the United States.".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2013.

**SEC. 40305. 100 PERCENT CONTINUOUS LEVY ON PAYMENTS TO MEDICARE PROVIDERS AND SUPPLIERS.**

(a) IN GENERAL.—Paragraph (3) of section 6331(h) of the Internal Revenue Code of 1986 is amended by striking the period at the end and inserting ", or to a Medicare provider or supplier under title XVIII of the Social Security Act.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to payments made after the date of the enactment of this Act.

**SEC. 40306. TRANSFER OF AMOUNTS ATTRIBUTABLE TO CERTAIN DUTIES ON IMPORTED VEHICLES INTO THE HIGHWAY TRUST FUND.**

Section 9503(b) of the Internal Revenue Code of 1986, as amended by this Act, is amended by adding at the end the following new paragraph:

"(8) CERTAIN DUTIES ON IMPORTED VEHICLES.—There are hereby appropriated to the Highway Trust Fund amounts equivalent to the amounts received in the Treasury that are attributable to du-

ties collected on or after October 1, 2011, and before October 1, 2016, on articles classified under subheading 8703.22.00 or 8703.24.00 of the Harmonized Tariff Schedule of the United States.''.

**SEC. 40307. TREATMENT OF SECURITIES OF A CONTROLLED CORPORATION EXCHANGED FOR ASSETS IN CERTAIN REORGANIZATIONS.**

(a) IN GENERAL.—Section 361 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

''(d) SPECIAL RULES FOR TRANSACTIONS INVOLVING SECTION 355 DISTRIBUTIONS.—In the case of a reorganization described in section 368(a)(1)(D) with respect to which stock or securities of the corporation to which the assets are transferred are distributed in a transaction which qualifies under section 355—

''(1) this section shall be applied by substituting 'stock other than nonqualified preferred stock (as defined in section 351(g)(2))' for 'stock or securities' in subsections (a) and (b)(1), and

''(2) the first sentence of subsection (b)(3) shall apply only to the extent that the sum of the money and the fair market value of the other property transferred to such creditors does not exceed the adjusted bases of such assets transferred (reduced by

the amount of the liabilities assumed (within the meaning of section 357(c))).''.

(b) CONFORMING AMENDMENT.—Paragraph (3) of section 361(b) is amended by striking the last sentence.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to exchanges after the date of the enactment of this Act.

(2) TRANSITION RULE.—The amendments made by this section shall not apply to any exchange pursuant to a transaction which is—

(A) made pursuant to a written agreement which was binding on February 6, 2012, and at all times thereafter;

(B) described in a ruling request submitted to the Internal Revenue Service on or before February 6, 2012; or

(C) described on or before February 6, 2012, in a public announcement or in a filing with the Securities and Exchange Commission.

**SEC. 40308. INTERNAL REVENUE SERVICE LEVIES AND THRIFT SAVINGS PLAN ACCOUNTS.**

Section 8437(e)(3) of title 5, United States Code, is amended by inserting '', the enforcement of a Federal tax

levy as provided in section 6331 of the Internal Revenue Code of 1986,'' after ''(42 U.S.C. 659)''.

**SEC. 40309. DEPRECIATION AND AMORTIZATION RULES FOR HIGHWAY AND RELATED PROPERTY SUBJECT TO LONG-TERM LEASES.**

(a) ACCELERATED COST RECOVERY.—

(1) IN GENERAL.—Section 168(g)(1) of the Internal Revenue Code of 1986 is amended by striking ''and'' at the end of subparagraph (D), by redesignating subparagraph (E) as subparagraph (F), and by inserting after subparagraph (D) the following new subparagraph:

''(E) any applicable leased highway property,''.

(2) RECOVERY PERIOD.—The table contained in subparagraph (C) of section 168(g)(2) of such Code is amended by redesignating clause (iv) as clause (v) and by inserting after clause (iii) the following new clause:

''(iv) Applicable leased highway property ..... 45 years.''.

(3) APPLICABLE LEASED HIGHWAY PROPERTY DEFINED.—

(A) IN GENERAL.—Section 168(g) of such Code is amended by redesignating paragraph

(7) as paragraph (8) and by inserting after paragraph (6) the following new paragraph:

"(7) APPLICABLE LEASED HIGHWAY PROPERTY.—For purposes of paragraph (1)(E)—

"(A) IN GENERAL.—The term 'applicable leased highway property' means property to which this section otherwise applies which—

"(i) is subject to an applicable lease, and

"(ii) is placed in service before the date of such lease.

"(B) APPLICABLE LEASE.—The term 'applicable lease' means a lease or other arrangement—

"(i) which is between the taxpayer and a State or political subdivision thereof, or any agency or instrumentality of either, and

"(ii) under which the taxpayer—

"(I) leases a highway and associated improvements,

"(II) receives a right-of-way on the public lands underlying such highway and improvements, and

"(III) receives a grant of a franchise or other intangible right permitting the taxpayer to receive funds relating to the operation of such highway.".

(B) CONFORMING AMENDMENT.—Subparagraph (F) of section 168(g)(1) (as redesignated by subsection (a)(1)) is amended by striking "paragraph (7)" and inserting "paragraph (8)".

(b) AMORTIZATION OF INTANGIBLES.—Section 197(f) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

"(11) INTANGIBLES RELATING TO APPLICABLE LEASED HIGHWAY PROPERTY.—In the case of any amortizable section 197 intangible property which is acquired in connection with an applicable lease (as defined in section 168(g)(7)(B)), the amortization period under this section shall not be less than the term of the applicable lease. For purposes of the preceding sentence, rules similar to the rules of section 168(i)(3)(A) shall apply in determining the term of the applicable lease.".

(c) NO PRIVATE ACTIVITY BOND FINANCING OF APPLICABLE LEASED HIGHWAY PROPERTY.—Section 147(e)

of the Internal Revenue Code of 1986 is amended by inserting ", or to finance any applicable leased highway property (as defined in section 168(g)(7)(A))" after "premises".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to leases entered into after the date of the enactment of this Act.

(2) NO PRIVATE ACTIVITY BOND FINANCING.—The amendment made by subsection (c) shall apply to bonds issued after the date of the enactment of this Act.

**SEC. 40310. EXTENSION FOR TRANSFERS OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.**

(a) IN GENERAL.—Paragraph (5) of section 420(b) of the Internal Revenue Code of 1986 is amended by striking "December 31, 2013" and inserting "December 31, 2021".

(b) CONFORMING ERISA AMENDMENTS.—

(1) Sections 101(e)(3), 403(c)(1), and 408(b)(13) of the Employee Retirement Income Security Act of 1974 are each amended by striking "Pension Protection Act of 2006" and inserting

"Highway Investment, Job Creation, and Economic Growth Act of 2012".

(2) Section 408(b)(13) of such Act (29 U.S.C. 1108(b)(13)) is amended by striking "January 1, 2014" and inserting "January 1, 2022".

(c) EFFECTIVE DATE.—The amendments made by this Act shall take effect on the date of the enactment of this Act.

**SEC. 40311. TRANSFER OF EXCESS PENSION ASSETS TO RETIREE GROUP TERM LIFE INSURANCE ACCOUNTS.**

(a) IN GENERAL.—Subsection (a) of section 420 of the Internal Revenue Code of 1986 is amended by inserting ", or an applicable life insurance account," after "health benefits account".

(b) APPLICABLE LIFE INSURANCE ACCOUNT DEFINED.—

(1) IN GENERAL.—Subsection (e) of section 420 of the Internal Revenue Code of 1986 is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4) APPLICABLE LIFE INSURANCE ACCOUNT.—The term 'applicable life insurance account' means a separate account established and

maintained for amounts transferred under this section for qualified current retiree liabilities based on premiums for applicable life insurance benefits.''.

(2) APPLICABLE LIFE INSURANCE BENEFITS DEFINED.—Paragraph (1) of section 420(e) of such Code is amended by redesignating subparagraph (D) as subparagraph (E) and by inserting after subparagraph (C) the following new subparagraph:

''(D) APPLICABLE LIFE INSURANCE BENEFITS.—The term 'applicable life insurance benefits' means group-term life insurance coverage provided to retired employees who, immediately before the qualified transfer, are entitled to receive such coverage by reason of retirement and who are entitled to pension benefits under the plan, but only to the extent that such coverage is provided under a policy for retired employees and the cost of such coverage is excludable from the retired employee's gross income under section 79.''.

(3) COLLECTIVELY BARGAINED LIFE INSURANCE BENEFITS DEFINED.—

(A) IN GENERAL.—Paragraph (6) of section 420(f) of such Code is amended by redesignating subparagraph (D) as subparagraph (E)

and by inserting after subparagraph (C) the following new subparagraph:

"(D) COLLECTIVELY BARGAINED LIFE INSURANCE BENEFITS.—The term 'collectively bargained life insurance benefits' means, with respect to any collectively bargained transfer—

"(i) applicable life insurance benefits which are provided to retired employees who, immediately before the transfer, are entitled to receive such benefits by reason of retirement, and

"(ii) if specified by the provisions of the collective bargaining agreement governing the transfer, applicable life insurance benefits which will be provided at retirement to employees who are not retired employees at the time of the transfer.".

(B) CONFORMING AMENDMENTS.—

(i) Clause (i) of section 420(e)(1)(C) of such Code is amended by striking "upon retirement" and inserting "by reason of retirement".

(ii) Subparagraph (C) of section 420(f)(6) of such Code is amended—

(I) by striking ''which are provided to'' in the matter preceding clause (i),

(II) by inserting ''which are provided to'' before ''retired employees'' in clause (i),

(III) by striking ''upon retirement'' in clause (i) and inserting ''by reason of retirement'', and

(IV) by striking ''active employees who, following their retirement,'' and inserting ''which will be provided at retirement to employees who are not retired employees at the time of the transfer and who''.

(c) MAINTENANCE OF EFFORT.—

(1) IN GENERAL.—Subparagraph (A) of section 420(c)(3) of the Internal Revenue Code of 1986 is amended by inserting '', and each group-term life insurance plan under which applicable life insurance benefits are provided,'' after ''health benefits are provided''.

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (B) of section 420(c)(3) of such Code is amended—

(i) by redesignating subclauses (I) and (II) of clause (i) as subclauses (II) and (III) of such clause, respectively, and by inserting before subclause (II) of such clause, as so redesignated, the following new subclause:

"(I) separately with respect to applicable health benefits and applicable life insurance benefits,", and

(ii) by striking "for applicable health benefits" and all that follows in clause (ii) and inserting "was provided during such taxable year for the benefits with respect to which the determination under clause (i) is made.".

(B) Subparagraph (C) of section 420(c)(3) of such Code is amended—

(i) by inserting "for applicable health benefits" after "applied separately", and

(ii) by inserting ", and separately for applicable life insurance benefits with respect to individuals age 65 or older at any time during the taxable year and with respect to individuals under age 65 during the taxable year" before the period.

(C) Subparagraph (E) of section 420(c)(3) of such Code is amended—

(i) in clause (i), by inserting ''or retiree life insurance coverage, as the case may be,'' after ''retiree health coverage'', and

(ii) in clause (ii), by inserting ''FOR RETIREE HEALTH COVERAGE'' after ''COST REDUCTIONS'' in the heading thereof, and

(iii) in clause (ii)(II), by inserting ''with respect to applicable health benefits'' after ''liabilities of the employer''.

(D) Paragraph (2) of section 420(f) of such Code is amended by striking ''collectively bargained retiree health liabilities'' each place it occurs and inserting ''collectively bargained retiree liabilities''.

(E) Clause (i) of section 420(f)(2)(D) of such Code is amended—

(i) by inserting '', and each group-term life insurance plan or arrangement under which applicable life insurance benefits are provided,'' in subclause (I) after ''applicable health benefits are provided'',

(ii) by inserting ''or applicable life insurance benefits, as the case may be,'' in subclause (I) after ''provides applicable health benefits'',

(iii) by striking ''group health'' in subclause (II), and

(iv) by inserting ''or collectively bargained life insurance benefits'' in subclause (II) after ''collectively bargained health benefits''.

(F) Clause (ii) of section 420(f)(2)(D) of such Code is amended—

(i) by inserting ''with respect to applicable health benefits or applicable life insurance benefits'' after ''requirements of subsection (c)(3)'', and

(ii) by adding at the end the following: ''Such election may be made separately with respect to applicable health benefits and applicable life insurance benefits. In the case of an election with respect to applicable life insurance benefits, the first sentence of this clause shall be applied as if subsection (c)(3) as in effect be-

fore the amendments made by such Act applied to such benefits.''

(G) Clause (iii) of section 420(f)(2)(D) of such Code is amended—

(i) by striking ''retiree'' each place it occurs, and

(ii) by inserting '', collectively bargained life insurance benefits, or both, as the case may be,'' after ''health benefits'' each place it occurs.

(d) COORDINATION WITH SECTION 79.—Section 79 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

''(f) EXCEPTION FOR LIFE INSURANCE PURCHASED IN CONNECTION WITH QUALIFIED TRANSFER OF EXCESS PENSION ASSETS.—Subsection (b)(3) and section 72(m)(3) shall not apply in the case of any cost paid (whether directly or indirectly) with assets held in an applicable life insurance account (as defined in section 420(e)(4)) under a defined benefit plan.''.

(e) CONFORMING AMENDMENTS.—

(1) Section 420 of the Internal Revenue Code of 1986 is amended by striking ''qualified current retiree health liabilities'' each place it appears and inserting ''qualified current retiree liabilities''.

(2) Section 420 of such Code is amended by inserting ", or an applicable life insurance account," after "a health benefits account" each place it appears in subsection (b)(1)(A), subparagraphs (A), (B)(i), and (C) of subsection (c)(1), subsection (d)(1)(A), and subsection (f)(2)(E)(ii).

(3) Section 420(b) of such Code is amended—

(A) by adding the following at the end of paragraph (2)(A): "If there is a transfer from a defined benefit plan to both a health benefits account and an applicable life insurance account during any taxable year, such transfers shall be treated as 1 transfer for purposes of this paragraph.", and

(B) by inserting "to an account" after "may be transferred" in paragraph (3).

(4) The heading for section 420(c)(1)(B) of such Code is amended by inserting "OR LIFE INSURANCE" after "HEALTH BENEFITS".

(5) Paragraph (1) of section 420(e) of such Code is amended—

(A) by inserting "and applicable life insurance benefits" in subparagraph (A) after "applicable health benefits", and

(B) by striking ''HEALTH'' in the heading thereof.

(6) Subparagraph (B) of section 420(e)(1) of such Code is amended—

(A) in the matter preceding clause (i), by inserting ''(determined separately for applicable health benefits and applicable life insurance benefits)'' after ''shall be reduced by the amount'',

(B) in clause (i), by inserting ''or applicable life insurance accounts'' after ''health benefit accounts'', and

(C) in clause (i), by striking ''qualified current retiree health liability'' and inserting ''qualified current retiree liability''.

(7) The heading for subsection (f) of section 420 of such Code is amended by striking ''HEALTH'' each place it occurs.

(8) Subclause (II) of section 420(f)(2)(B)(ii) of such Code is amended by inserting ''or applicable life insurance account, as the case may be,'' after ''health benefits account''.

(9) Subclause (III) of section 420(f)(2)(E)(i) of such Code is amended—

(A) by inserting ''defined benefit'' before ''plan maintained by an employer'', and

(B) by inserting ''health'' before ''benefit plans maintained by the employer''.

(10) Paragraphs (4) and (6) of section 420(f) of such Code are each amended by striking ''collectively bargained retiree health liabilities'' each place it occurs and inserting ''collectively bargained retiree liabilities''.

(11) Subparagraph (A) of section 420(f)(6) of such Code is amended—

(A) in clauses (i) and (ii), by inserting '', in the case of a transfer to a health benefits account,'' before ''his covered spouse and dependents'', and

(B) in clause (ii), by striking ''health plan'' and inserting ''plan''.

(12) Subparagraph (B) of section 420(f)(6) of such Code is amended—

(A) in clause (i), by inserting '', and collectively bargained life insurance benefits,'' after ''collectively bargained health benefits'',

(B) in clause (ii)—

(i) by adding at the end the following: ''The preceding sentence shall be applied

separately for collectively bargained health benefits and collectively bargained life insurance benefits.'', and

(ii) by inserting '', applicable life insurance accounts,'' after ''health benefit accounts'', and

(C) by striking ''HEALTH'' in the heading thereof.

(13) Subparagraph (E) of section 420(f)(6) of such Code, as redesignated by subsection (b), is amended—

(A) by striking ''bargained health'' and inserting ''bargained'',

(B) by inserting '', or a group-term life insurance plan or arrangement for retired employees,'' after ''dependents'', and

(C) by striking ''HEALTH'' in the heading thereof.

(14) Section 101(e) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021(e)) is amended—

(A) in paragraphs (1) and (2), by inserting ''or applicable life insurance account'' after ''health benefits account'' each place it appears, and

(B) in paragraph (1), by inserting ''or applicable life insurance benefit liabilities'' after ''health benefits liabilities''.

(f) TECHNICAL CORRECTION.—Clause (iii) of section 420(f)(6)(B) is amended by striking ''416(I)(1)'' and inserting ''416(i)(1)''.

(g) REPEAL OF DEADWOOD.—

(1) Subparagraph (A) of section 420(b)(1) of the Internal Revenue Code of 1986 is amended by striking ''in a taxable year beginning after December 31, 1990''.

(2) Subsection (b) of section 420 of such Code is amended by striking paragraph (4) and by redesignating paragraph (5), as amended by this Act, as paragraph (4).

(3) Paragraph (2) of section 420(b) of such Code, as amended by this section, is amended—

(A) by striking subparagraph (B), and

(B) by striking ''PER YEAR.—'' and all that follows through ''No more than'' and inserting ''PER YEAR.—No more than''.

(4) Paragraph (2) of section 420(c) of such Code is amended—

(A) by striking subparagraph (B),

(B) by moving subparagraph (A) two ems to the left, and

(C) by striking ''BEFORE TRANSFER.—'' and all that follows through ''The requirements of this paragraph'' and inserting the following: ''BEFORE TRANSFER.—The requirements of this paragraph''.

(5) Paragraph (2) of section 420(d) of such Code is amended by striking ''after December 31, 1990''.

(h) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to transfers made after the date of the enactment of this Act.

(2) CONFORMING AMENDMENTS RELATING TO PENSION PROTECTION ACT.—The amendments made by subsections (b)(3)(B) and (f) shall take effect as if included in the amendments made by section 841(a) of the Pension Protection Act of 2006.

**SEC. 40312. PENSION FUNDING STABILIZATION.**

(a) AMENDMENTS TO INTERNAL REVENUE CODE OF 1986.—

(1) IN GENERAL.—Subparagraph (C) of section 430(h)(2) of the Internal Revenue Code of 1986 is

amended by adding at the end the following new clause:

"(iv) SEGMENT RATE STABILIZATION.—

"(I) IN GENERAL.—If a segment rate described in clause (i), (ii), or (iii) with respect to any applicable month (determined without regard to this clause) is less than the applicable minimum percentage, or more than the applicable maximum percentage, of the average of the segment rates described in such clause for years in the 25-year period ending with September 30 of the calendar year preceding the calendar year in which the plan year begins, then the segment rate described in such clause with respect to the applicable month shall be equal to the applicable minimum percentage or the applicable maximum percentage of such average, whichever is closest. The Secretary shall determine such average on an annual basis and may prescribe equivalent rates for

years in any such 25-year period for which the rates described in any such clause are not available.

"(II) APPLICABLE MINIMUM PERCENTAGE; APPLICABLE MAXIMUM PERCENTAGE.—For purposes of subclause (I), the applicable minimum percentage and the applicable maximum percentage for a plan year beginning in a calendar year shall be determined in accordance with the following table:

| "If the calendar year is: | The applicable minimum percentage is: | The applicable maximum percentage is: |
|---|---|---|
| 2012 | 90% | 110% |
| 2013 | 85% | 115% |
| 2014 | 80% | 120% |
| 2015 | 75% | 125% |
| After 2015 | 70% | 130%.". |

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (6) of section 404(o) of such Code is amended by inserting "(determined by not taking into account any adjustment under clause (iv) of subsection (h)(2)(C) thereof)" before the period.

(B) Subparagraph (F) of section 430(h)(2) of such Code is amended by inserting "and the

averages determined under subparagraph (C)(iv)'' after ''subparagraph (C)''.

(C) Subparagraphs (C) and (D) of section 417(e)(3) of such Code are each amended by striking ''section 430(h)(2)(C)'' and inserting ''section 430(h)(2)(C) (determined by not taking into account any adjustment under clause (iv) thereof)''.

(b) AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) IN GENERAL.—Subparagraph (C) of section 303(h)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1083(h)(2)) is amended by adding at the end the following new clause:

''(iv) SEGMENT RATE STABILIZATION.—

''(I) IN GENERAL.—If a segment rate described in clause (i), (ii), or (iii) with respect to any applicable month (determined without regard to this clause) is less than the applicable minimum percentage, or more than the applicable maximum percentage, of the average of the segment rates described in such clause for years in

the 25-year period ending with September 30 of the calendar year preceding the calendar year in which the plan year begins, then the segment rate described in such clause with respect to the applicable month shall be equal to the applicable minimum percentage or the applicable maximum percentage of such average, whichever is closest. The Secretary of the Treasury shall determine such average on an annual basis and may prescribe equivalent rates for years in any such 25-year period for which the rates described in any such clause are not available.

"(II) APPLICABLE MINIMUM PERCENTAGE; APPLICABLE MAXIMUM PERCENTAGE.—For purposes of subclause (I), the applicable minimum percentage and the applicable maximum percentage for a plan year beginning in a calendar year shall be determined in accordance with the following table:

| "If the calendar year is: | The applicable minimum percentage is: | The applicable maximum percentage is: |
|---|---|---|
| 2012 | 90% | 110% |
| 2013 | 85% | 115% |
| 2014 | 80% | 120% |
| 2015 | 75% | 125% |
| After 2015 | 70% | 130%.". |

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (F) of section 303(h)(2) of such Act (29 U.S.C. 1083(h)(2)) is amended by inserting "and the averages determined under subparagraph (C)(iv)" after "subparagraph (C)".

(B) Clauses (ii) and (iii) of section 205(g)(3)(B) of such Act (29 U.S.C. 1055(g)(3)(B)) are each amended by striking "section 303(h)(2)(C)" and inserting "section 303(h)(2)(C) (determined by not taking into account any adjustment under clause (iv) thereof)".

(C) Clause (iv) of section 4006(a)(3)(E) of such Act (29 U.S.C. 1306(a)(3)(E)) is amended by striking "section 303(h)(2)(C)" and inserting "section 303(h)(2)(C) (notwithstanding any regulations issued by the corporation, determined by not taking into account any adjustment under clause (iv) thereof)".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to plan years beginning after December 31, 2011.

(2) EXCEPTION.—A plan sponsor may elect not to have the amendments made by this section apply to any plan year beginning on or before the date of the enactment of this Act solely for purposes of determining the adjusted funding target attainment percentage under sections 436 of the Internal Revenue Code of 1986 and 206(g) of the Employee Retirement Income Security Act of 1974 for such plan year. A plan shall not be treated as failing to meet the requirements of sections 411(d)(6) of such Code and 204(g) of such Act solely by reason of an election under this paragraph.

**SEC. 40313. ADDITIONAL TRANSFERS TO HIGHWAY TRUST FUND.**

Subsection (f) of section 9503 of the Internal Revenue Code of 1986, as amended by this Act, is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) ADDITIONAL APPROPRIATIONS TO TRUST FUND.—Out of money in the Treasury not otherwise

appropriated, there is hereby appropriated to the Highway Trust Fund—

"(A) for fiscal year 2012, $2,183,000,000,

"(B) for fiscal year 2013, $2,277,000,000, and

"(C) for fiscal year 2014, $510,000,000.".

**SEC. 40314. TRANSFERS TO FEDERAL OLD-AGE AND SURVIVORS INSURANCE TRUST FUND AND FEDERAL DISABILITY INSURANCE TRUST FUND.**

Out of money in the Treasury not otherwise appropriated, there is hereby appropriated—

(1) for fiscal year 2012, $27,000,000, and

(2) for fiscal year 2014, $82,000,000,

to the Federal Old-Age and Survivors Trust Fund and the Federal Disability Insurance Trust Fund established under section 201 of the Social Security Act (42 U.S.C. 401). The Secretary of the Treasury shall allocate such amounts between such Trust Funds in the ratio in which amounts are appropriated to such Trust Funds under clause (3) of section 201(a) and clause (1) of section 201(b) of such Act.

# DIVISION E—RESEARCH AND EDUCATION

**SEC. 50001. SHORT TITLE.**

This division may be cited as the ''Transportation Research and Innovative Technology Act of 2012''.

# TITLE I—FUNDING

**SEC. 51001. AUTHORIZATION OF APPROPRIATIONS.**

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

(1) HIGHWAY RESEARCH AND DEVELOPMENT PROGRAM.—To carry out sections 503(b), 503(d), and 509 of title 23, United States Code, $90,000,000 for each of fiscal years 2012 and 2013.

(2) TECHNOLOGY AND INNOVATION DEPLOYMENT PROGRAM.—To carry out section 503(c) of title 23, United States Code, $90,000,000 for each of fiscal years 2012 and 2013.

(3) TRAINING AND EDUCATION.—To carry out section 504 of title 23, United States Code, $24,000,000 for each of fiscal years 2012 and 2013.

(4) INTELLIGENT TRANSPORTATION SYSTEMS PROGRAM.—To carry out sections 512 through 518 of title 23, United States Code, $100,000,000 for each of fiscal years 2012 and 2013.

(5) UNIVERSITY TRANSPORTATION CENTERS PROGRAM.—To carry out section 5505 of title 49, United States Code, $70,000,000 for each of fiscal years 2012 and 2013.

(6) BUREAU OF TRANSPORTATION STATISTICS.—To carry out chapter 65 of title 49, United States Code, $26,000,000 for each of fiscal years 2012 and 2013.

(b) APPLICABILITY OF TITLE 23, UNITED STATES CODE.—Funds authorized to be appropriated by subsection (a) shall—

(1) be available for obligation in the same manner as if those funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of a project or activity carried out using those funds shall be 80 percent, unless otherwise expressly provided by this Act (including the amendments by this Act) or otherwise determined by the Secretary; and

(2) remain available until expended and not be transferable.

# TITLE II—RESEARCH, TECHNOLOGY, AND EDUCATION

**SEC. 52001. RESEARCH, TECHNOLOGY, AND EDUCATION.**

Section 501 of title 23, United States Code, is amended—

(1) by redesignating paragraph (2) as paragraph (8);

(2) by inserting after paragraph (1) the following:

''(2) INCIDENT.—The term 'incident' means a crash, natural disaster, workzone activity, special event, or other emergency road user occurrence that adversely affects or impedes the normal flow of traffic.

''(3) INNOVATION LIFECYCLE.—The term 'innovation lifecycle' means the process of innovating through—

''(A) the identification of a need;

''(B) the establishment of the scope of research to address that need;

''(C) setting an agenda;

''(D) carrying out research, development, deployment, and testing of the resulting technology or innovation; and

"(E) carrying out an evaluation of the impact of the resulting technology or innovation.

"(4) INTELLIGENT TRANSPORTATION INFRASTRUCTURE.—The term 'intelligent transportation infrastructure' means fully integrated public sector intelligent transportation system components, as defined by the Secretary.

"(5) INTELLIGENT TRANSPORTATION SYSTEM.—The terms 'intelligent transportation system' and 'ITS' mean electronics, photonics, communications, or information processing used singly or in combination to improve the efficiency or safety of a surface transportation system.

"(6) NATIONAL ARCHITECTURE.—For purposes of this chapter, the term 'national architecture' means the common framework for interoperability that defines—

"(A) the functions associated with intelligent transportation system user services;

"(B) the physical entities or subsystems within which the functions reside;

"(C) the data interfaces and information flows between physical subsystems; and

"(D) the communications requirements associated with the information flows.

"(7) PROJECT.—The term 'project' means an undertaking to research, develop, or operationally test intelligent transportation systems or any other undertaking eligible for assistance under this chapter."; and

(3) by inserting after paragraph (8) (as so redesignated) the following:

"(9) STANDARD.—The term 'standard' means a document that—

"(A) contains technical specifications or other precise criteria for intelligent transportation systems that are to be used consistently as rules, guidelines, or definitions of characteristics so as to ensure that materials, products, processes, and services are fit for the intended purposes of the materials, products, processes, and services; and

"(B) may support the national architecture and promote—

"(i) the widespread use and adoption of intelligent transportation system technology as a component of the surface transportation systems of the United States; and

"(ii) interoperability among intelligent transportation system technologies implemented throughout the States.".

**SEC. 52002. SURFACE TRANSPORTATION RESEARCH, DEVELOPMENT, AND TECHNOLOGY.**

(a) SURFACE TRANSPORTATION RESEARCH, DEVELOPMENT, AND TECHNOLOGY.—Section 502 of title 23, United States Code, is amended—

(1) in the section heading by inserting ", development, and technology" after "surface transportation research";

(2) in subsection (a)—

(A) by redesignating paragraphs (1) through (8) as paragraphs (2) through (9), respectively;

(B) by inserting before paragraph (2) (as redesignated by subparagraph (A)) the following:

"(1) APPLICABILITY.—The research, development, and technology provisions of this section shall apply throughout this chapter.";

(C) in paragraph (2) (as redesignated by subparagraph (A))—

(i) by inserting "within the innovation lifecycle" after "activities"; and

(ii) by inserting ''marketing and communications, impact analysis,'' after ''training,'';

(D) in paragraph (3) (as redesignated by subparagraph (A))—

(i) in subparagraph (B) by striking ''supports research in which there is a clear public benefit and'' and inserting ''delivers a clear public benefit and occurs where'';

(ii) in subparagraph (C) by striking ''or'' after the semicolon;

(iii) by redesignating subparagraph (D) as subparagraph (H); and

(iv) by inserting after subparagraph (C) the following:

''(D) meets and addresses current or emerging needs;

''(E) presents the best means to align resources with multiyear plans and priorities;

''(F) ensures the coordination of highway research and technology transfer activities, including through activities performed by university transportation centers;

"(G) educates current and future transportation professionals; or";

(E) in paragraph (4) (as redesignated by subparagraph (A)) by striking subparagraphs (B) through (D) and inserting the following:

"(B) partner with State highway agencies and other stakeholders as appropriate, including international entities, to facilitate research and technology transfer activities;

"(C) communicate the results of ongoing and completed research;

"(D) lead efforts to coordinate national emphasis areas of highway research, technology, and innovation deployment;

"(E) leverage partnerships with industry, academia, and international entities; and

"(F) conduct, facilitate, and support training and education of current and future transportation professionals.";

(F) in paragraph (5)(C) (as redesignated by subparagraph (A)) by striking "policy and planning" and inserting "all highway objectives seeking to improve the performance of the transportation system";

(G) in paragraph (6) (as redesignated by subparagraph (A)) in the second sentence, by inserting ''tribal governments,'' after ''local governments,''; and

(H) in paragraph (8) (as redesignated by subparagraph (A))—

(i) in the first sentence, by striking ''To the maximum'' and inserting the following:

''(A) IN GENERAL.—To the maximum'';

(ii) in the second sentence, by striking ''Performance measures'' and inserting the following:

''(B) PERFORMANCE MEASURES.—Performance measures'';

(iii) in the third sentence, by striking ''All evaluations'' and inserting the following:

''(D) AVAILABILITY OF EVALUATIONS.—All evaluations under this paragraph''; and

(iv) by inserting after subparagraph (B) the following:

''(C) PROGRAM PLAN.—To the maximum extent practicable, each program pursued under

this chapter shall be part of a data-driven, outcome-oriented program plan.'';

(3) in subsection (b)—

(A) in paragraph (4) by striking ''surface transportation research and technology development strategic plan developed under section 508'' and inserting ''the transportation research and development strategic plan of the Secretary'';

(B) in paragraph (5) by striking ''section'' each place it appears and inserting ''chapter'';

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

''(C) TRANSFER OF AMOUNTS AMONG STATES OR TO FEDERAL HIGHWAY ADMINISTRATION.—The Secretary may, at the request of a State, transfer amounts apportioned or allocated to that State under this chapter to another State or the Federal Highway Administration to fund research, development, and technology transfer activities of mutual interest on a pooled funds basis.

''(D) TRANSFER OF OBLIGATION AUTHORITY.—Obligation authority for amounts transferred under this subsection shall be disbursed

in the same manner and for the same amount as provided for the project being transferred.''; and

(D) by adding at the end the following:

''(7) PRIZE COMPETITIONS.—

''(A) IN GENERAL.—The Secretary may carry out prize competitions to award competitive prizes for surface transportation innovations that have the potential for application to the research and technology objectives and activities of the Federal Highway Administration to improve system performance.

''(B) REQUIREMENTS.—

''(i) IN GENERAL.—The Secretary shall use a competitive process for the selection of prize recipients and shall widely advertise and solicit participation in prize competitions under this paragraph.

''(ii) REGISTRATION REQUIRED.—No individual or entity shall participate in a prize competition under this paragraph unless the individual or entity has registered with the Secretary in accordance with the eligibility requirements established by the Secretary under clause (iii).

"(iii) MINIMUM REQUIREMENTS.—The Secretary shall establish eligibility requirements for participation in each prize competition under this paragraph, which, at a minimum, shall—

"(I) limit participation in the prize competition to—

"(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—

"(AA) injury, death, damage, or loss of property; or

"(BB) loss of revenue or profits, whether direct, indirect, or consequential; and

"(III) require any individual or entity that registers for a prize competition to waive all claims against any non-Federal entity operating or managing the prize competition, such as a private contractor managing competition activities, to the extent that the Secretary believes is necessary to protect the interests of the Federal Government.

"(C) RELATIONSHIP TO OTHER AUTHORITY.—The Secretary may exercise the authority in this section in conjunction with, or in addition to, any other authority of the Secretary to acquire, support, or stimulate innovations with the potential for application to the Federal highway research technology and education program.";

(4) in subsection (c)—

(A) in paragraph (3)(A)—

(i) by striking "subsection" and inserting "chapter"; and

(ii) by striking "50" and inserting "80"; and

(B) in paragraph (4) by striking "subsection" and inserting "chapter"; and

(5) by striking subsections (d) through (j).

(b) CONFORMING AMENDMENT.—The analysis for chapter 5 of title 23, United States Code, is amended by striking the item relating to section 502 and inserting the following:

"502. Surface transportation research, development, and technology.".

**SEC. 52003. RESEARCH AND TECHNOLOGY DEVELOPMENT AND DEPLOYMENT.**

(a) IN GENERAL.—Section 503 of title 23, United States Code, is amended to read as follows:

**"§ 503. Research and technology development and deployment**

''(a) IN GENERAL.—The Secretary shall—

''(1) carry out research, development, and deployment activities that encompass the entire innovation lifecycle; and

''(2) ensure that all research carried out under this section aligns with the transportation research and development strategic plan of the Secretary.

''(b) HIGHWAY RESEARCH AND DEVELOPMENT PROGRAM.—

''(1) OBJECTIVES.—In carrying out the highway research and development program, the Secretary, to address current and emerging highway transportation needs, shall—

''(A) identify research topics;

''(B) coordinate domestic and international research and development activities;

''(C) carry out research, testing, and evaluation activities; and

''(D) provide technology transfer and technical assistance.

''(2) CONTENTS.—Research and development activities carried out under this section may include any of the following activities:

''(A) IMPROVING HIGHWAY SAFETY.—

"(i) IN GENERAL.—The Secretary shall carry out research and development activities from an integrated perspective to establish and implement systematic measures to improve highway safety.

"(ii) OBJECTIVES.—In carrying out this subparagraph the Secretary shall carry out research and development activities—

"(I) to achieve greater long-term safety gains;

"(II) to reduce the number of fatalities and serious injuries on public roads;

"(III) to fill knowledge gaps that limit the effectiveness of research;

"(IV) to support the development and implementation of State strategic highway safety plans;

"(V) to advance improvements in, and use of, performance prediction analysis for decisionmaking; and

"(VI) to expand technology transfer to partners and stakeholders.

"(iii) CONTENTS.—Research and technology activities carried out under this subparagraph may include—

"(I) safety assessments and decisionmaking tools;

"(II) data collection and analysis;

"(III) crash reduction projections;

"(IV) low-cost safety countermeasures;

"(V) innovative operational improvements and designs of roadway and roadside features;

"(VI) evaluation of countermeasure costs and benefits;

"(VII) development of tools for projecting impacts of safety countermeasures;

"(VIII) rural road safety measures;

"(IX) safety measures for vulnerable road users, including bicyclists and pedestrians;

"(X) safety policy studies;

"(XI) human factors studies and measures;

"(XII) safety technology deployment;

"(XIII) safety workforce professional capacity building initiatives;

"(XIV) safety program and process improvements; and

"(XV) tools and methods to enhance safety performance, including achievement of statewide safety performance targets.

"(B) IMPROVING INFRASTRUCTURE INTEGRITY.—

"(i) IN GENERAL.—The Secretary shall carry out and facilitate highway and bridge infrastructure research and development activities—

"(I) to maintain infrastructure integrity;

"(II) to meet user needs; and

"(III) to link Federal transportation investments to improvements in system performance.

"(ii) OBJECTIVES.—In carrying out this subparagraph, the Secretary shall carry out research and development activities—

"(I) to reduce the number of fatalities attributable to infrastructure design characteristics and work zones;

"(II) to improve the safety and security of highway infrastructure;

"(III) to increase the reliability of lifecycle performance predictions used in infrastructure design, construction, and management;

"(IV) to improve the ability of transportation agencies to deliver projects that meet expectations for timeliness, quality, and cost;

"(V) to reduce user delay attributable to infrastructure system performance, maintenance, rehabilitation, and construction;

"(VI) to improve highway condition and performance through increased use of design, materials, con-

1 struction, and maintenance innova-
2 tions;
3 ''(VII) to reduce the lifecycle en-
4 vironmental impacts of highway infra-
5 structure through innovations in de-
6 sign, construction, operation, preser-
7 vation, and maintenance; and
8 ''(VIII) to study vulnerabilities of
9 the transportation system to seismic
10 activities and extreme events and
11 methods to reduce those
12 vulnerabilities.
13 ''(iii) CONTENTS.—Research and tech-
14 nology activities carried out under this
15 subparagraph may include—
16 ''(I) long-term infrastructure per-
17 formance programs addressing pave-
18 ments, bridges, tunnels, and other
19 structures;
20 ''(II) short-term and accelerated
21 studies of infrastructure performance;
22 ''(III) research to develop more
23 durable infrastructure materials and
24 systems;

"(IV) advanced infrastructure design methods;

"(V) accelerated highway and bridge construction;

"(VI) performance-based specifications;

"(VII) construction and materials quality assurance;

"(VIII) comprehensive and integrated infrastructure asset management;

"(IX) infrastructure safety assurance;

"(X) highway infrastructure security;

"(XI) sustainable infrastructure design and construction;

"(XII) infrastructure rehabilitation and preservation techniques, including techniques to rehabilitate and preserve historic infrastructure;

"(XIII) hydraulic, geotechnical, and aerodynamic aspects of infrastructure;

"(XIV) improved highway construction technologies and practices;

"(XV) improved tools, technologies, and models for infrastructure management, including assessment and monitoring of infrastructure condition;

"(XVI) studies to improve flexibility and resiliency of infrastructure systems to withstand climate variability;

"(XVII) studies on the effectiveness of fiber-based additives to improve the durability of surface transportation materials in various geographic regions;

"(XVIII) studies of infrastructure resilience and other adaptation measures;

"(XIX) maintenance of seismic research activities, including research carried out in conjunction with other Federal agencies to study the vulnerability of the transportation system to

seismic activity and methods to reduce that vulnerability; and

"(XX) technology transfer and adoption of permeable, pervious, or porous paving materials, practices, and systems that are designed to minimize environmental impacts, stormwater runoff, and flooding and to treat or remove pollutants by allowing stormwater to infiltrate through the pavement in a manner similar to predevelopment hydrologic conditions.

"(iv) LIFECYCLE COSTS ANALYSIS STUDY.—

"(I) IN GENERAL.—In this clause, the term 'lifecycle costs analysis' means a process for evaluating the total economic worth of a usable project segment by analyzing initial costs and discounted future costs, such as maintenance, user, reconstruction, rehabilitation, restoring, and resurfacing costs, over the life of the project segment.

"(II) STUDY.—The Comptroller General shall conduct a study of the best practices for calculating lifecycle costs for federally funded highway projects. At a minimum, this study shall include a thorough literature review and a survey of current lifecycle cost practices of State departments of transportation.

"(III) CONSULTATION.—In carrying out this study, the Comptroller shall consult with, at a minimum—

"(aa) the American Association of State Highway and Transportation Officials;

"(bb) appropriate experts in the field of lifecycle cost analysis; and

"(cc) appropriate industry experts and research centers.

"(IV) REPORT.—Not later than 1 year after the date of enactment of the Transportation Research and Innovative Technology Act of 2012, the Comptroller General shall submit to

the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the results of the study which shall include, but is not limited to—

"(aa) a summary of the latest research on lifecycle cost analysis; and

"(bb) recommendations on the appropriate—

"(AA) period of analysis;

"(BB) design period;

"(CC) discount rates; and

"(DD) use of actual material life and maintenance cost data.

"(C) STRENGTHENING TRANSPORTATION PLANNING AND ENVIRONMENTAL DECISION-MAKING.—

"(i) IN GENERAL.—The Secretary shall carry out research—

"(I) to improve transportation planning and environmental decision-making processes; and

"(II) to minimize the impact of surface transportation on the environment and quality of life.

"(ii) OBJECTIVES.—In carrying out this subparagraph the Secretary shall carry out research and development activities—

"(I) to reduce the impact of highway infrastructure and operations on the natural and human environment;

"(II) to advance improvements in environmental analyses and processes and context sensitive solutions for transportation decisionmaking;

"(III) to improve construction techniques;

"(IV) to accelerate construction to reduce congestion and related emissions;

"(V) to reduce the impact of highway runoff on the environment;

"(VI) to maintain sustainability of biological communities and ecosystems adjacent to highway corridors;

"(VII) to improve understanding and modeling of the factors that contribute to the demand for transportation;

"(VIII) to improve transportation planning decisionmaking and coordination; and

"(IX) to reduce the environmental impacts of freight movement.

"(iii) CONTENTS.—Research and technology activities carried out under this subparagraph may include—

"(I) creation of models and tools for evaluating transportation measures and transportation system designs;

"(II) congestion reduction efforts;

"(III) transportation and economic development planning in rural areas and small communities;

"(IV) improvement of State, local, and tribal capabilities relating to surface transportation planning and the environment;

"(V) environmental stewardship and sustainability activities;

"(VI) streamlining of project delivery processes;

"(VII) development of effective strategies and techniques to analyze and minimize impacts to the natural and human environment and provide environmentally beneficial mitigation;

"(VIII) comprehensive multinational planning;

"(IX) multistate transportation corridor planning;

"(X) improvement of transportation choices, including walking, bicycling, and linkages to public transportation;

"(XI) ecosystem sustainability;

"(XII) wildlife and plant population connectivity and interaction across and along highway corridors;

"(XIII) analysis, measurement, and reduction of air pollution from transportation sources;

"(XIV) advancement in the understanding of health impact analyses in transportation planning and project development;

"(XV) transportation planning professional development;

"(XVI) research on improving the cooperation and integration of transportation planning with other regional plans, including land use, energy, water infrastructure, economic development, and housing plans;

"(XVII) reducing the environmental impacts of freight movement; and

"(XVIII) alternative transportation fuels research.

"(D) REDUCING CONGESTION, IMPROVING HIGHWAY OPERATIONS, AND ENHANCING FREIGHT PRODUCTIVITY.—

"(i) IN GENERAL.—The Secretary shall carry out research under this subparagraph with the goals of—

"(I) addressing congestion problems;

"(II) reducing the costs of congestion;

"(III) improving freight movement;

"(IV) increasing productivity; and

"(V) improving the economic competitiveness of the United States.

"(ii) OBJECTIVES.—In carrying out this subparagraph, the Secretary shall carry out research and development activities to identify, develop, and assess innovations that have the potential—

"(I) to reduce traffic congestion;

"(II) to improve freight movement; and

"(III) to reduce freight-related congestion throughout the transportation network.

"(iii) CONTENTS.—Research and technology activities carried out under this subparagraph may include—

"(I) active traffic and demand management;

"(II) acceleration of the implementation of Intelligent Transportation Systems technology;

"(III) advanced transportation concepts and analysis;

"(IV) arterial management and traffic signal operation;

"(V) congestion pricing;

"(VI) corridor management;

"(VII) emergency operations;

"(VIII) research relating to enabling technologies and applications;

"(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;

"(XXII) work zone management;

"(XXIII) communication of travel, roadway, and emergency information to persons with disabilities; and

"(XXIV) research on enhanced mode choice and intermodal connectivity.

"(E) ASSESSING POLICY AND SYSTEM FINANCING ALTERNATIVES.—

"(i) IN GENERAL.—The Secretary shall carry out research and technology on emerging issues in the domestic and international transportation community from a policy perspective.

"(ii) OBJECTIVES.—Research and technology activities carried out under this subparagraph shall provide information to policy and decisionmakers on current and emerging transportation issues.

"(iii) RESEARCH ACTIVITIES.—Activities carried out under this subparagraph shall include—

"(I) the planning and integration of a coordinated program related to the possible design, interoperability, and institutional roles of future sustainable transportation revenue mechanisms;

"(II) field trials to research potential alternative revenue mechanisms, and the Secretary may partner with individual States, groups of

States, or other entities to implement such trials; and

"(III) other activities to study new methods which preserve a user-fee structure to maintain the long-term solvency of the Highway Trust Fund.

"(iv) CONTENTS.—Research and technology activities carried out under this subparagraph may include—

"(I) highway needs and investment analysis;

"(II) a motor fuel tax evasion program;

"(III) advancing innovations in revenue generation, financing, and procurement for project delivery;

"(IV) improving the accuracy of project cost analyses;

"(V) highway performance measurement;

"(VI) travel demand performance measurement;

"(VII) highway finance performance measurement;

"(VIII) international technology exchange initiatives;

"(IX) infrastructure investment needs reports;

"(X) promotion of the technologies, products, and best practices of the United States; and

"(XI) establishment of partnerships among the United States, foreign agencies, and transportation experts.

"(v) FUNDING.—Of the funds authorized to carry out this subsection, no less than 50 percent shall be used to carry out clause (iii).

"(F) INFRASTRUCTURE INVESTMENT NEEDS REPORT.—

"(i) IN GENERAL.—Not later than July 31, 2012, and July 31 of every second year thereafter, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report that describes estimates of the fu-

ture highway and bridge needs of the United States and the backlog of current highway and bridge needs.

"(ii) COMPARISONS.—Each report under clause (i) shall include all information necessary to relate and compare the conditions and service measures used in the previous biennial reports to conditions and service measures used in the current report.

"(iii) INCLUSIONS.—Each report under clause (i) shall provide recommendations to Congress on changes to the Highway Performance Monitoring System that address—

"(I) improvements to the quality and standardization of data collection on all functional classifications of Federal-aid highways for accurate system length, lane length, and vehicle-mile of travel; and

"(II) changes to the reporting requirements authorized under section 315, to reflect recommendations under this paragraph for collection,

storage, analysis, reporting, and display of data for Federal-aid highways and, to the maximum extent practical, all public roads.

"(G) EXPLORING NEXT GENERATION SOLUTIONS AND CAPITALIZING ON THE HIGHWAY RESEARCH CENTER.—

"(i) IN GENERAL.—The Secretary shall carry out research and development activities relating to exploratory advanced research—

"(I) to leverage the targeted capabilities of the Turner-Fairbank Highway Research Center to develop technologies and innovations of national importance; and

"(II) to develop potentially transformational solutions to improve the durability, efficiency, environmental impact, productivity, and safety aspects of highway and intermodal transportation systems.

"(ii) CONTENTS.—Research and technology activities carried out under this subparagraph may include—

"(I) long-term, high-risk research to improve the materials used in highway infrastructure;

"(II) exploratory research to assess the effects of transportation decisions on human health;

"(III) advanced development of surrogate measures for highway safety;

"(IV) transformational research to affect complex environmental and highway system relationships;

"(V) development of economical and environmentally sensitive designs, efficient and quality-controlled construction practices, and durable materials;

"(VI) development of advanced data acquisition techniques for system condition and performance monitoring;

"(VII) inclusive research for hour-to-hour operational decision-making and simulation forecasting;

"(VIII) understanding current and emerging phenomena to inform next generation transportation policy decisionmaking; and

"(IX) continued improvement and advancement of the Turner-Fairbank Highway Research Center.

"(H) ALIGNING NATIONAL CHALLENGES AND DISSEMINATING INFORMATION.—

"(i) IN GENERAL.—The Secretary shall conduct research and development activities—

"(I) to establish a nationally coordinated highway research agenda that—

"(aa) focuses on topics of national significance;

"(bb) addresses current gaps in research;

"(cc) encourages collaboration;

"(dd) reduces unnecessary duplication of effort; and

"(ee) accelerates innovation delivery; and

"(II) to provide relevant information to researchers and highway and transportation practitioners to improve the performance of the transportation system.

"(ii) CONTENTS.—Research and technology activities carried out under this subparagraph may include—

"(I) coordination, development, and implementation of a national highway research agenda;

"(II) collaboration on national emphasis areas of highway research and coordination among international, Federal, State, and university research programs;

"(III) development and delivery of research reports and innovation delivery messages;

"(IV) identification of market-ready technologies and innovations; and

"(V) provision of access to data developed under this subparagraph to the public, including researchers,

stakeholders, and customers, through a publicly accessible Internet site.

"(c) TECHNOLOGY AND INNOVATION DEPLOYMENT PROGRAM.—

"(1) IN GENERAL.—The Secretary shall carry out a technology and innovation deployment program relating to all aspects of highway transportation, including planning, financing, operation, structures, materials, pavements, environment, construction, and the duration of time between project planning and project delivery, with the goals of—

"(A) significantly accelerating the adoption of innovative technologies by the surface transportation community;

"(B) providing leadership and incentives to demonstrate and promote state-of-the-art technologies, elevated performance standards, and new business practices in highway construction processes that result in improved safety, faster construction, reduced congestion from construction, and improved quality and user satisfaction;

"(C) constructing longer-lasting highways through the use of innovative technologies and

practices that lead to faster construction of efficient and safe highways and bridges;

"(D) improving highway efficiency, safety, mobility, reliability, service life, environmental protection, and sustainability; and

"(E) developing and deploying new tools, techniques, and practices to accelerate the adoption of innovation in all aspects of highway transportation.

"(2) IMPLEMENTATION.—

"(A) IN GENERAL.—The Secretary shall promote, facilitate, and carry out the program established under paragraph (1) to distribute the products, technologies, tools, methods, or other findings that result from highway research and development activities, including research and development activities carried out under this chapter.

"(B) ACCELERATED INNOVATION DEPLOYMENT.—In carrying out the program established under paragraph (1), the Secretary shall—

"(i) establish and carry out demonstration programs;

"(ii) provide incentives, technical assistance, and training to researchers and developers; and

"(iii) develop improved tools and methods to accelerate the adoption of proven innovative practices and technologies as standard practices.

"(C) IMPLEMENTATION OF FUTURE STRATEGIC HIGHWAY RESEARCH PROGRAM FINDINGS AND RESULTS.—

"(i) IN GENERAL.—The Secretary, in consultation with the American Association of State Highway and Transportation Officials and the Transportation Research Board of the National Academy of Sciences, shall implement the findings and recommendations developed under the future strategic highway research program established under section 510.

"(ii) BASIS FOR FINDINGS.—The activities carried out under this subparagraph shall be based on the report submitted to Congress by the Transportation Research Board of the National Academy of Sciences under section 510(e).

"(iii) PERSONNEL.—The Secretary may use funds made available to carry out this subsection for administrative costs under this subparagraph, which funds shall be used in addition to any other funds made available for that purpose.

"(iv) FEES.—

"(I) IN GENERAL.—The Secretary may impose and collect fees to recover costs associated with special data or analysis requests relating to safety naturalistic driving databases developed under the future of strategic highway research program.

"(II) USE OF FEE AMOUNTS.—

"(aa) IN GENERAL.—Any fees collected under this clause shall be made available to the Secretary to carry out this section and shall remain available for expenditure until expended.

"(bb) SUPPLEMENT, NOT SUPPLANT.—Any fee amounts collected under this clause shall supplement, but not supplant,

amounts made available to the Secretary to carry out this title.

"(3) ACCELERATED IMPLEMENTATION AND DEPLOYMENT OF PAVEMENT TECHNOLOGIES.—

"(A) IN GENERAL.—The Secretary shall establish and implement a program under the technology and innovation deployment program to promote, implement, deploy, demonstrate, showcase, support, and document the application of innovative pavement technologies, practices, performance, and benefits.

"(B) GOALS.—The goals of the accelerated implementation and deployment of pavement technologies program shall include—

"(i) the deployment of new, cost-effective designs, materials, recycled materials, and practices to extend the pavement life and performance and to improve user satisfaction;

"(ii) the reduction of initial costs and lifecycle costs of pavements, including the costs of new construction, replacement, maintenance, and rehabilitation;

"(iii) the deployment of accelerated construction techniques to increase safety

and reduce construction time and traffic disruption and congestion;

"(iv) the deployment of engineering design criteria and specifications for new and efficient practices, products, and materials for use in highway pavements;

"(v) the deployment of new nondestructive and real-time pavement evaluation technologies and construction techniques; and

"(vi) effective technology transfer and information dissemination to accelerate implementation of new technologies and to improve life, performance, cost effectiveness, safety, and user satisfaction.

"(C) FUNDING.—The Secretary shall obligate for each of fiscal years 2012 through 2013 from funds made available to carry out this subsection—

"(i) $6,000,000 to accelerate the deployment and implementation of asphalt pavement technology; and

"(ii) $6,000,000 to accelerate the deployment and implementation of concrete

pavement technology used in highways on the national highway system.

"(D) ADMINISTRATION.—

"(i) IN GENERAL.—The implementation and deployment activities to be carried out under this paragraph shall be identified and conducted in collaboration with industry, State departments of transportation, the Federal Highway Administration, the National Academy of Sciences, and other appropriate entities, using the respective road maps (the Concrete Pavement Road Map and National Asphalt Roadmap) as a guide.

"(ii) COLLABORATION.—The Federal Highway Administration shall collaborate with organizations that have a proven track record of effective technology deployment on a national scale, stakeholder involvement, and leveraging of public sector investment.

"(iii) ADVISORY COMMITTEE.—A pavement technology implementation advisory committee comprised of key stakeholders, including the Federal Highway

Administration, State departments of transportation, and the pavement industry, shall be established to oversee and advise the program efforts.

"(iv) REPORT.—The Secretary shall annually submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that details the progress and results of the activities carried out under this paragraph.

"(d) AIR QUALITY AND CONGESTION MITIGATION MEASURE OUTCOMES ASSESSMENT RESEARCH.—

"(1) IN GENERAL.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall carry out a research program to examine the outcomes of actions funded under the congestion mitigation and air quality improvement program since the enactment of the SAFETEA–LU (Public Law 109–59).

"(2) GOALS.—The goals of the program shall include—

"(A) the assessment and documentation, through outcomes research conducted on a representative sample of cases, of—

"(i) the emission reductions achieved by federally supported surface transportation actions intended to reduce emissions or lessen traffic congestion; and

"(ii) the air quality and human health impacts of those actions, including potential unrecognized or indirect consequences, attributable to those actions;

"(B) an expanded base of empirical evidence on the air quality and human health impacts of actions described in paragraph (1); and

"(C) an increase in knowledge of—

"(i) the factors determining the air quality and human health changes associated with transportation emission reduction actions; and

"(ii) other information to more accurately understand the validity of current estimation and modeling routines and ways to improve those routines.

"(3) ADMINISTRATIVE ELEMENTS.—To carry out this subsection, the Secretary shall—

"(A) make a grant for the coordination, selection, management, and reporting of component studies to an independent scientific research organization with the necessary experience in successfully conducting accountability and other studies on mobile source air pollutants and associated health effects;

"(B) ensure that case studies are identified and conducted by teams selected through a competitive solicitation overseen by an independent committee of unbiased experts; and

"(C) ensure that all findings and reports are peer-reviewed and published in a form that presents the findings together with reviewer comments.

"(4) REPORT.—The Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives—

"(A) not later than 1 year after the date of enactment of the MAP–21, and for the following year, a report providing an initial scoping and plan, and status updates, respec-

tively, for the program under this subsection; and

"(B) not later than 2 years after the date of enactment of the MAP–21, a final report that describes the findings of, and recommendations resulting from, the program under this subsection.

"(5) FUNDING.—Of the amounts made available to carry out this section, the Secretary shall make available to carry out this subsection not more than $1,000,000 for each fiscal year.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 5 of title 23, United States Code, is amended by striking the item relating to section 503 and inserting the following:

"503. Research and technology development and deployment.".

**SEC. 52004. TRAINING AND EDUCATION.**

Section 504 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (2)(A) by inserting "and the employees of any other applicable Federal agency" before the semicolon at the end;

(B) in paragraph (3)(A)(ii)(V) by striking "expediting" and inserting "reducing the amount of time required for";

(C) by striking paragraph (4);

(D) by redesignating paragraphs (5) through (8) as paragraphs (4) through (7), respectively; and

(E) in paragraph (7) (as redesignated by subparagraph (D)) by striking ''paragraph (7)'' and inserting ''paragraph (6)'';

(2) in subsection (b) by striking paragraph (3) and inserting the following:

''(3) FEDERAL SHARE.—

''(A) LOCAL TECHNICAL ASSISTANCE CENTERS.—

''(i) IN GENERAL.—Subject to subparagraph (B), the Federal share of the cost of an activity carried out by a local technical assistance center under paragraphs (1) and (2) shall be 50 percent.

''(ii) NON-FEDERAL SHARE.—The non-Federal share of the cost of an activity described in clause (i) may consist of amounts provided to a recipient under subsection (e) or section 505, up to 100 percent of the non-Federal share.

''(B) TRIBAL TECHNICAL ASSISTANCE CENTERS.—The Federal share of the cost of an

activity carried out by a tribal technical assistance center under paragraph (2)(D)(ii) shall be 100 percent.''; (3) in subsection (c)(2)—

(A) by striking ''The Secretary'' and inserting the following:

''(A) IN GENERAL.—The Secretary'';

(B) in subparagraph (A) (as designated by subparagraph (A)) by striking ''. The program'' and inserting '', which program''; and

(C) by adding at the end the following:

''(B) USE OF AMOUNTS.—Amounts provided to institutions of higher education to carry out this paragraph shall be used to provide direct support of student expenses.'';

(4) in subsection (e)(1)—

(A) in the matter preceding subparagraph (A) by striking ''sections 104(b)(1), 104(b)(2), 104(b)(3), 104(b)(4), and 144(e)'' and inserting ''paragraphs (1) through (4) of section 104(b)'';

(B) in subparagraph (D) by striking ''and'' at the end;

(C) in subparagraph (E) by striking the period and inserting a semicolon; and

(D) by adding at the end the following:

''(F) meetings of transportation professionals that include education and professional development activities;

''(G) activities carried out by the National Highway Institute under subsection (a); and

''(H) local technical assistance programs under subsection (b).'';

(5) in subsection (f) in the heading, by striking ''PILOT'';

(6) in subsection (g)(4)(F) by striking ''excellence'' and inserting ''stewardship''; and

(7) by adding at the end the following:

''(h) CENTERS FOR SURFACE TRANSPORTATION EXCELLENCE.—

''(1) IN GENERAL.—The Secretary may make grants under this section to establish and maintain centers for surface transportation excellence.

''(2) GOALS.—The goals of a center referred to in paragraph (1) shall be to promote and support strategic national surface transportation programs and activities relating to the work of State departments of transportation in the areas of environment, surface transportation safety, rural safety, and project finance.''.

**SEC. 52005. STATE PLANNING AND RESEARCH.**

Section 505 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1) by striking ''section 104 (other than sections 104(f) and 104(h)) and under section 144'' and inserting ''paragraphs (1) through (5) of section 104(b)''; and

(B) in paragraph (3) by striking ''under section 303'' and inserting '', plans, and processes under sections 119, 148, 149, and 167'';

(2) in subsection (b)—

(A) in paragraph (1) by striking ''25'' and inserting ''24''; and

(B) in paragraph (2) by striking ''75 percent of the funds described in paragraph (1)'' and inserting ''70 percent of the funds described in subsection (a)'';

(3) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively;

(4) by inserting after subsection (b) the following:

''(c) IMPLEMENTATION OF FUTURE STRATEGIC HIGHWAY RESEARCH PROGRAM FINDINGS AND RESULTS.—

"(1) FUNDS.—Not less than 6 percent of the funds subject to subsection (a) that are apportioned to a State for a fiscal year shall be made available to the Secretary to carry out section 503(c)(2)(C).

"(2) TREATMENT OF FUNDS.—Funds expended under paragraph (1) shall not be considered to be part of the extramural budget of the agency for the purpose of section 9 of the Small Business Act (15 U.S.C. 638)."; and

(5) in paragraph (e) (as so redesignated) by striking "section 118(b)(2)" and inserting "section 118(b)".

**SEC. 52006. INTERNATIONAL HIGHWAY TRANSPORTATION PROGRAM.**

Section 506 of title 23, United States Code, is repealed.

**SEC. 52007. SURFACE TRANSPORTATION ENVIRONMENTAL COOPERATIVE RESEARCH PROGRAM.**

Section 507 of title 23, United States Code, is repealed.

**SEC. 52008. NATIONAL COOPERATIVE FREIGHT RESEARCH.**

Section 509(d) of title 23, United States Code, is amended by adding at the end the following:

"(6) COORDINATION OF COOPERATIVE RESEARCH.—The National Academy of Sciences shall

coordinate research agendas, research project selections, and competitions across all transportation-related cooperative research programs carried out by the National Academy of Sciences to ensure program efficiency, effectiveness, and the dissemination of research findings.''.

**SEC. 52009. PRIZE AUTHORITY.**

(a) IN GENERAL.—Chapter 3 of title 49, United States Code, is amended by inserting before section 336 the following:

**''§ 335. Prize authority**

''(a) IN GENERAL.—The Secretary of Transportation may carry out a program, in accordance with this section, to competitively award cash prizes to stimulate innovation in basic and applied research, technology development, and prototype demonstration that have the potential for application to the national transportation system.

''(b) TOPICS.—In selecting topics for prize competitions under this section, the Secretary shall—

''(1) consult with a wide variety of Government and nongovernment representatives; and

''(2) give consideration to prize goals that demonstrate innovative approaches and strategies to improve the safety, efficiency, and sustainability of the national transportation system.

"(c) ADVERTISING.—The Secretary shall encourage participation in the prize competitions through extensive advertising.

"(d) REQUIREMENTS AND REGISTRATION.—For each prize competition, the Secretary shall publish a notice on a public website that describes—

"(1) the subject of the competition;

"(2) the eligibility rules for participation in the competition;

"(3) the amount of the prize; and

"(4) the basis on which a winner will be selected.

"(e) ELIGIBILITY.—An individual or entity may not receive a prize under this section unless the individual or entity—

"(1) has registered to participate in the competition pursuant to any rules promulgated by the Secretary under this section;

"(2) has complied with all the requirements under this section;

"(3)(A) in the case of a private entity, is incorporated in, and maintains a primary place of business in, the United States; or

"(B) in the case of an individual, whether participating singly or in a group, is a citizen

or permanent resident of the United States; and

"(4) is not a Federal entity or Federal employee acting within the scope of his or her employment.

"(f) LIABILITY.—

"(1) ASSUMPTION OF RISK.—

"(A) IN GENERAL.—A registered participant shall agree to assume any and all risks and waive claims against the Federal Government and its related entities, except in the case of willful misconduct, for any injury, death, damage, or loss of property, revenue, or profits, whether direct, indirect, or consequential, arising from participation in a competition, whether such injury, death, damage, or loss arises through negligence or otherwise.

"(B) RELATED ENTITY.—In this paragraph, the term 'related entity' means a contractor, subcontractor (at any tier), supplier, user, customer, cooperating party, grantee, investigator, or detailee.

"(2) FINANCIAL RESPONSIBILITY.—A participant shall obtain liability insurance or demonstrate

financial responsibility, in amounts determined by the Secretary, for claims by—

"(A) a third party for death, bodily injury, or property damage, or loss resulting from an activity carried out in connection with participation in a competition, with the Federal Government named as an additional insured under the registered participant's insurance policy and registered participants agreeing to indemnify the Federal Government against third party claims for damages arising from or related to competition activities; and

"(B) the Federal Government for damage or loss to Government property resulting from such an activity.

"(g) JUDGES.—

"(1) SELECTION.—For each prize competition, the Secretary, either directly or through an agreement under subsection (h), shall assemble a panel of qualified judges to select the winner or winners of the prize competition on the basis described in subsection (d). Judges for each competition shall include individuals from outside the Administration, including the private sector.

1 "(2) LIMITATIONS.—A judge selected under
2 this subsection may not—
3 "(A) have personal or financial interests
4 in, or be an employee, officer, director, or agent
5 of, any entity that is a registered participant in
6 a prize competition under this section; or
7 "(B) have a familial or financial relation-
8 ship with an individual who is a registered par-
9 ticipant.
10 "(h) ADMINISTERING THE COMPETITION.—The Sec-
11 retary may enter into an agreement with a private, non-
12 profit entity to administer the prize competition, subject
13 to the provisions of this section.
14 "(i) FUNDING.—
15 "(1) PRIVATE SECTOR FUNDING.—A cash prize
16 under this section may consist of funds appropriated
17 by the Federal Government and funds provided by
18 the private sector. The Secretary may accept funds
19 from other Federal agencies, State and local govern-
20 ments, and metropolitan planning organizations for
21 the cash prizes. The Secretary may not give any spe-
22 cial consideration to any private sector entity in re-
23 turn for a donation under this paragraph.

"(2) AVAILABILITY OF FUNDS.—Notwithstanding any other provision of law, amounts appropriated for prize awards under this section—

"(A) shall remain available until expended; and

"(B) may not be transferred, reprogrammed, or expended for other purposes until after the expiration of the 10-year period beginning on the last day of the fiscal year for which the funds were originally appropriated.

"(3) SAVINGS PROVISION.—Nothing in this subsection may be construed to permit the obligation or payment of funds in violation of the Anti-Deficiency Act (31 U.S.C. 1341).

"(4) PRIZE ANNOUNCEMENT.—A prize may not be announced under this section until all the funds needed to pay out the announced amount of the prize have been appropriated or committed in writing by a private source.

"(5) PRIZE INCREASES.—The Secretary may increase the amount of a prize after the initial announcement of the prize under this section if—

"(A) notice of the increase is provided in the same manner as the initial notice of the prize; and

"(B) the funds needed to pay out the announced amount of the increase have been appropriated or committed in writing by a private source.

"(6) CONGRESSIONAL NOTIFICATION.—A prize competition under this section may offer a prize in an amount greater than $1,000,000 only after 30 days have elapsed after written notice has been transmitted to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives.

"(7) AWARD LIMIT.—A prize competition under this section may not result in the award of more than $25,000 in cash prizes without the approval of the Secretary.

"(j) USE OF DEPARTMENT NAME AND INSIGNIA.—A registered participant in a prize competition under this section may use the Department's name, initials, or insignia only after prior review and written approval by the Secretary.

"(k) COMPLIANCE WITH EXISTING LAW.—The Federal Government shall not, by virtue of offering or providing a prize under this section, be responsible for compliance by registered participants in a prize competition with

Federal law, including licensing, export control, and nonproliferation laws, and related regulations.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 3 of title 49, United States Code, is amended by inserting before the item relating to section 336 the following:

''335. Prize authority''.

**SEC. 52010. UNIVERSITY TRANSPORTATION CENTERS PROGRAM.**

(a) IN GENERAL.—Section 5505 of title 49, United States Code, is amended to read as follows:

**''§ 5505. University transportation centers program**

''(a) UNIVERSITY TRANSPORTATION CENTERS PROGRAM.—

''(1) ESTABLISHMENT AND OPERATION.—The Secretary shall make grants under this section to eligible nonprofit institutions of higher education to establish and operate university transportation centers.

''(2) ROLE OF CENTERS.—The role of each university transportation center referred to in paragraph (1) shall be—

''(A) to advance transportation expertise and technology in the varied disciplines that comprise the field of transportation through

education, research, and technology transfer activities;

"(B) to provide for a critical transportation knowledge base outside of the Department of Transportation; and

"(C) to address critical workforce needs and educate the next generation of transportation leaders.

"(b) COMPETITIVE SELECTION PROCESS.—

"(1) APPLICATIONS.—To receive a grant under this section, a nonprofit institution of higher education shall submit to the Secretary an application that is in such form and contains such information as the Secretary may require.

"(2) RESTRICTION.—Institutions may not apply for both a national transportation center and a regional transportation center.

"(3) GENERAL SELECTION CRITERIA.—

"(A) IN GENERAL.—Except as otherwise provided by this section, the Secretary shall award grants under this section in nonexclusive candidate topic areas established by the Secretary that address the research priorities identified in section 503 of title 23.

"(B) CRITERIA.—The Secretary, in conjunction with the Administrators of the Federal Highway Administration and the Federal Transit Administration, shall select each recipient of a grant under this section through a competitive process based on the assessment of the Secretary relating to—

"(i) the demonstrated ability of the recipient to address each specific topic area described in the research and strategic plans of the recipient;

"(ii) the demonstrated research, technology transfer, and education resources available to the recipient to carry out this section;

"(iii) the ability of the recipient to provide leadership in solving immediate and long-range national and regional transportation problems;

"(iv) the ability of the recipient to carry out research, education, and technology transfer activities that are multimodal and multidisciplinary in scope;

"(v) the demonstrated commitment of the recipient to carry out transportation

workforce development programs through—

"(I) degree-granting programs;

"(II) training seminars for practicing professionals;

"(III) outreach activities to attract new entrants into the transportation field, including women, minorities, and persons from disadvantaged communities; and

"(IV) primary and secondary school transportation workforce outreach;

"(vi) the demonstrated ability of the recipient to disseminate results and spur the implementation of transportation research and education programs through national or statewide continuing education programs;

"(vii) the demonstrated commitment of the recipient to the use of peer review principles and other research best practices in the selection, management, and dissemination of research projects;

"(viii) the strategic plan submitted by the recipient describing the proposed research to be carried out by the recipient and the performance metrics to be used in assessing the performance of the recipient in meeting the stated research, technology transfer, education, and outreach goals; and

"(ix) the ability of the recipient to implement the proposed program in a cost-efficient manner, such as through cost sharing and overall reduced overhead, facilities, and administrative costs.

"(c) GRANTS.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of the Transportation Research and Innovative Technology Act of 2012, the Secretary, in conjunction with the Administrators of the Federal Highway Administration and the Federal Transit Administration, shall select grant recipients under subsection (b) and make grant amounts available to the selected recipients.

"(2) NATIONAL TRANSPORTATION CENTERS.—

"(A) IN GENERAL.—For each of fiscal years 2012 and 2013, and subject to subpara-

graph (B), the Secretary shall provide grants to 5 recipients that the Secretary determines best meet the criteria described in subsection (b)(3).

"(B) RESTRICTIONS.—

"(i) IN GENERAL.—For each fiscal year, a grant made available under this paragraph shall not exceed $3,250,000 per recipient.

"(ii) FOCUSED RESEARCH.—The grant recipients under this paragraph shall focus research on national transportation issues, as determined by the Secretary.

"(C) MATCHING REQUIREMENT.—

"(i) IN GENERAL.—As a condition of receiving a grant under this paragraph, a grant recipient shall match 100 percent of the amounts made available under the grant.

"(ii) SOURCES.—The matching amounts referred to in clause (i) may include amounts made available to the recipient under—

"(I) section 504(b) or 505 of title 23; and

"(II) a transportation-related grant from the National Science Foundation subject to prior approval by the Secretary.

"(3) REGIONAL UNIVERSITY TRANSPORTATION CENTERS.—

"(A) LOCATION OF REGIONAL CENTERS.—One regional university transportation center shall be located in each of the 10 Federal regions that comprise the Standard Federal Regions established by the Office of Management and Budget in the document entitled 'Standard Federal Regions' and dated April, 1974 (circular A–105).

"(B) SELECTION CRITERIA.—In conducting a competition under subsection (b), the Secretary shall provide grants to 10 recipients on the basis of—

"(i) the criteria described in subsection (b)(3);

"(ii) the location of the center within the Federal region to be served; and

"(iii) whether the institution (or, in the case of consortium of institutions, the lead institution) demonstrates that the in-

stitution has a well-established, nationally recognized program in transportation research and education, as evidenced by—

"(I) recent expenditures by the institution in highway or public transportation research;

"(II) a historical track record of awarding graduate degrees in professional fields closely related to highways and public transportation; and

"(III) an experienced faculty who specialize in professional fields closely related to highways and public transportation.

"(C) RESTRICTIONS.—For each fiscal year, a grant made available under this paragraph shall not exceed $2,750,000 for each recipient.

"(D) MATCHING REQUIREMENTS.—

"(i) IN GENERAL.—As a condition of receiving a grant under this paragraph, a grant recipient shall match 100 percent of the amounts made available under the grant.

"(ii) SOURCES.—The matching amounts referred to in the clause (i) may include amounts made available to the recipient under—

"(I) section 504(b) or 505 of title 23; and

"(II) a transportation-related grant from the National Science Foundation subject to prior approval by the Secretary.

"(4) TIER 1 UNIVERSITY TRANSPORTATION CENTERS.—

"(A) IN GENERAL.—For each of fiscal years 2012 and 2013, the Secretary shall provide grants of not more than $1,500,000 each to not more than 20 recipients to carry out this section.

"(B) RESTRICTION.—A grant recipient under paragraph (2) or (3) shall not be eligible to receive a grant under this paragraph.

"(C) MATCHING REQUIREMENT.—

"(i) IN GENERAL.—Subject to clause (iii), as a condition of receiving a grant under this paragraph, a grant recipient

shall match 50 percent of the amounts made available under the grant.

"(ii) SOURCES.—The matching amounts referred to in clause (i) may include amounts made available to the recipient under—

"(I) section 504(b) or 505 of title 23; and

"(II) a transportation-related grant from the National Science Foundation subject to prior approval by the Secretary.

"(iii) EXEMPTION.—This subparagraph shall not apply on a demonstration of financial hardship by the applicant institution.

"(D) FOCUSED RESEARCH.—

"(i) IN GENERAL.—In awarding grants under this paragraph, consideration shall be given to minority institutions, as defined by section 365 of the Higher Education Act of 1965 (20 U.S.C. 1067k), or consortia that include such institutions that have demonstrated an ability in transportation-related research.

"(ii) PUBLIC TRANSPORTATION ISSUES.—At least 2 of the recipients awarded a grant under this paragraph shall have expertise in, and focus research on, public transportation issues.

"(d) PROGRAM COORDINATION.—

"(1) IN GENERAL.—The Secretary shall—

"(A) coordinate the research, education, and technology transfer activities carried out by grant recipients under this section; and

"(B) disseminate the results of that research through the establishment and operation of an information clearinghouse.

"(2) ANNUAL REVIEW AND EVALUATION.—Not less frequently than annually, and consistent with the plan developed under section 508 of title 23, the Secretary shall review and evaluate the programs carried out under this section by grant recipients.

"(3) PROGRAM EVALUATION AND OVERSIGHT.—For each of fiscal years 2012 and 2013, the Secretary shall expend not more than 1½ percent of the amounts made available to the Secretary to carry out this section for any coordination, evaluation, and oversight activities of the Secretary under this section and section 5506.

"(e) LIMITATION ON AVAILABILITY OF AMOUNTS.—Amounts made available to the Secretary to carry out this section shall remain available for obligation by the Secretary for a period of 3 years after the last day of the fiscal year for which the amounts are appropriated.

"(f) INFORMATION COLLECTION.—Any survey, questionnaire, or interview that the Secretary determines to be necessary to carry out reporting requirements relating to any program assessment or evaluation activity under this section, including customer satisfaction assessments, shall not be subject to chapter 35 of title 44.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 55 of title 49, United States Code, is amended by striking the item relating to section 5505 and inserting the following:

"Sec. 5505. University transportation centers program.".

**SEC. 52011. BUREAU OF TRANSPORTATION STATISTICS.**

(a) IN GENERAL.—Subtitle III of title 49, United States Code, is amended by adding at the end the following:

## "CHAPTER 63—BUREAU OF 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.

**''§ 6301. Definitions**

''In this chapter, the following definitions apply:

''(1) BUREAU.—The term 'Bureau' means the Bureau of Transportation Statistics established by section 6302(a).

''(2) DEPARTMENT.—The term 'Department' means the Department of Transportation.

''(3) DIRECTOR.—The term 'Director' means the Director of the Bureau.

''(4) LIBRARY.—The term 'Library' means the National Transportation Library established by section 6304(a).

''(5) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

**''§ 6302. Bureau of Transportation Statistics**

''(a) ESTABLISHMENT.—There is established in the Research and Innovative Technology Administration the Bureau of Transportation Statistics.

''(b) DIRECTOR.—

''(1) APPOINTMENT.—The Bureau shall be headed by a Director, who shall be appointed in the competitive service by the Secretary.

"(2) QUALIFICATIONS.—The Director shall be appointed from among individuals who are qualified to serve as the Director by virtue of their training and experience in the collection, analysis, and use of transportation statistics.

"(3) DUTIES.—

"(A) IN GENERAL.—The Director shall—

"(i) serve as the senior advisor to the Secretary on data and statistics; and

"(ii) be responsible for carrying out the duties described in subparagraph (B).

"(B) DUTIES.—The Director shall—

"(i) ensure that the statistics compiled under clause (vi) are designed to support transportation decisionmaking by—

"(I) the Federal Government;

"(II) State and local governments;

"(III) metropolitan planning organizations;

"(IV) transportation-related associations;

"(V) the private sector, including the freight community; and

"(VI) the public;

"(ii) establish on behalf of the Secretary a program—

"(I) to effectively integrate safety data across modes; and

"(II) to address gaps in existing safety data programs of the Department;

"(iii) work with the operating administrations of the Department—

"(I) to establish and implement the data programs of the Bureau; and

"(II) to improve the coordination of information collection efforts with other Federal agencies;

"(iv) continually improve surveys and data collection methods of the Department to improve the accuracy and utility of transportation statistics;

"(v) encourage the standardization of data, data collection methods, and data management and storage technologies for data collected by—

"(I) the Bureau;

"(II) the operating administrations of the Department;

"(III) State and local governments;

"(IV) metropolitan planning organizations; and

"(V) private sector entities;

"(vi) collect, compile, analyze, and publish a comprehensive set of transportation statistics on the performance and impacts of the national transportation system, including statistics on—

"(I) transportation safety across all modes and intermodally;

"(II) the state of good repair of United States transportation infrastructure;

"(III) the extent, connectivity, and condition of the transportation system, building on the national transportation atlas database developed under section 6310;

"(IV) economic efficiency across the entire transportation sector;

"(V) the effects of the transportation system on global and domestic economic competitiveness;

"(VI) demographic, economic, and other variables influencing travel behavior, including choice of transportation mode and goods movement;

"(VII) transportation-related variables that influence the domestic economy and global competitiveness;

"(VIII) economic costs and impacts for passenger travel and freight movement;

"(IX) intermodal and multimodal passenger movement;

"(X) intermodal and multimodal freight movement; and

"(XI) consequences of transportation for the human and natural environment;

"(vii) build and disseminate the transportation layer of the National Spatial Data Infrastructure developed under Executive Order 12906 (59 Fed. Reg. 17671) (or a successor Executive Order), including by coordinating the development of transportation geospatial data standards, compiling intermodal geospatial data, and col-

lecting geospatial data that is not being collected by other entities;

"(viii) issue guidelines for the collection of information by the Department that the Director determines necessary to develop transportation statistics and carry out modeling, economic assessment, and program assessment activities to ensure that such information is accurate, reliable, relevant, uniform, and in a form that permits systematic analysis by the Department;

"(ix) review and report to the Secretary on the sources and reliability of—

"(I) the statistics proposed by the heads of the operating administrations of the Department to measure outputs and outcomes as required by the Government Performance and Results Act of 1993 (Public Law 103–62;107 Stat. 285); and

"(II) at the request of the Secretary, any other data collected or statistical information published by the

heads of the operating administrations of the Department; and

"(x) ensure that the statistics published under this section are readily accessible to the public, consistent with applicable security constraints and confidentiality interests.

"(c) ACCESS TO FEDERAL DATA.—In carrying out subsection (b)(3)(B)(ii), the Director shall be given access to all safety data that the Director determines necessary to carry out that subsection that is held by the Department or any other Federal agency upon written request and subject to any statutory or regulatory restrictions.

**"§ 6303. Intermodal transportation database**

"(a) IN GENERAL.—In consultation with the Under Secretary Transportation for Policy, the Assistant Secretaries of the Department, and the heads of the operating administrations of the Department, the Director shall establish and maintain a transportation database for all modes of transportation.

"(b) USE.—The database established under this section shall be suitable for analyses carried out by the Federal Government, the States, and metropolitan planning organizations.

"(c) CONTENTS.—The database established under this section shall include—

"(1) information on the volumes and patterns of movement of goods, including local, interregional, and international movement, by all modes of transportation, intermodal combinations, and relevant classification;

"(2) information on the volumes and patterns of movement of people, including local, interregional, and international movements, by all modes of transportation (including bicycle and pedestrian modes), intermodal combinations, and relevant classification;

"(3) information on the location and connectivity of transportation facilities and services; and

"(4) a national accounting of expenditures and capital stocks on each mode of transportation and intermodal combination.

**"§ 6304. National transportation library**

"(a) PURPOSE AND ESTABLISHMENT.—To support the information management and decisionmaking needs of transportation officials at the Federal, State, and local levels, there is established in the Bureau a National Transportation Library which shall—

"(1) be headed by an individual who is highly qualified in library and information science;

"(2) acquire, preserve, and manage transportation information and information products and services for use by the Department, other Federal agencies, and the general public;

"(3) provide reference and research assistance;

"(4) serve as a central depository for research results and technical publications of the Department;

"(5) provide a central clearinghouse for transportation data and information of the Federal Government;

"(6) serve as coordinator and policy lead for transportation information access;

"(7) provide transportation information and information products and services to—

"(A) the Department;

"(B) other Federal agencies;

"(C) public and private organizations; and

"(D) individuals, within the United States and internationally;

"(8) coordinate efforts among, and cooperate with, transportation libraries, information providers, and technical assistance centers, in conjunction with

private industry and other transportation library and information centers, with the goal of developing a comprehensive transportation information and knowledge network that supports the activities described in section 6302(b)(3)(B)(vi); and

"(9) engage in such other activities as the Director determines to be necessary and as the resources of the Library permit.

"(b) ACCESS.—The Director shall publicize, facilitate, and promote access to the information products and services described in subsection (a), to improve the ability of the transportation community to share information and the ability of the Director to make statistics and other information readily accessible as required under section 6302(b)(3)(B)(x).

"(c) AGREEMENTS.—

"(1) IN GENERAL.—To carry out this section, the Director may enter into agreements with, award grants to, and receive amounts from, any—

"(A) State or local government;

"(B) organization;

"(C) business; or

"(D) individual.

"(2) CONTRACTS, GRANTS, AND AGREEMENTS.—The Library may initiate and support spe-

cific information and data management, access, and exchange activities in connection with matters relating to the Department's strategic goals, knowledge networking, and national and international cooperation, by entering into contracts or other agreements or awarding grants for the conduct of such activities.

"(3) AMOUNTS.—Any amounts received by the Library as payment for library products and services or other activities shall be made available to the Director to carry out this section, deposited in the Research and Innovative Technology Administration's general fund account, and remain available until expended.

**"§ 6305. Advisory council on transportation statistics**

"(a) IN GENERAL.—The Director shall establish and consult with an advisory council on transportation statistics.

"(b) FUNCTION.—The advisory council established under this section shall advise the Director on—

"(1) the quality, reliability, consistency, objectivity, and relevance of transportation statistics and analyses collected, supported, or disseminated by the Bureau and the Department; and

"(2) methods to encourage cooperation and interoperability of transportation data collected by the Bureau, the operating administrations of the Department, States, local governments, metropolitan planning organizations, and private sector entities.

"(c) MEMBERSHIP.—

"(1) IN GENERAL.—The advisory council shall be composed of not fewer than 9 and not more than 11 members appointed by the Director.

"(2) SELECTION.—In selecting members for the advisory council, the Director shall appoint individuals who—

"(A) are not officers or employees of the United States;

"(B) possess expertise in—

"(i) transportation data collection, analysis, or application;

"(ii) economics; or

"(iii) transportation safety; and

"(C) represent a cross section of transportation stakeholders, to the greatest extent possible.

"(d) TERMS OF APPOINTMENT.—

"(1) IN GENERAL.—Except as provided in paragraph (2), members of the advisory council shall be appointed to staggered terms not to exceed 3 years.

"(2) ADDITIONAL TERMS.—A member may be renominated for 1 additional 3-year term.

"(3) CURRENT MEMBERS.—A member serving on an advisory council on transportation statistics on the day before the date of enactment of the Transportation Research and Innovative Technology Act of 2012 shall serve until the end of the appointed term of the member.

"(e) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the advisory council established under this section, except that section 14 of that Act shall not apply.

**"§ 6306. Transportation statistical collection, analysis, and dissemination**

"To ensure that all transportation statistical collection, analysis, and dissemination is carried out in a coordinated manner, the Director may—

"(1) use the services, equipment, records, personnel, information, and facilities of other Federal agencies, or State, local, and private agencies and instrumentalities, subject to the conditions that the

applicable agency or instrumentality consents to that use and with or without reimbursement for such use;

''(2) enter into agreements with the agencies and instrumentalities described in paragraph (1) for purposes of data collection and analysis;

''(3) confer and cooperate with foreign governments, international organizations, and State, municipal, and other local agencies;

''(4) request such information, data, and reports from any Federal agency as the Director determines necessary to carry out this chapter;

''(5) encourage replication, coordination, and sharing of information among transportation agencies regarding information systems, information policy, and data; and

''(6) confer and cooperate with Federal statistical agencies as the Director determines necessary to carry out this chapter, including by entering into cooperative data sharing agreements in conformity with all laws and regulations applicable to the disclosure and use of data.

**''§ 6307. Furnishing of information, data, or reports by Federal agencies**

''(a) IN GENERAL.—Except as provided in subsection (b), a Federal agency requested to furnish information,

data, or reports by the Director under section 6302(b)(3)(B) shall provide the information to the Director.

"(b) PROHIBITION ON CERTAIN DISCLOSURES.—

"(1) IN GENERAL.—An officer, employee, or contractor of the Bureau may not—

"(A) make any disclosure in which the data provided by an individual or organization under section 6302(b)(3)(B) can be identified;

"(B) use the information provided under section 6302(b)(3)(B) for a nonstatistical purpose; or

"(C) permit anyone other than an individual authorized by the Director to examine any individual report provided under section 6302(b)(3)(B).

"(2) COPIES OF REPORTS.—

"(A) IN GENERAL.—No department, bureau, agency, officer, or employee of the United States (except the Director in carrying out this chapter) may require, for any reason, a copy of any report that has been filed under section 6302(b)(3)(B) with the Bureau or retained by an individual respondent.

"(B) LIMITATION ON JUDICIAL PROCEEDINGS.—A copy of a report described in subparagraph (A) that has been retained by an individual respondent or filed with the Bureau or any of the employees, contractors, or agents of the Bureau—

"(i) shall be immune from legal process; and

"(ii) shall not, without the consent of the individual concerned, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceedings.

"(C) APPLICABILITY.—This paragraph shall apply only to reports that permit information concerning an individual or organization to be reasonably determined by direct or indirect means.

"(3) INFORMING RESPONDENT OF USE OF DATA.—If the Bureau is authorized by statute to collect data or information for a nonstatistical purpose, the Director shall clearly distinguish the collection of the data or information, by rule and on the collection instrument, in a manner that informs the respondent who is requested or required to supply

the data or information of the nonstatistical purpose.

"(c) TRANSPORTATION AND TRANSPORTATION-RELATED DATA ACCESS.—The Director shall be provided access to any transportation and transportation-related information in the possession of any Federal agency, except—

"(1) information that is expressly prohibited by law from being disclosed to another Federal agency; or

"(2) information that the agency possessing the information determines could not be disclosed without significantly impairing the discharge of authorities and responsibilities which have been delegated to, or vested by law, in such agency.

**"§ 6308. Proceeds of data product sales**

"Notwithstanding section 3302 of title 31, amounts received by the Bureau from the sale of data products for necessary expenses incurred may be credited to the Highway Trust Fund (other than the Mass Transit Account) for the purpose of reimbursing the Bureau for those expenses.

**"§ 6309. Information collection**

"As the head of an independent Federal statistical agency, the Director may consult directly with the Office

of Management and Budget concerning any survey, questionnaire, or interview that the Director considers necessary to carry out the statistical responsibilities of this chapter.

**"§ 6310. National transportation atlas database**

''(a) IN GENERAL.—The Director shall develop and maintain a national transportation atlas database that is comprised of geospatial databases that depict—

''(1) transportation networks;

''(2) flows of people, goods, vehicles, and craft over the transportation networks; and

''(3) social, economic, and environmental conditions that affect or are affected by the transportation networks.

''(b) INTERMODAL NETWORK ANALYSIS.—The databases referred to in subsection (a) shall be capable of supporting intermodal network analysis.

**"§ 6311. Limitations on statutory construction**

''Nothing in this chapter—

''(1) authorizes the Bureau to require any other Federal agency to collect data; or

''(2) alters or diminishes the authority of any other officer of the Department to collect and disseminate data independently.

**"§ 6312. Research and development grants**

''The Secretary may make grants to, or enter into cooperative agreements or contracts with, public and non-profit private entities (including State transportation departments, metropolitan planning organizations, and institutions of higher education) for—

''(1) investigation of the subjects described in section 6302(b)(3)(B)(vi);

''(2) research and development of new methods of data collection, standardization, management, integration, dissemination, interpretation, and analysis;

''(3) demonstration programs by States, local governments, and metropolitan planning organizations to coordinate data collection, reporting, management, storage, and archiving to simplify data comparisons across jurisdictions;

''(4) development of electronic clearinghouses of transportation data and related information, as part of the Library; and

''(5) development and improvement of methods for sharing geographic data, in support of the database under section 6310 and the National Spatial Data Infrastructure developed under Executive Order 12906 (59 Fed. Reg. 17671) (or a successor Executive Order).

**"§ 6313. Transportation statistics annual report**

''The Director shall submit to the President and Congress a transportation statistics annual report, which shall include—

''(1) information on the progress of the Director in carrying out the duties described in section 6302(b)(3)(B);

''(2) documentation of the methods used to obtain and ensure the quality of the statistics presented in the report; and

''(3) any recommendations of the Director for improving transportation statistical information.

**"§ 6314. Mandatory response authority for freight data collection**

''(a) FREIGHT DATA COLLECTION.—

''(1) IN GENERAL.—An owner, official, agent, person in charge, or assistant to the person in charge of a freight corporation, company, business, institution, establishment, or organization described in paragraph (2) shall be fined in accordance with subsection (b) if that individual neglects or refuses, when requested by the Director or other authorized officer, employee, or contractor of the Bureau to submit data under section 6302(b)(3)(B)—

''(A) to answer completely and correctly to the best knowledge of that individual all ques-

tions relating to the corporation, company, business, institution, establishment, or other organization; or

"(B) to make available records or statistics in the official custody of the individual.

"(2) DESCRIPTION OF ENTITIES.—A freight corporation, company, business, institution, establishment, or organization referred to in paragraph (1) is a corporation, company, business, institution, establishment, or organization that—

"(A) receives Federal funds relating to the freight program; and

"(B) has consented to be subject to a fine under this subsection on—

"(i) refusal to supply any data requested; or

"(ii) failure to respond to a written request.

"(b) FINES.—

"(1) IN GENERAL.—Subject to paragraph (2), an individual described in subsection (a) shall be fined not more than $500.

"(2) WILLFUL ACTIONS.—If an individual willfully gives a false answer to a question described in

subsection (a)(1), the individual shall be fined not more than $10,000.''.

(b) RULES OF CONSTRUCTION.—If the provisions of section 111 of title 49, United States Code, are transferred to chapter 63 of that title, the following rules of construction apply:

(1) For purposes of determining whether 1 provision of law supersedes another based on enactment later in time, a chapter 63 provision is deemed to have been enacted on the date of enactment of the corresponding section 111 provision.

(2) A reference to a section 111 provision, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding chapter 63 provision.

(3) A regulation, order, or other administrative action in effect under a section 111 provision continues in effect under the corresponding chapter 63 provision.

(4) An action taken or an offense committed under a section 111 provision is deemed to have been taken or committed under the corresponding chapter 63 provision.

(c) CONFORMING AMENDMENTS.—

(1) REPEAL.—Section 111 of title 49, United States Code, is repealed, and the item relating to section 111 in the analysis for chapter 1 of that title is deleted.

(2) ANALYSIS FOR SUBTITLE III.—The analysis for subtitle III of title 49, United States Code, is amended by inserting after the items for chapter 61 the following:

"Chapter 63. Bureau of Transportation Statistics.".

**SEC. 52012. ADMINISTRATIVE AUTHORITY.**

Section 112 of title 49, United States Code, is amended by adding at the end the following:

"(f) PROMOTIONAL AUTHORITY.—Amounts authorized to be appropriated for the administration and operation of the Research and Innovative Technology Administration may be used to purchase promotional items of nominal value for use by the Administrator of the Research and Innovative Technology Administration in the recruitment of individuals and promotion of the programs of the Administration.

"(g) PROGRAM EVALUATION AND OVERSIGHT.—For each of fiscal years 2012 and 2013, the Administrator is authorized to expend not more than 1 ½ percent of the amounts authorized to be appropriated for necessary expenses for administration and operations of the Research and Innovative Technology Administration for the coordi-

nation, evaluation, and oversight of the programs administered by the Administration.

"(h) COLLABORATIVE RESEARCH AND DEVELOPMENT.—

"(1) IN GENERAL.—To encourage innovative solutions to multimodal transportation problems and stimulate the deployment of new technology, the Administrator may carry out, on a cost-shared basis, collaborative research and development with—

"(A) non-Federal entities, including State and local governments, foreign governments, institutions of higher education, corporations, institutions, partnerships, sole proprietorships, and trade associations that are incorporated or established under the laws of any State;

"(B) Federal laboratories; and

"(C) other Federal agencies.

"(2) COOPERATION, GRANTS, CONTRACTS, AND AGREEMENTS.—Notwithstanding any other provision of law, the Administrator may directly initiate contracts, grants, cooperative research and development agreements (as defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a)), and other agreements to fund, and accept funds from, the Transportation Research

Board of the National Research Council of the National Academy of Sciences, State departments of transportation, cities, counties, institutions of higher education, associations, and the agents of those entities to carry out joint transportation research and technology efforts.

"(3) FEDERAL SHARE.—

"(A) IN GENERAL.—Subject to subparagraph (B), the Federal share of the cost of an activity carried out under paragraph (2) shall not exceed 50 percent.

"(B) EXCEPTION.—If the Secretary determines that the activity is of substantial public interest or benefit, the Secretary may approve a greater Federal share.

"(C) NON-FEDERAL SHARE.—All costs directly incurred by the non-Federal partners, including personnel, travel, facility, and hardware development costs, shall be credited toward the non-Federal share of the cost of an activity described in subparagraph (A).

"(4) USE OF TECHNOLOGY.—The research, development, or use of a technology under a contract, grant, cooperative research and development agreement, or other agreement entered into under this

subsection, including the terms under which the technology may be licensed and the resulting royalties may be distributed, shall be subject to the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.).

"(5) WAIVER OF ADVERTISING REQUIREMENTS.—Section 6101 of title 41, United States Code shall not apply to a contract, grant, or other agreement entered into under this section.".

**SEC. 52013. TRANSPORTATION RESEARCH AND DEVELOPMENT STRATEGIC PLANNING.**

Section 508(a) of title 23, United States Code, is amended—

(1) in paragraph (1), by striking "SAFETEA–LU" and inserting "Transportation Research and Innovative Technology Act of 2012"; and

(2) in paragraph (2), by striking subparagraph (A) and inserting the following:

"(A) describe the primary purposes of the transportation research and development program, which shall include, at a minimum—

"(i) promoting safety;

"(ii) reducing congestion and improving mobility;

"(iii) protecting and enhancing the environment;

"(iv) preserving the existing transportation system;

"(v) improving the durability and extending the life of transportation infrastructure; and

"(vi) improving goods movement;".

# TITLE III—INTELLIGENT TRANSPORTATION SYSTEMS RESEARCH

**SEC. 53001. USE OF FUNDS FOR ITS ACTIVITIES.**

Section 513 of title 23, United States Code, is amended to read as follows:

**"§ 513. Use of funds for ITS activities**

"(a) DEFINITIONS.—In this section, the following definitions apply:

"(1) ELIGIBLE ENTITY.—The term 'eligible entity' means a State or local government, tribal government, transit agency, public toll authority, metropolitan planning organization, other political subdivision of a State or local government, or a multistate or multijurisdictional group applying through a single lead applicant.

"(2) MULTIJURISDICTIONAL GROUP.—The term 'multijurisdictional group' means a combination of State governments, local governments, metropolitan planning agencies, transit agencies, or other political subdivisions of a State that—

"(A) have signed a written agreement to implement an activity that meets the grant criteria under this section; and

"(B) is comprised of at least 2 members, each of whom is an eligible entity.

"(b) PURPOSE.—The purpose of this section is to develop, administer, communicate, and promote the use of products of research, technology, and technology transfer programs.

"(c) ITS DEPLOYMENT INCENTIVES.—

"(1) IN GENERAL.—The Secretary may—

"(A) develop and implement incentives to accelerate the deployment of ITS technologies and services within all funding programs authorized by the Transportation Research and Innovative Technology Act of 2012; and

"(B) for each fiscal year, use amounts made available to the Secretary to carry out intelligent transportation systems outreach, in-

cluding through the use of websites, public relations, displays, tours, and brochures.

"(2) COMPREHENSIVE PLAN.—To carry out this section, the Secretary shall develop a detailed and comprehensive plan that addresses the manner in which incentives may be adopted, as appropriate, through the existing deployment activities carried out by surface transportation modal administrations.

"(d) SYSTEM OPERATIONS AND ITS DEPLOYMENT GRANT PROGRAM.—

"(1) ESTABLISHMENT.—The Secretary shall establish a competitive grant program to accelerate the deployment, operation, systems management, intermodal integration, and interoperability of the ITS program and ITS-enabled operational strategies—

"(A) to measure and improve the performance of the surface transportation system;

"(B) to reduce traffic congestion and the economic and environmental impacts of traffic congestion;

"(C) to minimize fatalities and injuries;

"(D) to enhance mobility of people and goods;

"(E) to improve traveler information and services; and

"(F) to optimize existing roadway capacity.

"(2) APPLICATION.—To be considered for a grant under this subsection, an eligible entity shall submit an application to the Secretary that includes—

"(A) a plan to deploy and provide for the long-term operation and maintenance of intelligent transportation systems to improve safety, efficiency, system performance, and return on investment, such as—

"(i) real-time integrated traffic, transit, and multimodal transportation information;

"(ii) advanced traffic, freight, parking, and incident management systems;

"(iii) advanced technologies to improve transit and commercial vehicle operations;

"(iv) synchronized, adaptive, and transit preferential traffic signals;

"(v) advanced infrastructure condition assessment technologies; and

"(vi) other technologies to improve system operations, including ITS applications necessary for multimodal systems in-

tegration and for achieving performance goals;

"(B) quantifiable system performance improvements, including—

"(i) reductions in traffic-related crashes, congestion, and costs;

"(ii) optimization of system efficiency; and

"(iii) improvement of access to transportation services;

"(C) quantifiable safety, mobility, and environmental benefit projections, including data driven estimates of the manner in which the project will improve the transportation system efficiency and reduce traffic congestion in the region;

"(D) a plan for partnering with the private sector, including telecommunications industries and public service utilities, public agencies (including multimodal and multijurisdictional entities), research institutions, organizations representing transportation and technology leaders, and other transportation stakeholders;

"(E) a plan to leverage and optimize existing local and regional ITS investments; and

"(F) a plan to ensure interoperability of deployed technologies with other tolling, traffic management, and intelligent transportation systems.

"(3) SELECTION.—

"(A) IN GENERAL.—Not later than 1 year after the date of enactment of the Transportation Research and Innovative Technology Act of 2012, the Secretary may provide grants to eligible entities under this section.

"(B) GEOGRAPHIC DIVERSITY.—In awarding a grant under this section, the Secretary shall ensure, to the maximum extent practicable, that grant recipients represent diverse geographical areas of the United States, including urban, suburban, and rural areas.

"(C) NON-FEDERAL SHARE.—In awarding a grant under the section, the Secretary shall give priority to grant recipients that demonstrate an ability to contribute a significant non-Federal share to the cost of carrying out the project for which the grant is received.

"(4) ELIGIBLE USES.—Projects for which grants awarded under this section may be used include—

"(A) the establishment and implementation of ITS and ITS-enabled operations strategies that improve performance in the areas of—

"(i) traffic operations;

"(ii) emergency response to surface transportation incidents;

"(iii) incident management;

"(iv) transit and commercial vehicle operations improvements;

"(v) weather event response management by State and local authorities;

"(vi) surface transportation network and facility management;

"(vii) construction and work zone management;

"(viii) traffic flow information;

"(ix) freight management; and

"(x) congestion management;

"(B) carrying out activities that support the creation of networks that link metropolitan and rural surface transportation systems into an integrated data network, capable of collecting, sharing, and archiving transportation system traffic condition and performance information;

"(C) the implementation of intelligent transportation systems and technologies that improve highway safety through information and communications systems linking vehicles, infrastructure, mobile devices, transportation users, and emergency responders;

"(D) the provision of services necessary to ensure the efficient operation and management of ITS infrastructure, including costs associated with communications, utilities, rent, hardware, software, labor, administrative costs, training, and technical services;

"(E) the provision of support for the establishment and maintenance of institutional relationships between transportation agencies, police, emergency medical services, private emergency operators, freight operators, shippers, public service utilities, and telecommunications providers;

"(F) carrying out multimodal and crossjurisdictional planning and deployment of regional transportation systems operations and management approaches; and

"(G) performing project evaluations to determine the costs, benefits, lessons learned, and

future deployment strategies associated with the deployment of intelligent transportation systems.

"(5) REPORT TO SECRETARY.—For each fiscal year that an eligible entity receives a grant under this section, not later than 1 year after receiving that grant, each recipient shall submit a report to the Secretary that describes how the project has met the expectations projected in the deployment plan submitted with the application, including—

"(A) data on how the program has helped reduce traffic crashes, congestion, costs, and other benefits of the deployed systems;

"(B) data on the effect of measuring and improving transportation system performance through the deployment of advanced technologies;

"(C) the effectiveness of providing real-time integrated traffic, transit, and multimodal transportation information to the public that allows the public to make informed travel decisions; and

"(D) lessons learned and recommendations for future deployment strategies to optimize

transportation efficiency and multimodal system performance.

"(6) REPORT TO CONGRESS.—Not later than 2 years after date on which the first grant is awarded under this section and annually thereafter for each fiscal year for which grants are awarded under this section, the Secretary shall submit to Congress a report that describes the effectiveness of the grant recipients in meeting the projected deployment plan goals, including data on how the grant program has—

"(A) reduced traffic-related fatalities and injuries;

"(B) reduced traffic congestion and improved travel time reliability;

"(C) reduced transportation-related emissions;

"(D) optimized multimodal system performance;

"(E) improved access to transportation alternatives;

"(F) provided the public with access to real-time integrated traffic, transit, and multimodal transportation information to make informed travel decisions;

"(G) provided cost savings to transportation agencies, businesses, and the traveling public; and

"(H) provided other benefits to transportation users and the general public.

"(7) ADDITIONAL GRANTS.—If the Secretary determines, based on a report submitted under paragraph (5), that a grant recipient is not complying with the established grant criteria, the Secretary may—

"(A) cease payment to the recipient of any remaining grant amounts; and

"(B) redistribute any remaining amounts to other eligible entities under this section.

"(8) NON-FEDERAL SHARE.—The Federal share of a grant under this section shall not exceed 50 percent of the cost of the project.

"(9) GRANT LIMITATION.—The Secretary may not award more than 10 percent of the amounts provided under this section to a single grant recipient in any fiscal year.

"(10) MULTIYEAR GRANTS.—Subject to availability of amounts, the Secretary may provide an eligible entity with grant amounts for a period of multiple fiscal years.

"(11) FUNDING.—Of the funds authorized to be appropriated to carry out the intelligent transportation system program under sections 512 through 518, not less than 50 percent of such funds shall be used to carry out this subsection.".

**SEC. 53002. GOALS AND PURPOSES.**

(a) IN GENERAL.—Chapter 5 of title 23, United States Code, is amended by adding after section 513 the following:

**"§ 514. Goals and purposes**

"(a) GOALS.—The goals of the intelligent transportation system program include—

"(1) enhancement of surface transportation efficiency and facilitation of intermodalism and international trade to enable existing facilities to meet a significant portion of future transportation needs, including public access to employment, goods, and services and to reduce regulatory, financial, and other transaction costs to public agencies and system users;

"(2) achievement of national transportation safety goals, including enhancement of safe operation of motor vehicles and nonmotorized vehicles and improved emergency response to collisions, with

1 particular emphasis on decreasing the number and
2 severity of collisions;
3 ''(3) protection and enhancement of the natural
4 environment and communities affected by surface
5 transportation, with particular emphasis on assisting
6 State and local governments to achieve national en-
7 vironmental goals;
8 ''(4) accommodation of the needs of all users of
9 surface transportation systems, including operators
10 of commercial motor vehicles, passenger motor vehi-
11 cles, motorcycles, bicycles, and pedestrians (includ-
12 ing individuals with disabilities); and
13 ''(5) enhancement of national defense mobility
14 and improvement of the ability of the United States
15 to respond to security-related or other manmade
16 emergencies and natural disasters.
17 ''(b) PURPOSES.—The Secretary shall implement ac-
18 tivities under the intelligent transportation system pro-
19 gram, at a minimum—
20 ''(1) to expedite, in both metropolitan and rural
21 areas, deployment and integration of intelligent
22 transportation systems for consumers of passenger
23 and freight transportation;
24 ''(2) to ensure that Federal, State, and local
25 transportation officials have adequate knowledge of

intelligent transportation systems for consideration in the transportation planning process;

''(3) to improve regional cooperation and operations planning for effective intelligent transportation system deployment;

''(4) to promote the innovative use of private resources in support of intelligent transportation system development;

''(5) to facilitate, in cooperation with the motor vehicle industry, the introduction of vehicle-based safety enhancing systems;

''(6) to support the application of intelligent transportation systems that increase the safety and efficiency of commercial motor vehicle operations;

''(7) to develop a workforce capable of developing, operating, and maintaining intelligent transportation systems;

''(8) to provide continuing support for operations and maintenance of intelligent transportation systems; and

''(9) to ensure a systems approach that includes cooperation among vehicles, infrastructure, and users.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 5 of title 23, United States Code, is amended by adding after the item relating to section 513 the following:

"514. Goals and purposes.".

**SEC. 53003. GENERAL AUTHORITIES AND REQUIREMENTS.**

(a) IN GENERAL.—Chapter 5 of title 23, United States Code, is amended by adding after section 514 (as added by section 53002) the following:

**"§ 515. General authorities and requirements**

"(a) SCOPE.—Subject to the provisions of this chapter, the Secretary shall conduct an ongoing intelligent transportation system program—

"(1) to research, develop, and operationally test intelligent transportation systems; and

"(2) to provide technical assistance in the nationwide application of those systems as a component of the surface transportation systems of the United States.

"(b) POLICY.—Intelligent transportation system research projects and operational tests funded pursuant to this chapter shall encourage and not displace public-private partnerships or private sector investment in those tests and projects.

"(c) COOPERATION WITH GOVERNMENTAL, PRIVATE, AND EDUCATIONAL ENTITIES.—The Secretary shall carry out the intelligent transportation system pro-

gram in cooperation with State and local governments and other public entities, the private sector firms of the United States, the Federal laboratories, and institutions of higher education, including historically Black colleges and universities and other minority institutions of higher education.

"(d) CONSULTATION WITH FEDERAL OFFICIALS.—In carrying out the intelligent transportation system program, the Secretary shall consult with the heads of other Federal agencies, as appropriate.

"(e) TECHNICAL ASSISTANCE, TRAINING, AND INFORMATION.—The Secretary may provide technical assistance, training, and information to State and local governments seeking to implement, operate, maintain, or evaluate intelligent transportation system technologies and services.

"(f) TRANSPORTATION PLANNING.—The Secretary may provide funding to support adequate consideration of transportation systems management and operations, including intelligent transportation systems, within metropolitan and statewide transportation planning processes.

"(g) INFORMATION CLEARINGHOUSE.—

"(1) IN GENERAL.—The Secretary shall—

"(A) maintain a repository for technical and safety data collected as a result of federally

sponsored projects carried out under this chapter; and

"(B) make, on request, that information (except for proprietary information and data) readily available to all users of the repository at an appropriate cost.

"(2) AGREEMENT.—

"(A) IN GENERAL.—The Secretary may enter into an agreement with a third party for the maintenance of the repository for technical and safety data under paragraph (1)(A).

"(B) FEDERAL FINANCIAL ASSISTANCE.—If the Secretary enters into an agreement with an entity for the maintenance of the repository, the entity shall be eligible for Federal financial assistance under this section.

"(3) AVAILABILITY OF INFORMATION.—Information in the repository shall not be subject to sections 552 and 555 of title 5, United States Code.

"(h) ADVISORY COMMITTEE.—

"(1) IN GENERAL.—The Secretary shall establish an Advisory Committee to advise the Secretary on carrying out this chapter.

"(2) MEMBERSHIP.—The Advisory Committee shall have no more than 20 members, be balanced

between metropolitan and rural interests, and include, at a minimum—

"(A) a representative from a State highway department;

"(B) a representative from a local highway department who is not from a metropolitan planning organization;

"(C) a representative from a State, local, or regional transit agency;

"(D) a representative from a metropolitan planning organization;

"(E) a private sector user of intelligent transportation system technologies;

"(F) an academic researcher with expertise in computer science or another information science field related to intelligent transportation systems, and who is not an expert on transportation issues;

"(G) an academic researcher who is a civil engineer;

"(H) an academic researcher who is a social scientist with expertise in transportation issues;

"(I) a representative from a nonprofit group representing the intelligent transportation system industry;

"(J) a representative from a public interest group concerned with safety;

"(K) a representative from a public interest group concerned with the impact of the transportation system on land use and residential patterns; and

"(L) members with expertise in planning, safety, telecommunications, utilities, and operations.

"(3) DUTIES.—The Advisory Committee shall, at a minimum, perform the following duties:

"(A) Provide input into the development of the intelligent transportation system aspects of the strategic plan under section 508.

"(B) Review, at least annually, areas of intelligent transportation systems research being considered for funding by the Department, to determine—

"(i) whether these activities are likely to advance either the state-of-the-practice or state-of-the-art in intelligent transportation systems;

"(ii) whether the intelligent transportation system technologies are likely to be deployed by users, and if not, to determine the barriers to deployment; and

"(iii) the appropriate roles for government and the private sector in investing in the research and technologies being considered.

"(4) REPORT.—Not later than February 1 of each year after the date of enactment of the Transportation Research and Innovative Technology Act of 2012, the Secretary shall submit to Congress a report that includes—

"(A) all recommendations made by the Advisory Committee during the preceding calendar year;

"(B) an explanation of the manner in which the Secretary has implemented those recommendations; and

"(C) for recommendations not implemented, the reasons for rejecting the recommendations.

"(5) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Advisory Committee shall be

subject to the Federal Advisory Committee Act (5 U.S.C. App.).

"(i) REPORTING.—

"(1) GUIDELINES AND REQUIREMENTS.—

"(A) IN GENERAL.—The Secretary shall issue guidelines and requirements for the reporting and evaluation of operational tests and deployment projects carried out under this chapter.

"(B) OBJECTIVITY AND INDEPENDENCE.—The guidelines and requirements issued under subparagraph (A) shall include provisions to ensure the objectivity and independence of the reporting entity so as to avoid any real or apparent conflict of interest or potential influence on the outcome by parties to any such test or deployment project or by any other formal evaluation carried out under this chapter.

"(C) FUNDING.—The guidelines and requirements issued under subparagraph (A) shall establish reporting funding levels based on the size and scope of each test or project that ensure adequate reporting of the results of the test or project.

"(2) SPECIAL RULE.—Any survey, questionnaire, or interview that the Secretary considers necessary to carry out the reporting of any test, deployment project, or program assessment activity under this chapter shall not be subject to chapter 35 of title 44, United States Code.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 5 of title 23, United States Code, is amended by adding after the item relating to section 514 (as added by section 53002) the following:

"515. General authorities and requirements.".

**SEC. 53004. RESEARCH AND DEVELOPMENT.**

(a) IN GENERAL.—Chapter 5 of title 23, United States Code, is amended by adding after section 515 (as added by section 53003) the following:

**"§ 516. Research and development**

"(a) IN GENERAL.—The Secretary shall carry out a comprehensive program of intelligent transportation system research and development, and operational tests of intelligent vehicles, intelligent infrastructure systems, and other similar activities that are necessary to carry out this chapter.

"(b) PRIORITY AREAS.—Under the program, the Secretary shall give higher priority to funding projects that—

"(1) enhance mobility and productivity through improved traffic management, incident management,

transit management, freight management, road weather management, toll collection, traveler information, or highway operations systems and remote sensing products;

''(2) use interdisciplinary approaches to develop traffic management strategies and tools to address multiple impacts of congestion concurrently;

''(3) address traffic management, incident management, transit management, toll collection traveler information, or highway operations systems;

''(4) incorporate research on the impact of environmental, weather, and natural conditions on intelligent transportation systems, including the effects of cold climates;

''(5) enhance intermodal use of intelligent transportation systems for diverse groups, including for emergency and health-related services;

''(6) enhance safety through improved crash avoidance and protection, crash and other notification, commercial motor vehicle operations, and infrastructure-based or cooperative safety systems; or

''(7) facilitate the integration of intelligent infrastructure, vehicle, and control technologies.

"(c) FEDERAL SHARE.—The Federal share payable on account of any project or activity carried out under subsection (a) shall not exceed 80 percent.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 5 of title 23, United States Code, is amended by adding after the item relating to section 515 (as added by section 53004) the following:

"516. Research and development.".

**SEC. 53005. NATIONAL ARCHITECTURE AND STANDARDS.**

(a) IN GENERAL.—Chapter 5 of title 23, United States Code, is amended by adding after section 516 (as added by section 53004) the following:

**"§ 517. National architecture and standards**

"(a) IN GENERAL.—

"(1) DEVELOPMENT, IMPLEMENTATION, AND MAINTENANCE.—In accordance with section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note; 110 Stat. 783; 115 Stat. 1241), the Secretary shall develop and maintain a national ITS architecture and supporting ITS standards and protocols to promote the use of systems engineering methods in the widespread deployment and evaluation of intelligent transportation systems as a component of the surface transportation systems of the United States.

"(2) INTEROPERABILITY AND EFFICIENCY.—To the maximum extent practicable, the national ITS architecture and supporting ITS standards and protocols shall promote interoperability among, and efficiency of, intelligent transportation systems and technologies implemented throughout the United States.

"(3) USE OF STANDARDS DEVELOPMENT ORGANIZATIONS.—In carrying out this section, the Secretary shall support the development and maintenance of standards and protocols using the services of such standards development organizations as the Secretary determines to be necessary and whose memberships are comprised of, and represent, the surface transportation and intelligent transportation systems industries.

"(b) STANDARDS FOR NATIONAL POLICY IMPLEMENTATION.—If the Secretary finds that a standard is necessary for implementation of a nationwide policy relating to user fee collection or other capability requiring nationwide uniformity, the Secretary, after consultation with stakeholders, may establish and require the use of that standard.

"(c) PROVISIONAL STANDARDS.—

"(1) IN GENERAL.—If the Secretary finds that the development or balloting of an intelligent transportation system standard jeopardizes the timely achievement of the objectives described in subsection (a), the Secretary may establish a provisional standard, after consultation with affected parties, using, to the maximum extent practicable, the work product of appropriate standards development organizations.

"(2) PERIOD OF EFFECTIVENESS.—A provisional standard established under paragraph (1) shall be published in the Federal Register and remain in effect until the appropriate standards development organization adopts and publishes a standard.

"(d) CONFORMITY WITH NATIONAL ARCHITECTURE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall ensure that intelligent transportation system projects carried out using amounts made available from the Highway Trust Fund, including amounts made available to deploy intelligent transportation systems, conform to the appropriate regional ITS architecture, applicable

standards, and protocols developed under subsection (a) or (c).

"(2) DISCRETION OF THE SECRETARY.—The Secretary, at the discretion of the Secretary, may offer an exemption from paragraph (1) for projects designed to achieve specific research objectives outlined in the national intelligent transportation system program plan or the surface transportation research and development strategic plan developed under section 508.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 5 of title 23, United States Code, is amended by adding after the item relating to section 516 (as added by section 53004) the following:

"517. National architecture and standards.".

**SEC. 53006. VEHICLE-TO-VEHICLE AND VEHICLE-TO-INFRASTRUCTURE COMMUNICATIONS SYSTEMS DEPLOYMENT.**

(a) IN GENERAL.—Chapter 5 of title 23, United States Code, is amended by adding after section 517 (as added by section 53005) the following:

**"§ 518. Vehicle-to-vehicle and vehicle-to-infrastructure communications systems deployment**

"(a) IN GENERAL.—Not later than 3 years after the date of enactment of this section, the Secretary shall submit a report to the Committee on Commerce, Science, and

Transportation of the Senate, the Committee on Environment and Public Works of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Energy and Commerce of the House of Representatives that—

"(1) defines a recommended implementation path for dedicated short-range communications technology and applications;

"(2) includes guidance on the relationship of the proposed deployment of dedicated short-range communications to the National ITS Architecture and ITS Standards; and

"(3) ensures competition by not preferencing the use of any particular frequency for vehicle to infrastructure operations.

"(b) REPORT REVIEW.—The Secretary shall enter into agreements with the National Research Council and an independent third party with subject matter expertise for the review of the report described in subsection (a).".

(b) CONFORMING AMENDMENT.—The analysis for chapter 5 of title 23, United States Code, is amended by adding after section 517 (as added by section 53005) the following:

"518. 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.

(a) AMENDMENTS.—The Secure Rural Schools and Community Self-Determination Act of 2000 (16 U.S.C. 7101 et seq.) is amended—

(1) in section 3(11)—

(A) in subparagraph (A), by striking ''and'' after the semicolon at the end;

(B) in subparagraph (B)—

(i) by striking ''fiscal year 2009 and each fiscal year thereafter'' and inserting ''each of fiscal years 2009 through 2011''; and

(ii) by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(C) for fiscal year 2012 and each fiscal year thereafter, the amount that is equal to 95

percent of the full funding amount for the preceding fiscal year.'';

(2) in sections 101, 102, 203, 207, 208, 304, and 402, by striking ''2011'' each place it appears and inserting ''2012'';

(3) in section 102—

(A) by striking ''2008'' each place it appears and inserting ''2012'';

(B) in subsection (b)(2)(B), by inserting ''in 2012'' before '', the election''; and

(C) in subsection (d)—

(i) in paragraph (1)(A), by striking ''paragraph (3)(B)'' and inserting ''subparagraph (D)''; and

(ii) in paragraph (3)—

(I) by striking subparagraph (A) and inserting the following:

''(A) NOTIFICATION.—The Governor of each eligible State shall notify the Secretary concerned of an election by an eligible county under this subsection not later than September 30, 2012, and each September 30 thereafter for each succeeding fiscal year.'';

(II) by redesignating subparagraph (B) as subparagraph (D) and

moving the subparagraph so as to appear at the end of paragraph (1) of subsection (d); and

(III) by inserting after subparagraph (A) the following:

"(B) FAILURE TO ELECT.—If the Governor of an eligible State fails to notify the Secretary concerned of the election for an eligible county by the date specified in subparagraph (A)—

"(i) the eligible county shall be considered to have elected to expend 80 percent of the funds in accordance with paragraph (1)(A); and

"(ii) the remainder shall be available to the Secretary concerned to carry out projects in the eligible county to further the purpose described in section 202(b).";

(4) in section 103(d)(2), by striking "fiscal year 2011" and inserting "each of fiscal years 2011 and 2012";

(5) in section 202, by adding at the end the following:

"(c) ADMINISTRATIVE EXPENSES.—A resource advisory committee may, in accordance with section 203, pro-

pose to use not more than 10 percent of the project funds of an eligible county for any fiscal year for administrative expenses associated with operating the resource advisory committee under this title.'';

(6) in section 204(e)(3)(B)(iii), by striking ''and 2011'' and inserting ''through 2012'';

(7) in section 205(a)(4), by striking ''2006'' each place it appears and inserting ''2011'';

(8) in section 208(b), by striking ''2012'' and inserting ''2013'';

(9) in section 302(a)(2)(A), by inserting ''and'' after the semicolon; and

(10) in section 304(b), by striking ''2012'' and inserting ''2013''.

(b) FAILURE TO MAKE ELECTION.—For each county that failed to make an election for fiscal year 2011 in accordance with section 102(d)(3)(A) of the Secure Rural Schools and Community Self-Determination Act of 2000 (16 U.S.C. 7112(d)(3)(A)), there shall be available to the Secretary of Agriculture to carry out projects to further the purpose described in section 202(b) of that Act (16 U.S.C. 7122(b)), from amounts in the Treasury not otherwise appropriated, the amount that is equal to 15 percent of the total share of the State payment that otherwise

would have been made to the county under that Act for fiscal year 2011.

# Subtitle B—Payment in Lieu of Taxes Program

**SEC. 100111. PAYMENTS IN LIEU OF TAXES.**

Section 6906 of title 31, United States Code, is amended by striking "2012" and inserting "2013".

# Subtitle C—Offsets

**SEC. 100112. TAX REPORTING FOR LIFE SETTLEMENT TRANSACTIONS.**

(a) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

**"SEC. 6050X. RETURNS RELATING TO CERTAIN LIFE INSURANCE CONTRACT TRANSACTIONS.**

"(a) REQUIREMENT OF REPORTING OF CERTAIN PAYMENTS.—

"(1) IN GENERAL.—Every person who acquires a life insurance contract or any interest in a life insurance contract in a reportable policy sale during any taxable year shall make a return for such taxable year (at such time and in such manner as the Secretary shall prescribe) setting forth—

"(A) the name, address, and TIN of such person,

"(B) the name, address, and TIN of each recipient of payment in the reportable policy sale,

"(C) the date of such sale,

"(D) the name of the issuer of the life insurance contract sold and the policy number of such contract, and

"(E) the amount of each payment.

"(2) STATEMENT TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under this subsection shall furnish to each person whose name is required to be set forth in such return a written statement showing—

"(A) the name, address, and phone number of the information contact of the person required to make such return, and

"(B) the information required to be shown on such return with respect to such person, except that in the case of an issuer of a life insurance contract, such statement is not required to include the information specified in paragraph (1)(E).

"(b) REQUIREMENT OF REPORTING OF SELLER'S BASIS IN LIFE INSURANCE CONTRACTS.—

"(1) IN GENERAL.—Upon receipt of the statement required under subsection (a)(2) or upon notice of a transfer of a life insurance contract to a foreign person, each issuer of a life insurance contract shall make a return (at such time and in such manner as the Secretary shall prescribe) setting forth—

"(A) the name, address, and TIN of the seller who transfers any interest in such contract in such sale,

"(B) the investment in the contract (as defined in section 72(e)(6)) with respect to such seller, and

"(C) the policy number of such contract.

"(2) STATEMENT TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under this subsection shall furnish to each person whose name is required to be set forth in such return a written statement showing—

"(A) the name, address, and phone number of the information contact of the person required to make such return, and

"(B) the information required to be shown on such return with respect to each seller whose name is required to be set forth in such return.

"(c) REQUIREMENT OF REPORTING WITH RESPECT TO REPORTABLE DEATH BENEFITS.—

"(1) IN GENERAL.—Every person who makes a payment of reportable death benefits during any taxable year shall make a return for such taxable year (at such time and in such manner as the Secretary shall prescribe) setting forth—

"(A) the name, address, and TIN of the person making such payment,

"(B) the name, address, and TIN of each recipient of such payment,

"(C) the date of each such payment, and

"(D) the amount of each such payment.

"(2) STATEMENT TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under this subsection shall furnish to each person whose name is required to be set forth in such return a written statement showing—

"(A) the name, address, and phone number of the information contact of the person required to make such return, and

"(B) the information required to be shown on such return with respect to each recipient of payment whose name is required to be set forth in such return.

"(d) DEFINITIONS.—For purposes of this section:

"(1) PAYMENT.—The term 'payment' means the amount of cash and the fair market value of any consideration transferred in a reportable policy sale.

"(2) REPORTABLE POLICY SALE.—The term 'reportable policy sale' has the meaning given such term in section 101(a)(3)(B).

"(3) ISSUER.—The term 'issuer' means any life insurance company that bears the risk with respect to a life insurance contract on the date any return or statement is required to be made under this section.

"(4) REPORTABLE DEATH BENEFITS.—The term 'reportable death benefits' means amounts paid by reason of the death of the insured under a life insurance contract that has been transferred in a reportable policy sale.".

(b) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 of the Internal Revenue Code of 1986 is amended by in-

1 serting after the item relating to section 6050W the fol-
2 lowing new item:

"Sec. 6050X. Returns relating to certain life insurance contract transactions.".

3 (c) CONFORMING AMENDMENTS.—
4 (1) Subsection (d) of section 6724 of the Inter-
5 nal Revenue Code of 1986 is amended—
6 (A) by striking "or" at the end of clause
7 (xxiv) of paragraph (1)(B), by striking "and"
8 at the end of clause (xxv) of such paragraph
9 and inserting "or", and by inserting after such
10 clause (xxv) the following new clause:
11 "(xxvi) section 6050X (relating to re-
12 turns relating to certain life insurance con-
13 tract transactions), and", and
14 (B) by striking "or" at the end of subpara-
15 graph (GG) of paragraph (2), by striking the
16 period at the end of subparagraph (HH) of
17 such paragraph and inserting ", or", and by in-
18 serting after such subparagraph (HH) the fol-
19 lowing new subparagraph:
20 "(II) subsection (a)(2), (b)(2), or (c)(2) of
21 section 6050X (relating to returns relating to
22 certain life insurance contract transactions).".
23 (2) Section 6047 of such Code is amended—
24 (A) by redesignating subsection (g) as sub-
25 section (h),

(B) by inserting after subsection (f) the following new subsection:

"(g) INFORMATION RELATING TO LIFE INSURANCE CONTRACT TRANSACTIONS.—This section shall not apply to any information which is required to be reported under section 6050X.", and

(C) by adding at the end of subsection (h), as so redesignated, the following new paragraph:

"(4) For provisions requiring reporting of information relating to certain life insurance contract transactions, see section 6050X.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to—

(1) reportable policy sales after December 31, 2012, and

(2) reportable death benefits paid after December 31, 2012.

**SEC. 100113. CLARIFICATION OF TAX BASIS OF LIFE INSURANCE CONTRACTS.**

(a) CLARIFICATION WITH RESPECT TO ADJUSTMENTS.—Paragraph (1) of section 1016(a) of the Internal Revenue Code of 1986 is amended by striking subparagraph (A) and all that follows and inserting the following:

"(A) for—

"(i) taxes or other carrying charges described in section 266; or

"(ii) expenditures described in section 173 (relating to circulation expenditures),

for which deductions have been taken by the taxpayer in determining taxable income for the taxable year or prior taxable years; or

"(B) for mortality, expense, or other reasonable charges incurred under an annuity or life insurance contract;".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to transactions entered into after August 25, 2009.

**SEC. 100114. EXCEPTION TO TRANSFER FOR VALUABLE CONSIDERATION RULES.**

(a) IN GENERAL.—Subsection (a) of section 101 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

"(3) EXCEPTION TO VALUABLE CONSIDERATION RULES FOR COMMERCIAL TRANSFERS.—

"(A) IN GENERAL.—The second sentence of paragraph (2) shall not apply in the case of a transfer of a life insurance contract, or any interest therein, which is a reportable policy sale.

"(B) REPORTABLE POLICY SALE.—For purposes of this paragraph, the term 'reportable policy sale' means the acquisition of an interest in a life insurance contract, directly or indirectly, if the acquirer has no substantial family, business, or financial relationship with the insured apart from the acquirer's interest in such life insurance contract. For purposes of the preceding sentence, the term 'indirectly' applies to the acquisition of an interest in a partnership, trust, or other entity that holds an interest in the life insurance contract.".

(b) CONFORMING AMENDMENT.—Paragraph (1) of section 101(a) of the Internal Revenue Code of 1986 is amended by striking "paragraph (2)" and inserting "paragraphs (2) and (3)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers after December 31, 2012.

**SEC. 100115. PHASED RETIREMENT AUTHORITY.**

(a) CSRS.—Chapter 83 of title 5, United States Code, is amended—

(1) in section 8331—

(A) in paragraph (30) by striking "and" at the end;

(B) in paragraph (31) by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(32) 'Director' means the Director of the Office of Personnel Management.'';

(2) by inserting after section 8336 the following:

**''§ 8336a. Phased retirement**

''(a) For the purposes of this section—

''(1) the term 'composite retirement annuity' means the annuity computed when a phased retiree attains full retirement status;

''(2) the term 'full retirement status' means that a phased retiree has ceased employment and is entitled, upon application, to a composite retirement annuity;

''(3) the term 'phased employment' means the less-than-full-time employment of a phased retiree;

''(4) the term 'phased retiree' means a retirement-eligible employee who—

''(A) makes an election under subsection (b); and

''(B) has not entered full retirement status;

"(5) the term 'phased retirement annuity' means the annuity payable under this section before full retirement;

"(6) the term 'phased retirement percentage' means the percentage which, when added to the working percentage for a phased retiree, produces a sum of 100 percent;

"(7) the term 'phased retirement period' means the period beginning on the date on which an individual becomes entitled to receive a phased retirement annuity and ending on the date on which the individual dies or separates from phased employment;

"(8) the term 'phased retirement status' means that a phased retiree is concurrently employed in phased employment and eligible to receive a phased retirement annuity;

"(9) the term 'retirement-eligible employee'—

"(A) means an individual who, if the individual separated from the service, would meet the requirements for retirement under subsection (a) or (b) of section 8336; and

"(B) does not include—

"(i) an individual who, if the individual separated from the service, would

meet the requirements for retirement under subsection (c), (e), (m), or (n) of section 8336; or

"(ii) a law enforcement officer, firefighter, nuclear materials courier, air traffic controller, customs and border protection officer, or member of the Capitol Police or Supreme Court Police; and

"(10) the term 'working percentage' means the percentage of full-time employment equal the quotient obtained by dividing—

"(A) the number of hours per pay period to be worked by a phased retiree as scheduled in accordance with subsection (b)(2); by

"(B) the number of hours per pay period to be worked by an employee serving in a comparable position on a full-time basis.

"(b)(1) With the concurrence of the head of the employing agency, and under regulations promulgated by the Director, a retirement-eligible employee who has been employed on a full time basis for not less than the 3-year period ending on the date on which the retirement-eligible employee makes an election under this subsection may elect to enter phased retirement status.

"(2)(A) Subject to subparagraph (B), at the time of entering phased retirement status, a phased retiree shall be appointed to a position for which the working percentage is 50 percent.

"(B) The Director may, by regulation, provide for working percentages different from the percentage specified under subparagraph (A), which shall be not less than 20 percent and not more than 80 percent.

"(C) The working percentage for a phased retiree may not be changed during the phased retiree's phased retirement period.

"(D)(i) Not less than 20 percent of the hours to be worked by a phased retiree shall consist of mentoring.

"(ii) The Director may, by regulation, provide for exceptions to the requirement under clause (i).

"(3) A phased retiree—

"(A) may not be employed in more than one position at any time; and

"(B) may transfer to another position in the same or a different agency, if the transfer does not result in a change in the working percentage.

"(4) A retirement-eligible employee may make only one election under this subsection during the retirement-eligible employee's lifetime.

"(5) A retirement-eligible employee who makes an election under this subsection may not make an election under section 8343a.

"(c)(1) Except as otherwise provided under this subsection, the phased retirement annuity for a phased retiree is the product obtained by multiplying—

"(A) the amount of an annuity computed under section 8339 that would have been payable to the phased retiree if, on the date on which the phased retiree enters phased retirement status, the phased retiree had separated from service and retired under section 8336(a) or (b); by

"(B) the phased retirement percentage for the phased retiree.

"(2) A phased retirement annuity shall be paid in addition to the basic pay for the position to which a phased retiree is appointed during phased employment.

"(3) A phased retirement annuity shall be adjusted in accordance with section 8340.

"(4)(A) A phased retirement annuity shall not be subject to reduction for any form of survivor annuity, shall not serve as the basis of the computation of any survivor annuity, and shall not be subject to any court order requiring a survivor annuity to be provided to any individual.

"(B) A phased retirement annuity shall be subject to a court order providing for division, allotment, assignment, execution, levy, attachment, garnishment, or other legal process on the same basis as other annuities.

"(5) Any reduction of a phased retirement annuity based on an election under section 8334(d)(2) shall be applied to the phased retirement annuity after computation under paragraph (1).

"(6)(A) Any deposit, or election of an actuarial annuity reduction in lieu of a deposit, for military service or for creditable civilian service for which retirement deductions were not made or refunded shall be made by a retirement-eligible employee at or before the time the retirement-eligible employee enters phased retirement status. No such deposit may be made, or actuarial adjustment in lieu thereof elected, at the time a phased retiree enters full retirement status.

"(B) Notwithstanding subparagraph (A), if a phased retiree does not make such a deposit and dies in service as a phased retiree, a survivor of the phased retiree shall have the same right to make such deposit as would have been available had the employee not entered phased retirement status and died in service.

"(C) If a phased retiree makes an election for an actuarial annuity reduction under section 8334(d)(2) and

dies in service as a phased retiree, the amount of any deposit upon which such actuarial reduction shall have been based shall be deemed to have been fully paid.

''(7) A phased retirement annuity shall commence on the date on which a phased retiree enters phased employment.

''(8) No unused sick leave credit may be used in the computation of the phased retirement annuity.

''(d) All basic pay not in excess of the full-time rate of pay for the position to which a phased retiree is appointed shall be deemed to be basic pay for purposes of section 8334.

''(e) Under such procedures as the Director may prescribe, a phased retiree may elect to enter full retirement status at any time. Upon making such an election, a phased retiree shall be entitled to a composite retirement annuity.

''(f)(1) Except as provided otherwise under this subsection, a composite retirement annuity is a single annuity computed under regulations prescribed by the Director, equal to the sum of—

''(A) the amount of the phased retirement annuity as of the date of full retirement, before any reduction based on an election under section

8334(d)(2), and including any adjustments made under section 8340; and

"(B) the product obtained by multiplying—

"(i) the amount of an annuity computed under section 8339 that would have been payable at the time of full retirement if the individual had not elected a phased retirement and as if the individual was employed on a full-time basis in the position occupied during the phased retirement period and before any reduction for survivor annuity or reduction based on an election under section 8334(d)(2); by

"(ii) the working percentage.

"(2) After computing a composite retirement annuity under paragraph (1), the Director shall adjust the amount of the annuity for any applicable reductions for a survivor annuity and any previously elected actuarial reduction under section 8334(d)(2).

"(3) A composite retirement annuity shall be adjusted in accordance with section 8340, except that subsection (c)(1) of that section shall not apply.

"(4) In computing a composite retirement annuity under paragraph (1)(B)(i), the unused sick leave to the credit of a phased retiree at the time of entry into full

retirement status shall be adjusted by dividing the number of hours of unused sick leave by the working percentage.

"(g)(1) Under such procedures and conditions as the Director may provide, and with the concurrence of the head of the employing agency, a phased retiree may elect to terminate phased retirement status and return to a full-time work schedule.

"(2) Upon entering a full-time work schedule based upon an election under paragraph (1), the phased retirement annuity of a phased retiree shall terminate.

"(3) After the termination of a phased retirement annuity under this subsection, the individual's rights under this subchapter shall be determined based on the law in effect at the time of any subsequent separation from service. For purposes of this subchapter or chapter 84, at time of the subsequent separation from service, the phased retirement period shall be treated as if it had been a period of part-time employment with the work schedule described in subsection (b)(2).

"(h) For purposes of section 8341—

"(1) the death of a phased retiree shall be deemed to be the death in service of an employee; and

"(2) the phased retirement period shall be deemed to have been a period of part-time employ-

ment with the work schedule described in subsection (b)(2).

''(i) Employment of a phased retiree shall not be deemed to be part-time career employment, as defined in section 3401(2).

''(j) A phased retiree is not eligible to apply for an annuity under section 8337.

''(k) For purposes of section 8341(h)(4), retirement shall be deemed to occur on the date on which a phased retiree enters into full retirement status.

''(l) For purposes of sections 8343 and 8351, and subchapter III of chapter 84, a phased retiree shall be deemed to be an employee.

''(m) A phased retiree is not subject to section 8344.

''(n) For purposes of chapter 87, a phased retiree shall be deemed to be receiving basic pay at the rate of a full-time employee in the position to which the phased retiree is appointed.''; and

(3) in the table of sections by inserting after the item relating to section 8336 the following:

''8336a. Phased retirement.''.

(b) FERS.—Chapter 84 of title 5, United States Code, is amended—

(1) by inserting after section 8412 the following new section:

**"§ 8412a. Phased retirement**

''(a) For the purposes of this section—

''(1) the term 'composite retirement annuity' means the annuity computed when a phased retiree attains full retirement status;

''(2) the term 'full retirement status' means that a phased retiree has ceased employment and is entitled, upon application, to a composite retirement annuity;

''(3) the term 'phased employment' means the less-than-full-time employment of a phased retiree;

''(4) the term 'phased retiree' means a retirement-eligible employee who—

''(A) makes an election under subsection (b); and

''(B) has not entered full retirement status;

''(5) the term 'phased retirement annuity' means the annuity payable under this section before full retirement;

''(6) the term 'phased retirement percentage' means the percentage which, when added to the working percentage for a phased retiree, produces a sum of 100 percent;

''(7) the term 'phased retirement period' means the period beginning on the date on which an indi-

vidual becomes entitled to receive a phased retirement annuity and ending on the date on which the individual dies or separates from phased employment;

"(8) the term 'phased retirement status' means that a phased retiree is concurrently employed in phased employment and eligible to receive a phased retirement annuity;

"(9) the term 'retirement-eligible employee'—

"(A) means an individual who, if the individual separated from the service, would meet the requirements for retirement under subsection (a) or (b) of section 8412; and

"(B) does not include—

"(i) an individual who, if the individual separated from the service, would meet the requirements for retirement under subsection (d) or (e) of section 8412; or

"(ii) a law enforcement officer, firefighter, nuclear materials courier, air traffic controller, customs and border protection officer, or member of the Capitol Police or Supreme Court Police; and

"(10) the term 'working percentage' means the percentage of full-time employment equal to the quotient obtained by dividing—

"(A) the number of hours per pay period to be worked by a phased retiree as scheduled in accordance with subsection (b)(2); by

"(B) the number of hours per pay period to be worked by an employee serving in a comparable position on a full-time basis.

"(b)(1) With the concurrence of the head of the employing agency, and under regulations promulgated by the Director, a retirement-eligible employee who has been employed on a full time basis for not less than the 3-year period ending on the date on which the retirement-eligible employee makes an election under this subsection may elect to enter phased retirement status.

"(2)(A) Subject to subparagraph (B), at the time of entering phased retirement status, a phased retiree shall be appointed to a position for which the working percentage is 50 percent.

"(B) The Director may, by regulation, provide for working percentages different from the percentage specified under subparagraph (A), which shall be not less than 20 percent and not more than 80 percent.

"(C) The working percentage for a phased retiree may not be changed during the phased retiree's phased retirement period.

"(D)(i) Not less than 20 percent of the hours to be worked by a phased retiree shall consist of mentoring.

"(ii) The Director may, by regulation, provide for exceptions to the requirement under clause (i).

"(3) A phased retiree—

"(A) may not be employed in more than one position at any time; and

"(B) may transfer to another position in the same or a different agency, if the transfer does not result in a change in the working percentage.

"(4) A retirement-eligible employee may make only one election under this subsection during the retirement-eligible employee's lifetime.

"(5) A retirement-eligible employee who makes an election under this subsection may not make an election under section 8420a.

"(c)(1) Except as otherwise provided under this subsection, the phased retirement annuity for a phased retiree is the product obtained by multiplying—

"(A) the amount of an annuity computed under section 8415 that would have been payable to the phased retiree if, on the date on which the phased

retiree enters phased retirement status, the phased retiree had separated from service and retired under section 8412 (a) or (b); by

"(B) the phased retirement percentage for the phased retiree.

"(2) A phased retirement annuity shall be paid in addition to the basic pay for the position to which a phased retiree is appointed during the phased employment.

"(3) A phased retirement annuity shall be adjusted in accordance with section 8462.

"(4)(A) A phased retirement annuity shall not be subject to reduction for any form of survivor annuity, shall not serve as the basis of the computation of any survivor annuity, and shall not be subject to any court order requiring a survivor annuity to be provided to any individual.

"(B) A phased retirement annuity shall be subject to a court order providing for division, allotment, assignment, execution, levy, attachment, garnishment, or other legal process on the same basis as other annuities.

"(5)(A) Any deposit, or election of an actuarial annuity reduction in lieu of a deposit, for military service or for creditable civilian service for which retirement deductions were not made or refunded, shall be made by a retirement-eligible employee at or before the time the retirement-eligible employee enters phased retirement status.

No such deposit may be made, or actuarial adjustment in lieu thereof elected, at the time a phased retiree enters full retirement status.

''(B) Notwithstanding subparagraph (A), if a phased retiree does not make such a deposit and dies in service as a phased retiree, a survivor of the phased retiree shall have the same right to make such deposit as would have been available had the employee not entered phased retirement status and died in service.

''(6) A phased retirement annuity shall commence on the date on which a phased retiree enters phased employment.

''(7) No unused sick leave credit may be used in the computation of the phased retirement annuity.

''(d) All basic pay not in excess of the full-time rate of pay for the position to which a phased retiree is appointed shall be deemed to be basic pay for purposes of section 8422 and 8423.

''(e) Under such procedures as the Director may prescribe, a phased retiree may elect to enter full retirement status at any time. Upon making such an election, a phased retiree shall be entitled to a composite retirement annuity.

''(f)(1) Except as provided otherwise under this subsection, a composite retirement annuity is a single annuity

computed under regulations prescribed by the Director, equal to the sum of—

"(A) the amount of the phased retirement annuity as of the date of full retirement, including any adjustments made under section 8462; and

"(B) the product obtained by multiplying—

"(i) the amount of an annuity computed under section 8412 that would have been payable at the time of full retirement if the individual had not elected a phased retirement and as if the individual was employed on a full-time basis in the position occupied during the phased retirement period and before any adjustment to provide for a survivor annuity; by

"(ii) the working percentage;

"(2) After computing a composite retirement annuity under paragraph (1), the Director shall adjust the amount of the annuity for any applicable reductions for a survivor annuity.

"(3) A composite retirement annuity shall be adjusted in accordance with section 8462, except that subsection (c)(1) of that section shall not apply.

"(4) In computing a composite retirement annuity under paragraph (1)(B)(i), the unused sick leave to the credit of a phased retiree at the time of entry into full

retirement status shall be adjusted by dividing the number of hours of unused sick leave by the working percentage.

"(g)(1) Under such procedures and conditions as the Director may provide, and with the concurrence of the head of employing agency, a phased retiree may elect to terminate phased retirement status and return to a full-time work schedule.

"(2) Upon entering a full-time work schedule based on an election under paragraph (1), the phased retirement annuity of a phased retiree shall terminate.

"(3) After termination of the phased retirement annuity under this subsection, the individual's rights under this chapter shall be determined based on the law in effect at the time of any subsequent separation from service. For purposes of this chapter, at the time of the subsequent separation from service, the phased retirement period shall be treated as if it had been a period of part-time employment with the work schedule described in subsection (b)(2).

"(h) For purposes of subchapter IV—

"(1) the death of a phased retiree shall be deemed to be the death in service of an employee;

"(2) except for purposes of section 8442(b)(1)(A)(i), the phased retirement period shall be deemed to have been a period of part-time em-

ployment with the work schedule described in subsection (b)(2) of this section; and

"(3) for purposes of section 8442(b)(1)(A)(i), the phased retiree shall be deemed to have been at the full-time rate of pay for the position occupied.

"(i) Employment of a phased retiree shall not be deemed to be part-time career employment, as defined in section 3401(2).

"(j) A phased retiree is not eligible to receive an annuity supplement under section 8421.

"(k) For purposes of subchapter III, a phased retiree shall be deemed to be an employee.

"(l) For purposes of section 8445(d), retirement shall be deemed to occur on the date on which a phased retiree enters into full retirement status.

"(m) A phased retiree is not eligible to apply for an annuity under subchapter V.

"(n) A phased retiree is not subject to section 8468.

"(o) For purposes of chapter 87, a phased retiree shall be deemed to be receiving basic pay at the rate of a full-time employee in the position to which the phased retiree is appointed."; and

(2) in the table of sections by inserting after the item relating to section 8412 the following:

"8412a. Phased retirement.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the effective date of the implementing regulations issued by the Director of the Office of Personnel Management.

**SEC. 100116. ROLL-YOUR-OWN CIGARETTE MACHINES.**

(a) IN GENERAL.—Subsection (d) of section 5702 of the Internal Revenue Code of 1986 is amended by adding at the end the following new flush sentence:

''Such term shall include any person who for commercial purposes makes available for consumer use (including such consumer's personal consumption or use under paragraph (1)) a machine capable of making cigarettes, cigars, or other tobacco products. A person making such a machine available for consumer use shall be deemed the person making the removal as defined by subsection (j) with respect to any tobacco products manufactured by such machine.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to articles removed after the date of the enactment of this Act.

# 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.**

Section 5318A of title 31, United States Code, is amended—

(1) by striking the section heading and inserting the following:

**"§ 5318A. Special measures for jurisdictions, financial institutions, or international transactions that are of primary money laundering concern or significantly impede United States tax enforcement";**

(2) in subsection (a), by striking the subsection heading and inserting the following:

"(a) SPECIAL MEASURES TO COUNTER MONEY LAUNDERING AND EFFORTS TO SIGNIFICANTLY IMPEDE UNITED STATES TAX ENFORCEMENT.—";

(3) in subsection (c)—

(A) by striking the subsection heading and inserting the following:

"(c) CONSULTATIONS AND INFORMATION TO BE CONSIDERED IN FINDING JURISDICTIONS, INSTITUTIONS,

TYPES OF ACCOUNTS, OR TRANSACTIONS TO BE OF PRIMARY MONEY LAUNDERING CONCERN OR TO BE SIGNIFICANTLY IMPEDING UNITED STATES TAX ENFORCEMENT.—''; and

(B) by inserting at the end of paragraph (2) thereof the following new subparagraph:

''(C) OTHER CONSIDERATIONS.—The fact that a jurisdiction or financial institution is cooperating with the United States on implementing the requirements specified in chapter 4 of the Internal Revenue Code of 1986 may be favorably considered in evaluating whether such jurisdiction or financial institution is significantly impeding United States tax enforcement.'';

(4) in subsection (a)(1), by inserting ''or is significantly impeding United States tax enforcement'' after ''primary money laundering concern'';

(5) in subsection (a)(4)—

(A) in subparagraph (A)—

(i) by inserting ''in matters involving money laundering,'' before ''shall consult''; and

(ii) by striking ''and'' at the end;

(B) by redesignating subparagraph (B) as subparagraph (C); and

(C) by inserting after subparagraph (A) the following:

''(B) in matters involving United States tax enforcement, shall consult with the Commissioner of the Internal Revenue, the Secretary of State, the Attorney General of the United States, and in the sole discretion of the Secretary, such other agencies and interested parties as the Secretary may find to be appropriate; and'';

(6) in each of paragraphs (1)(A), (2), (3), and (4) of subsection (b), by inserting ''or to be significantly impeding United States tax enforcement'' after ''primary money laundering concern'' each place that term appears;

(7) in subsection (b), by striking paragraph (5) and inserting the following:

''(5) PROHIBITIONS OR CONDITIONS ON OPENING OR MAINTAINING CERTAIN CORRESPONDENT OR PAYABLE-THROUGH ACCOUNTS OR AUTHORIZING CERTAIN PAYMENT CARDS.—If the Secretary finds a jurisdiction outside of the United States, 1 or more financial institutions operating outside of the United

States, or 1 or more classes of transactions within or involving a jurisdiction outside of the United States to be of primary money laundering concern or to be significantly impeding United States tax enforcement, the Secretary, in consultation with the Secretary of State, the Attorney General of the United States, and the Chairman of the Board of Governors of the Federal Reserve System, may prohibit, or impose conditions upon—

"(A) the opening or maintaining in the United States of a correspondent account or payable-through account; or

"(B) the authorization, approval, or use in the United States of a credit card, charge card, debit card, or similar credit or debit financial instrument by any domestic financial institution, financial agency, or credit card company or association, for or on behalf of a foreign banking institution, if such correspondent account, payable-through account, credit card, charge card, debit card, or similar credit or debit financial instrument, involves any such jurisdiction or institution, or if any such transaction may be conducted through such correspondent account, payable-through account,

credit card, charge card, debit card, or similar credit or debit financial instrument.''; and

(8) in subsection (c)(1), by inserting ''or is significantly impeding United States tax enforcement'' after ''primary money laundering concern'';

(9) in subsection (c)(2)(A)—

(A) in clause (ii), by striking ''bank secrecy or special regulatory advantages'' and inserting ''bank, tax, corporate, trust, or financial secrecy or regulatory advantages'';

(B) in clause (iii), by striking ''supervisory and counter-money'' and inserting ''supervisory, international tax enforcement, and counter-money'';

(C) in clause (v), by striking ''banking or secrecy'' and inserting ''banking, tax, or secrecy''; and

(D) in clause (vi), by inserting '', tax treaty, or tax information exchange agreement'' after ''treaty'';

(10) in subsection (c)(2)(B)—

(A) in clause (i), by inserting ''or tax evasion'' after ''money laundering''; and

(B) in clause (iii), by inserting '', tax evasion,'' after ''money laundering''; and

(11) in subsection (d), by inserting ''involving money laundering, and shall notify, in writing, the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives of any such action involving United States tax enforcement'' after ''such action''.

# DIVISION G—AIR TRANSPORTATION

**SEC. 100301. TECHNICAL CORRECTIONS RELATING TO OVERFLIGHTS OF NATIONAL PARKS.**

(a) IN GENERAL.—Section 40128 of title 49, United States Code, is amended to read as follows:

**''§ 40128. Overflights of national parks**

''(a) IN GENERAL.—

''(1) GENERAL DELINEATION OF RESPONSIBILITIES.—

''(A) AUTHORITY OF DIRECTOR.—The Director has the authority to establish air tour management plans, issue air tour permits for commercial air tour operations conducted in accordance with an air tour management plan, enter into a voluntary agreement with a commercial air tour operator, and issue interim operating permits under subsection (c).

"(B) AUTHORITY OF ADMINISTRATOR.—The Administrator has the authority to ensure that any action taken under this section does not adversely affect aviation safety or the management of the national airspace system.

"(2) GENERAL REQUIREMENTS.—A commercial air tour operator may not conduct commercial air tour operations over a national park or tribal lands, as defined by this section, except—

"(A) in accordance with this section;

"(B) in accordance with conditions and limitations prescribed for that operator; and

"(C) in accordance with any applicable air tour management plan or voluntary agreement developed under subsection (b) for the park or tribal lands.

"(3) APPLICATION FOR OPERATING AUTHORITY.—

"(A) APPLICATION REQUIRED.—Before commencing commercial air tour operations over a national park or tribal lands, a commercial air tour operator shall apply to the Director for authority to conduct the operations over the park or tribal lands.

"(B) NUMBER OF OPERATIONS AUTHORIZED.—In determining the number of authorizations to issue to provide commercial air tour operations over a national park, the Director shall take into consideration the provisions of the air tour management plan, the number of existing commercial air tour operators and current level of service and equipment provided by any such operators, and the financial viability of each commercial air tour operation.

"(C) CONSULTATION WITH FAA.—Before granting an application under this paragraph, the Director, in consultation with the Administrator, shall develop an air tour management plan in accordance with subsection (b) and implement such plan.

"(D) TIME LIMIT ON RESPONSE TO ATMP APPLICATIONS.—The Director shall make every effort to act on any application under this paragraph and issue a decision on the application not later than 24 months after it is received or amended.

"(E) PRIORITY.—In acting on applications under this paragraph to provide commercial air tour operations over a national park, the Direc-

tor shall give priority to an application under this paragraph in any case in which a new entrant commercial air tour operator is seeking operating authority with respect to that national park.

"(4) EXCEPTION.—Notwithstanding paragraph (2), commercial air tour operators may conduct commercial air tour operations over a national park under part 91 of the title 14, Code of Federal Regulations, if—

"(A) such activity is permitted under part 119 of such title;

"(B) the total number of operations under this exception is limited to not more than five flights in any 30-day period over a particular park; and

"(C) the operator complies with the conditions under which the operations will be conducted as established by the Director, in consultation with the Administrator.

"(5) SPECIAL RULE FOR SAFETY REQUIREMENTS.—Before receiving a permit issued under this section, a commercial air tour operator shall have obtained the appropriate operating authority as required by the Administrator under part 119, 121, or

135 of title 14, Code of Federal Regulations, to conduct operations under this section.

"(6) EXEMPTION FOR NATIONAL PARKS WITH 50 OR FEWER FLIGHTS EACH YEAR.—

"(A) IN GENERAL.—A national park that has 50 or fewer commercial air tour operations over the park each year shall be exempt from the requirements of this section, except as provided in subparagraph (B).

"(B) WITHDRAWAL OF EXEMPTION.—If the Director determines that an air tour management plan or voluntary agreement is necessary to protect park resources and values or park visitor use and enjoyment, the Director shall withdraw the exemption of a park under subparagraph (A).

"(C) LIST OF PARKS.—The Director shall maintain a list each year of national parks that are covered by the exemption provided under this paragraph.

"(b) AIR TOUR MANAGEMENT PLANS.—

"(1) ESTABLISHMENT.—

"(A) IN GENERAL.—The Director, in consultation with the Administrator, shall establish an air tour management plan for any national

park or tribal land for which such a plan is not in effect whenever a person applies for authority to conduct a commercial air tour operation over the park. The air tour management plan shall be developed by means of a public process in accordance with paragraph (4).

"(B) OBJECTIVE.—The objective of any air tour management plan shall be to develop acceptable and effective measures to mitigate or prevent the significant adverse impacts, if any, of commercial air tour operations upon the natural and cultural resources, visitor experiences, and tribal lands.

"(C) EXCEPTION.—An application to begin commercial air tour operations at Crater Lake National Park may be denied without the establishment of an air tour management plan by the Director of the National Park Service if the Director determines that such operations would adversely affect park resources or visitor experiences.

"(2) ENVIRONMENTAL DETERMINATION.—In establishing an air tour management plan and issuing a permit for a commercial air tour operator under this section, the Director shall comply with

the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). Any environmental thresholds, analyses, impact determinations, and conditions prepared or used by the Director to establish an air tour management plan or issue a permit under this section shall have no broader application or be given deference beyond this section.

"(3) CONTENTS.—An air tour management plan for a national park—

"(A) may prohibit commercial air tour operations over a national park in whole or in part;

"(B) may establish conditions for the conduct of commercial air tour operations over a national park, including commercial air tour routes, maximum or minimum altitudes, time-of-day restrictions, restrictions for particular events, maximum number of flights per unit of time, intrusions on privacy on tribal lands, and mitigation of noise, visual, or other impacts;

"(C) shall apply to all commercial air tour operations over a national park that are also within ½ mile outside the boundary of a national park;

"(D) shall include incentives (such as preferred commercial air tour routes and altitudes, relief from caps and curfews) for the adoption of quiet aircraft technology by commercial air tour operators conducting commercial air tour operations over a national park when practicable;

"(E) shall provide for the initial allocation of opportunities to conduct commercial air tour operations over a national park if the plan includes a limitation on the number of commercial air tour operations for any time period;

"(F) may not have been found to have adverse effects on aviation safety or the management of the national airspace system by the Administrator; and

"(G) shall justify and document the need for measures taken pursuant to subparagraphs (A) through (F).

"(4) PROCEDURE.—In establishing an air tour management plan for a national park or tribal lands, the Director shall—

"(A) hold at least one public meeting with interested parties to develop the air tour management plan;

"(B) publish a notice of availability of the proposed plan in the Federal Register for notice and comment and make copies of the proposed plan available to the public;

"(C) comply with the regulations set forth in parts 1500 through 1508 of title 40, Code of Federal Regulations;

"(D) solicit the participation of any Indian tribe whose tribal lands are, or may be, overflown by aircraft involved in a commercial air tour operation over the park or tribal lands to which the plan applies, as a cooperating agency under the regulations referred to in subparagraph (C); and

"(E) consult with the Administrator with respect to effects on aviation safety and the management of the national airspace system.

"(5) JUDICIAL REVIEW.—An air tour management plan developed under this subsection shall be subject to judicial review pursuant to chapter 7 of title 5, United States Code.

"(6) AMENDMENTS AND REVOCATIONS.—The Director may make amendments to an air tour management plan and any permits issued pursuant to an air tour management plan, and may revoke permits.

The Director shall consult with the Administrator to ensure that any such amendments or revocations will not adversely affect aviation safety or the management of the national airspace system. Any such amendments and revocations shall be published in the Federal Register for notice and comment. A request for amendment of an air tour management plan or permit shall be made in such form and manner as the Director may prescribe.

"(7) VOLUNTARY AGREEMENTS.—

"(A) IN GENERAL.—As an alternative to an air tour management plan, the Director may enter into a voluntary agreement with a commercial air tour operator (including a new entrant commercial air tour operator and an operator that has an interim operating permit) that has applied to conduct commercial air tour operations over a national park to manage commercial air tour operations over such national park.

"(B) PARK PROTECTION.—A voluntary agreement entered into under subparagraph (A) shall protect the national park resources, values, and visitor experience without compro-

mising aviation safety or the management of the national airspace system and may—

"(i) include provisions such as those included in the content of an air tour management plan;

"(ii) include provisions to ensure the stability of, and compliance with, the voluntary agreement; and

"(iii) provide for fees for such operations.

"(C) PUBLIC REVIEW.—The Director shall provide an opportunity for public review of a proposed voluntary agreement under this paragraph and shall consult with any Indian tribe whose tribal lands are, or may be, flown over by a commercial air tour operator under a voluntary agreement under this paragraph. After such opportunity for public review and consultation, the voluntary agreement may be implemented without further administrative or environmental process beyond that described in this subsection.

"(D) TERMINATION.—

"(i) IN GENERAL.—A voluntary agreement under this paragraph may be terminated at any time at the discretion of—

"(I) the Director, if the Director determines that the agreement is not adequately protecting park resources or visitor experiences; or

"(II) the Administrator, if the Administrator determines that the agreement is adversely affecting aviation safety or the national airspace system.

"(ii) EFFECT OF TERMINATION.—If a voluntary agreement with respect to a national park is terminated under this subparagraph, the operators shall conform to the requirements for an interim operating permit under subsection (c) until an air tour management plan for the park is in effect.

"(c) INTERIM OPERATING AUTHORITY.—

"(1) IN GENERAL.—Interim operating authority granted by the Administrator under this subsection, as in effect on the day before the date of the enactment of the Moving Ahead for Progress in the 21st

Century Act, shall, on and after such date of enactment, be known as an interim operating permit and be administered by the Director in accordance with the conditions of this subsection.

"(2) REQUIREMENTS AND LIMITATIONS.—An interim operating permit—

"(A) shall maintain the same annual authorizations as provided for interim operating authority under this subsection, as in effect on the day before the date of the enactment of the Moving Ahead for Progress in the 21st Century Act; and

"(B) may not provide for an increase in the number of commercial air tour operations over a national park conducted during any time period by the commercial air tour operator above the number that the air tour operator was granted unless such an increase is approved by the Director in consultation with the Administrator;

"(C) may be revoked by the Director for cause;

"(D) shall terminate 180 days after the date on which an air tour management plan is established for the park or tribal lands;

"(E) shall promote protection of national park resources, visitor experiences, and tribal lands;

"(F) shall promote safe commercial air tour operations;

"(G) shall promote the adoption of quiet technology, as appropriate; and

"(H) may allow for modifications of the interim operating permit without further environmental review beyond that described in this subsection, if—

"(i) adequate information regarding the existing and proposed operations of the operator under the interim operating permit is provided to the Director;

"(ii) the Director agrees with the modification, based on the professional expertise of the Director regarding the protection of the resources, values, and visitor use and enjoyment of the park; and

"(iii) the Director receives advice in writing from the Administrator that there would be no adverse impact on aviation safety or the national airspace system.

"(3) MODIFICATIONS AND REVOCATIONS.—Any modification or revocation of an interim operating permit shall be published in the Federal Register to provide notice and opportunity for comment.

"(4) NEW ENTRANT AIR TOUR OPERATORS.—

"(A) IN GENERAL.—The Director, in consultation with the Administrator, may grant an interim operating permit under this paragraph to an air tour operator for a national park or tribal lands for which that operator is a new entrant air tour operator without further environmental process beyond that described in this paragraph, if—

"(i) adequate information on the proposed operations of the operator is provided to the Director by the operator making the request;

"(ii) the Director agrees, based on the Director's professional expertise regarding the protection of park resources and values and visitor use and enjoyment; and

"(iii) the Director receives advice in writing from the Administrator that there would be no adverse impact on aviation safety or the national airspace system.

"(B) SAFETY LIMITATION.—The Director may not grant an interim operating permit under subparagraph (A) if the Administrator determines that it would create a safety problem at the park or on the tribal lands, or the Director determines that it would create a noise problem at the park or on the tribal lands.

"(d) COMMERCIAL AIR TOUR OPERATOR REPORTS.—

"(1) REPORT.—Each commercial air tour operator conducting a commercial air tour operation over a national park under an interim operating permit granted under subsection (c) or in accordance with an air tour management plan or voluntary agreement under subsection (b) shall submit to the Director a report regarding the number of commercial air tour operations over each national park that are conducted by the operator and such other information as the Director may request in order to facilitate administering the provisions of this section.

"(2) REPORT SUBMISSION.—The Director shall issue a request for reports under this subsection. The reports shall be submitted to the Director with a frequency and in a format prescribed by the Director.

"(e) COLLECTION OF FEES FROM AIR TOUR OPERATIONS.—

"(1) IN GENERAL.—The Director shall determine and assess a fee under paragraph (2) on a commercial air tour operator conducting commercial air tour operations over a national park, including the Grand Canyon National Park.

"(2) AMOUNT OF FEE.—In determining the amount of the fee assessed under paragraph (1), the Director shall collect sufficient revenue, in the aggregate, to pay for the expenses incurred by the Federal Government to develop and enforce air tour management plans for national parks.

"(3) EFFECT OF FAILURE TO PAY FEE.—The Director may assess a civil penalty against or revoke the interim operating permit or air tour permit, whichever is applicable, of a commercial air tour operator conducting commercial air tour operations over any national park, including the Grand Canyon National Park, that has not paid the fee assessed by the Director under paragraph (1) by the date that is 180 days after the date on which the Director determines the fee shall be paid.

"(4) FUNDING FOR AIR TOUR MANAGEMENT PLANS.—The Director shall use the amounts col-

lected to develop and enforce air tour management plans for the national parks the Director determines would most benefit from such a plan.

"(f) CIVIL PENALTIES.—

"(1) IN GENERAL.—Any person who violates any provision of this section or any regulation or permit issued under this section may be assessed a civil penalty by the Director of not more than $25,000 for each such violation.

"(2) KNOWING VIOLATIONS.—Any person who knowingly violates any provision of this section or any regulation or permit issued under this section may be assessed a civil penalty by the Director of not more than $50,000 for each violation.

"(3) PROCEDURES.—A penalty may not be assessed under this subsection on a person unless the person is given notice and opportunity for a hearing with respect to the violation for which the penalty is assessed. Each violation of this section or a regulation or permit issued under this section shall be a separate offense. Any civil penalty assessed under this subsection may be remitted or mitigated by the Director. Upon any failure by a person to pay a penalty assessed under this subsection, the Director may request the Attorney General to institute a civil

action in a district court of the United States for any district in which the person is found, resides, or transacts business to collect the penalty and such court shall have jurisdiction to hear and decide any such action. The court shall hear such action on the record made before the Director and shall sustain his action if it is supported by substantial evidence on the record considered as a whole.

"(4) ADMINISTRATIVE PROCEEDINGS.—Hearings held during proceedings for the assessment of civil penalties under this subsection shall be conducted in accordance with section 554 of title 5, United States Code. The Director may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contumacy or refusal to obey a subpoena served upon any person pursuant to this paragraph, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to the person, shall have jurisdiction to issue an order requiring

the person to appear and give testimony before the Director or to appear and produce documents before the Director, or both, and any failure to obey the order of the court may be punished by such court as a contempt thereof.

''(g) ENFORCEMENT.—The provisions of this section and any regulations or permits issued under this section may be enforced by the Director or the Administrator, as appropriate. The Director may utilize by agreement, with or without reimbursement, the personnel, services, and facilities of any other Federal agency or any State agency for purposes of enforcing this section. The decisions of the Director under this subsection shall not have broader application or be given deference beyond this section. The Administrator shall retain enforcement authority over matters involving the safety and efficiency of the national airspace system.

''(h) EXEMPTIONS.—This section shall not apply to—

''(1) the Grand Canyon National Park; or

''(2) tribal lands within or abutting the Grand Canyon National Park.

''(i) LAKE MEAD.—This section shall not apply to any air tour operator while flying over or near the Lake Mead National Recreation Area, solely as a transportation route, to conduct an air tour over the Grand Canyon Na-

tional Park. For purposes of this subsection, an air tour operator flying over the Hoover Dam in the Lake Mead National Recreation Area en route to the Grand Canyon National Park shall be deemed to be flying solely as a transportation route.

"(j) SEVERABLE SERVICES CONTRACTS FOR PERIODS CROSSING FISCAL YEARS.—

"(1) IN GENERAL.—For purposes of this section, the Director may enter into a contract for procurement of severable services for a period that begins during one fiscal year and ends in the next fiscal year if (without regard to any option to extend the period of the contract) the period of the contract does not exceed 1 year.

"(2) OBLIGATION OF FUNDS.—Funds made available for a fiscal year may be obligated for the total amount of a contract entered into under the authority of paragraph (1).

"(k) RESPONSIBILITIES AND AUTHORITIES OF ADMINISTRATOR.—

"(1) IN GENERAL.—The Administrator shall advise the Director in writing of any adverse effects on aviation safety and or management of the national airspace system for any proposed action taken under this section.

"(2) AMENDMENTS TO AUTHORIZATION FOR COMMERCIAL AIR TOUR OPERATORS.—The Administrator, in consultation with the Director, may amend any authorization for a commercial air tour operator to include conditions set forth in any permit issued under this section or to address any adverse effect on aviation safety.

"(3) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to limit or abrogate the Administrator's authority to ensure the safety and efficiency of the national airspace system.

"(l) DEFINITIONS.—In this section, the following definitions apply:

"(1) COMMERCIAL AIR TOUR OPERATOR.—The term 'commercial air tour operator' means any person who conducts a commercial air tour operation over a national park.

"(2) EXISTING COMMERCIAL AIR TOUR OPERATOR.—The term 'existing commercial air tour operator' means a commercial air tour operator that was actively engaged in the business of providing commercial air tour operations over a national park at any time during the 12-month period ending on the date of the enactment of this section.

"(3) NEW ENTRANT COMMERCIAL AIR TOUR OPERATOR.—The term 'new entrant commercial air tour operator' means a commercial air tour operator that—

"(A) applies for an interim operating permit or air tour permit as a commercial air tour operator for a national park or tribal lands; and

"(B) has not engaged in the business of providing commercial air tour operations over the national park or tribal lands in the 12-month period preceding the application.

"(4) COMMERCIAL AIR TOUR OPERATION OVER A NATIONAL PARK.—

"(A) IN GENERAL.—The term 'commercial air tour operation over a national park' means any flight, conducted for compensation or hire in a powered aircraft where a purpose of the flight is sightseeing over a national park, within ½ mile outside the boundary of any national park (except the Grand Canyon National Park), or over tribal lands (except those within or abutting the Grand Canyon National Park), during which the aircraft flies—

"(i) below a minimum altitude, determined by the Administrator in cooperation

with the Director, above ground level (except solely for purposes of takeoff or landing, or necessary for safe operation of an aircraft as determined under the rules and regulations of the Federal Aviation Administration requiring the pilot-in-command to take action to ensure the safe operation of the aircraft); or

"(ii) less than 1 mile laterally from any geographic feature within the park (unless more than ½ mile outside the boundary).

"(B) FACTORS TO CONSIDER.—In making a determination of whether a flight is a commercial air tour operation over a national park for purposes of this section, the Administrator may consider—

"(i) whether there was a holding out to the public of willingness to conduct a sightseeing flight for compensation or hire;

"(ii) whether a narrative that referred to areas or points of interest on the surface below the route of the flight was provided by the person offering the flight;

"(iii) the area of operation;

"(iv) the frequency of flights conducted by the person offering the flight;

"(v) the route of flight;

"(vi) the inclusion of sightseeing flights as part of any travel arrangement package offered by the person offering the flight;

"(vii) whether the flight would have been canceled based on poor visibility of the surface below the route of the flight; and

"(viii) any other factors that the Administrator and the Director consider appropriate.

"(5) NATIONAL PARK.—The term 'national park' means any unit of the National Park System.

"(6) TRIBAL LANDS.—

"(A) IN GENERAL.—The term 'tribal lands' means Indian country (as that term is defined in section 1151 of title 18) that is within or abutting a national park.

"(B) ABUTTING.—For purposes of subparagraph (A), the term 'abutting' means lands within ½ mile outside the boundary of a national park.

"(7) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Federal Aviation Administration.

"(8) DIRECTOR.—The term 'Director' means the Director of the National Park Service.

"(9) AIR TOUR PERMIT.—The term 'air tour permit' means a permit issued by the Director, in accordance with this section, to a commercial operator to conduct commercial air tour operations over a national park or tribal lands.".

(b) AMENDMENTS TO NATIONAL PARKS AIR TOUR MANAGEMENT ACT OF 2000.—

(1) ADVISORY GROUP.—Section 805 of the National Parks Air Tour Management Act of 2000 (49 U.S.C. 40128 note) is amended—

(A) by striking subsection (a) and inserting the following:

"(a) IN GENERAL.—The Director of the National Park Service may retain the advisory group established pursuant to this section, as in effect on the day before the date of the enactment of the Moving Ahead for Progress in the 21st Century Act, to provide continuing advice and counsel with respect to commercial air tour operations over and near national parks.";

(B) in subsection (b)—

(i) in paragraph (1)(A)(iv), by inserting "or Native Hawaiians" after "Indian tribes"; and

(ii) by striking paragraph (3) and inserting the following:

"(3) CHAIRPERSON.—The representative of the National Park Service shall serve as chairperson of the advisory group."; and

(C) in subsection (d)(2), by striking "The Federal Aviation Administration and the National Park Service shall jointly" and inserting "The National Park Service shall".

(2) REPORTS.—Section 807 of the National Parks Air Tour Management Act of 2000 (49 U.S.C. 40128 note) is repealed.

(3) METHODOLOGIES USED TO ASSESS AIR TOUR NOISE.—Section 808 of the National Parks Air Tour Management Act of 2000 (49 U.S.C. 40128 note) is amended by striking "a Federal agency" and inserting "the Director of the National Park Service".

# DIVISION H—BUDGETARY EFFECTS

**SEC. 100401. BUDGETARY EFFECTS.**

(a) PAYGO SCORECARD.—The budgetary effects of this Act shall not be entered on either PAYGO scorecard maintained pursuant to section 4(d) of the Statutory Pay-As-You-Go Act of 2010.

(b) SENATE PAYGO SCORECARD.—The budgetary effects of this Act shall not be recorded on any PAYGO scorecard maintained for purposes of section 201 of S. Con. Res. 21 (110th Congress).

Passed the Senate March 14, 2012.

Attest:

*Secretary.*

112th CONGRESS
2d Session

# S. 1813

# AN ACT

To reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.