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(Original Signature of Member)

112TH CONGRESS
2D SESSION

# H. R. _____

To authorize funds for Federal-aid highway, public transportation, and highway and motor carrier safety programs, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

Mr. MICA (for himself and Mr. DUNCAN of Tennessee) introduced the following bill; which was referred to the Committee on _____

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# A BILL

To authorize funds for Federal-aid highway, public transportation, and highway and motor carrier safety 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; TABLE OF CONTENTS.**

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

(b) TABLE OF CONTENTS.—

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**SEC. 2. GENERAL DEFINITIONS.**

In this Act, the following definitions apply:

(1) DEPARTMENT.—The term ''Department'' means the Department of Transportation.

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

**SEC. 3. EFFECTIVE DATE.**

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

# TITLE I—FEDERAL-AID HIGHWAYS

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

# Subtitle A—Authorization of Programs

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

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

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

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

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

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

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

(2) SURFACE TRANSPORTATION PROGRAM.—For the surface transportation program under section 133 of title 23, United States Code—

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

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

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

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

(3) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—For the highway safety improvement pro-

gram under section 148 of title 23, United States Code—

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

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

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

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

(4) TRIBAL TRANSPORTATION PROGRAM.—For the tribal transportation program under section 202 of title 23, United States Code, $465,000,000 for each of fiscal years 2013 through 2016.

(5) FEDERAL LANDS TRANSPORTATION PROGRAM.—For the Federal lands transportation program under section 203 of title 23, United States Code, $535,000,000 for each of fiscal years 2013 through 2016.

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

(7) APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM PROGRAM.—For the Appalachian development highway system program under section 14501 of title 40, United States Code, $470,000,000 for each of fiscal years 2013 through 2016.

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

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

(2) FERRY BOAT AND FERRY TERMINAL FACILITIES PROGRAM.—For the ferry boat and ferry terminal facilities program under section 147 of title 23, United States Code, $67,000,000 for each of fiscal years 2013 through 2016.

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

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

(c) 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 titles I, II, and VII of this Act and section 403(a) 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 titles I, II, and VII of this Act and section 403(a) 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. HIGHWAY OBLIGATION CEILING.**

(a) GENERAL LIMITATION.—Subject to subsection (f), and notwithstanding any other provision of law, the obligations for Federal-aid highway and highway safety construction programs authorized from the Highway

Trust Fund (other than the Alternative Transportation Account) shall not exceed—

(1) $37,366,000,000 for fiscal year 2013;

(2) $37,621,000,000 for fiscal year 2014;

(3) $37,676,000,000 for fiscal year 2015; and

(4) $38,000,000,000 for fiscal year 2016.

(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 (Public Law 97–134; 95 Stat. 1701);

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

(5) subsections (b) and (c) of section 149 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (Public Law 100–17; 101 Stat. 198);

(6) sections 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 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 (Public Law 105–178; 112 Stat. 107) or subsequent public laws for multiple years or to remain available until used, but only to the extent that the obligation authority has not lapsed or been used;

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

(11) section 1603 of SAFETEA–LU (Public Law 109-59; 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 105 of title 23, United States Code (as in effect for fiscal years 2013 through 2016, but

only in an amount equal to $639,000,000 for each of such fiscal years).

(c) DISTRIBUTION OF OBLIGATION AUTHORITY.—For each of fiscal years 2013 through 2016, the Secretary—

(1) shall not distribute obligation authority provided by subsection (a) for the fiscal year for amounts authorized for administrative expenses and programs by section 104(a) of title 23, United States Code;

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

(3) shall determine the ratio 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); bears to

(B) the total of the sums authorized to be appropriated for Federal-aid highway and highway safety construction programs (other than sums authorized to be appropriated for provi-

sions of law described in paragraphs (1) through (11) of subsection (b) and sums authorized to be appropriated for section 105 of title 23, United States Code, equal to the amount referred to in subsection (b)(12) for the fiscal year), less the aggregate of amounts not distributed under paragraphs (1) and (2);

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

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

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

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

(5) shall distribute among the States 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 each of the programs that are allo-

cated by the Secretary under this Act and title 23, United States Code (other than to programs to which paragraph (1) applies), by multiplying—

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

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

(6) shall distribute the obligation authority provided by subsection (a), less the aggregate of amounts not distributed under paragraphs (1) and (2) and the aggregate of amounts distributed under paragraphs (4) and (5), for Federal-aid highway and highway safety construction programs (other than the amounts apportioned for the equity bonus program, but only to the extent that the amounts apportioned for the equity bonus program for the fiscal year are greater than $2,639,000,000, and the Appalachian development highway system program) that are apportioned by the Secretary under this Act and title 23, United States Code, in the ratio that—

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

(B) the total of the amounts authorized to be appropriated for the programs that are apportioned 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 2013 through 2016—

(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 section 104 of title 23, United States Code, and section 144 of such title (as in effect on the day before the date of enactment of this Act).

(e) 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 2013 through

2016, the Secretary shall distribute to the States any funds 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, and will not be available for obligation, in the fiscal year due to the imposition of any obligation limitation for the fiscal year.

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

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

(f) SPECIAL LIMITATION CHARACTERISTICS.—Obligation authority distributed for a fiscal year under subsection (c)(4) for the provision specified in subsection (c)(4) shall—

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

(2) 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.

**SEC. 1103. ALTERNATIVE TRANSPORTATION ACCOUNT OBLIGATION CEILING.**

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

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

(1) by striking ''Mass Transit Account'' and inserting ''Alternative Transportation Account''; and

(2) by inserting '', and amounts made available from the Alternative Transportation Account to carry out the congestion mitigation and air quality improvement program under section 149, the ferry boat and ferry terminal facilities program under section 147, the Puerto Rico highway program under section 165, and the territorial highway program under section 215,'' before ''shall be available''.

**SEC. 1104. APPORTIONMENT.**

Section 104 is amended to read as follows:

**"§ 104. Apportionment**

''(a) ADMINISTRATIVE EXPENSES.—

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

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

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

''(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.

''(3) AVAILABILITY.—Funds made available under paragraph (1) shall remain available until expended.

''(b) APPORTIONMENTS.—On October 1 of each fiscal year, the Secretary, after making the set-asides authorized by subsection (f), subsections (b) and (c) of section 140,

and section 130(e), shall apportion the remainder of the sums authorized to be appropriated for expenditure on the National Highway System program, the congestion mitigation and air quality improvement program, the surface transportation program, and the highway safety improvement program among the several States in the following manner:

"(1) NATIONAL HIGHWAY SYSTEM PROGRAM.—

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

"(i) 15 percent of the apportionments in the ratio that—

"(I) the total lane miles of principal arterial routes (excluding Interstate System routes) in each State; bears to

"(II) the total lane miles of principal arterial routes (excluding Interstate System routes) in all States.

"(ii) 15 percent of the apportionments in the ratio that—

"(I) the total vehicle miles traveled on lanes on principal arterial

routes (excluding Interstate System routes) in each State; bears to

''(II) the total vehicle miles traveled on lanes on principal arterial routes (excluding Interstate System routes) in all States.

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

''(I) the quotient obtained by dividing the total lane miles on principal arterial highways in each State by the total population of the State; bears to

''(II) the quotient obtained by dividing the total lane miles on principal arterial highways in all States by the total population of all States.

''(iv) 15 percent of the apportionments in the ratio that—

''(I) the total lane miles on Interstate System routes open to traffic in each State; bears to

''(II) the total lane miles on Interstate System routes open to traffic in all States.

"(v) 15 percent of the apportionments in the ratio that—

"(I) the total vehicle miles traveled on Interstate System routes open to traffic in each State; bears to

"(II) the total vehicle miles traveled on Interstate System routes open to traffic in all States.

"(vi) 35 percent of the apportionments in the ratio that—

"(I) the total of the annual contributions to the Highway Trust Fund (other than the Alternative Transportation Account) attributable to commercial vehicles in each State; bears to

"(II) the total of the annual contributions to the Highway Trust Fund (other than the Alternative Transportation Account) attributable to commercial vehicles in all States.

"(B) MINIMUM APPORTIONMENT.—Notwithstanding subparagraph (A), each State shall receive a minimum of ½ of 1 percent of

the funds apportioned for a fiscal year under this paragraph.

"(2) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—

"(A) IN GENERAL.—For the congestion mitigation and air quality improvement program, in the ratio that—

"(i) the total of all weighted nonattainment and maintenance area populations in each State; bears to

"(ii) the total of all weighted nonattainment and maintenance area populations in all States.

"(B) CALCULATION OF WEIGHTED NONATTAINMENT AND MAINTENANCE AREA POPULATION.—Subject to subparagraph (C), for the purpose of subparagraph (A), the weighted nonattainment and maintenance area population shall be calculated by multiplying the population of each area in a State that was a nonattainment area or maintenance area as described in section 149(b) for ozone or carbon monoxide by a factor of—

"(i) 1.0 if, at the time of the apportionment, the area is a maintenance area;

"(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 such subpart;

"(iv) 1.2 if, at the time of the apportionment, the area is classified as a serious ozone nonattainment area under such subpart;

"(v) 1.3 if, at the time of the apportionment, the area is classified as a severe ozone nonattainment area under such subpart;

"(vi) 1.4 if, at the time of the apportionment, the area is classified as an extreme ozone nonattainment area under such subpart;

"(vii) 1.0 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 classified

under subpart 3 of part D of title I of such Act (42 U.S.C. 7512 et seq.) as a nonattainment area described in section 149(b) for carbon monoxide; or

"(viii) 1.0 if, at the time of the apportionment, an area is designated as nonattainment for ozone under subpart 1 of part D of title I of such Act (42 U.S.C. 7501 et seq.).

"(C) ADDITIONAL ADJUSTMENT FOR CARBON MONOXIDE AREAS.—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 classified under subpart 3 of part D of title I of the Clean Air Act (42 U.S.C. 7512 et seq.) as a nonattainment or maintenance area described in section 149(b) for carbon monoxide, the weighted nonattainment or maintenance area population of the county, as determined under clauses (i) through (vi) or clause (viii) of subparagraph (B), shall be further multiplied by a factor of 1.2.

"(D) MINIMUM APPORTIONMENT.—Notwithstanding any other provision of this para-

graph, each State shall receive a minimum of ½ of 1 percent of the funds apportioned for a fiscal year under this paragraph.

"(E) DETERMINATIONS OF POPULATION.—In determining population figures for the purposes of this paragraph, the Secretary shall use the latest available annual estimates prepared by the Secretary of Commerce.

"(3) SURFACE TRANSPORTATION PROGRAM.—

"(A) IN GENERAL.—For the surface transportation program, in accordance with the following formula:

"(i) 15 percent of the apportionments in the ratio that—

"(I) the total lane miles of Federal-aid highways in each State; bears to

"(II) the total lane miles of Federal-aid highways in all States.

"(ii) 25 percent of the apportionments in the ratio that—

"(I) the total vehicle miles traveled on lanes on Federal-aid highways in each State; bears to

1 ''(II) the total vehicle miles trav-
2 eled on lanes on Federal-aid highways
3 in all States.
4 ''(iii) 25 percent of the apportion-
5 ments in the ratio that—
6 ''(I) the estimated tax payments
7 attributable to highway users in each
8 State paid into the Highway Trust
9 Fund (other than the Alternative
10 Transportation Account) in the latest
11 fiscal year for which data are avail-
12 able; bears to
13 ''(II) the estimated tax payments
14 attributable to highway users in all
15 States paid into the Highway Trust
16 Fund (other than the Alternative
17 Transportation Account) in the latest
18 fiscal year for which data are avail-
19 able.
20 ''(iv) 35 percent of the apportion-
21 ments in the ratio that—
22 ''(I) the bridge replacement and
23 rehabilitation costs in each State (as
24 determined under subsection (c)(4));
25 bears to

"(II) the bridge replacement and rehabilitation costs in all States (as determined under subsection (c)(5)).

"(B) MINIMUM APPORTIONMENT.—Notwithstanding subparagraph (A), each State shall receive a minimum of ½ of 1 percent of the funds apportioned for a fiscal year under this paragraph.

"[(4) Repealed.]

"(5) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—

"(A) IN GENERAL.—For the highway safety improvement program, in accordance with the following formula:

"(i) 33⅓ percent of the apportionments in the ratio that—

"(I) the total lane miles of Federal-aid highways in each State; bears to

"(II) the total lane miles of Federal-aid highways in all States.

"(ii) 33⅓ percent of the apportionments in the ratio that—

"(I) the total vehicle miles traveled on lanes on Federal-aid highways in each State; bears to

"(II) the total vehicle miles traveled on lanes on Federal-aid highways in all States.

"(iii) 33⅓ percent of the apportionments in the ratio that—

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

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

"(B) MINIMUM APPORTIONMENT.—Notwithstanding subparagraph (A), each State shall receive a minimum of ½ of 1 percent of the funds apportioned for a fiscal year under this paragraph.

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

1 ''(1) The Secretary shall identify deficient high-
2 way bridges in each State.
3 ''(2) The Secretary shall place each deficient
4 highway bridge into one of the following categories:
5 ''(A) Federal-aid highway bridges eligible
6 for replacement.
7 ''(B) Federal-aid highway bridges eligible
8 for rehabilitation.
9 ''(C) Bridges not on Federal-aid highways
10 eligible for replacement.
11 ''(D) Bridges not on Federal-aid highways
12 eligible for rehabilitation.
13 ''(3) The Secretary shall determine—
14 ''(A) the deck area of deficient highway
15 bridges in each category described in paragraph
16 (2); and
17 ''(B) the respective unit price of such deck
18 area on a State-by-State basis.
19 ''(4) The Secretary shall determine the bridge
20 replacement and rehabilitation costs for each State
21 by multiplying the deck area of deficient bridges in
22 the State by the respective unit price.
23 ''(5) The Secretary shall determine the bridge
24 replacement and rehabilitation costs for all States by

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

''(d) CERTIFICATION OF APPORTIONMENTS.—

''(1) IN GENERAL.—On October 1 of each fiscal year, the Secretary shall certify to each of the State transportation departments the sums which the Secretary has apportioned under this section to each State for such fiscal year. To permit the States to develop adequate plans for the utilization of apportioned sums, the Secretary shall advise each State of the amount that will be apportioned each year under this section 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 or section 105 by the 21st day of a fiscal year beginning after September 30, 2012, the Secretary shall transmit, by such 21st day, 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 such apportionment in a timely manner.

"(e) AUDITS OF HIGHWAY TRUST FUND.—From administrative funds made available under subsection (a), the Secretary may reimburse 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.

"(f) METROPOLITAN PLANNING.—

"(1) SET ASIDE.—On October 1 of each fiscal year, the Secretary shall set aside 1.15 percent of the funds authorized to be appropriated for the National Highway System program and surface transportation program authorized under this title to carry out the requirements of section 5203 of title 49.

"(2) APPORTIONMENT TO STATES OF SET-ASIDE FUNDS.—Funds set aside under paragraph (1) shall be apportioned to the States in the ratio which the population in urbanized areas, or parts thereof, in each State bears to the total population in such urbanized areas in all the States as shown by the latest available census, except that no State shall receive less than ½ of 1 percent of the amount apportioned.

"(3) USE OF FUNDS.—

"(A) IN GENERAL.—The funds apportioned to any State under paragraph (2) shall be made available by the State to the metropolitan planning organizations responsible for carrying out the provisions of section 5203 of title 49, except that States receiving the minimum apportionment under paragraph (2) may, in addition, subject to the approval of the Secretary, use the funds apportioned to finance transportation planning outside of urbanized areas.

"(B) UNUSED FUNDS.—Any funds that are not used to carry out section 5203 of title 49 may be made available by a metropolitan planning organization to the State to fund activities under section 5204 of such title.

"(4) DISTRIBUTION OF FUNDS WITHIN STATES.—

"(A) IN GENERAL.—The distribution within any State of the planning funds made available to agencies under paragraph (3) shall be in accordance with a formula developed by each State and approved by the Secretary that shall consider, but not necessarily be limited to, population, status of planning, attainment of air quality standards, metropolitan area transpor-

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

"(B) REIMBURSEMENT.—Not later than 30 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 5203 of title 49, the State shall reimburse, from funds distributed under this paragraph to the metropolitan planning organization by the State, the metropolitan planning organization for those expenditures.

"(5) DETERMINATION OF POPULATION FIGURES.—For the purposes of determining population figures under this subsection, the Secretary shall use the most recent estimate published by the Secretary of Commerce.

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

"(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 and section 105;

"(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 and sections 105 and 133, according to—

"(A) program;

"(B) funding category or subcategory;

"(C) type of improvement;

"(D) State; and

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

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

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

"(A) IN GENERAL.—Subject to subparagraph (B), funds made available under this title for transit projects or transportation planning 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 funds transferred under subparagraph (A).

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

"(A) IN GENERAL.—Subject to subparagraph (B), funds made available under chapter 53 of title 49 for highway projects or transportation planning 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 funds transferred under subparagraph (A).

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

"(A) IN GENERAL.—Subject to subparagraphs (B) and (C), the Secretary, at the request of a State, may transfer funds apportioned or allocated under this title to the State to another State, or to the Federal Highway Administration, for the purpose of funding one or more projects that are eligible for assistance with funds so apportioned or allocated.

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

"(C) SURFACE TRANSPORTATION PROGRAM.—Funds that are apportioned or allocated to a State under subsection (b)(3) and attributed to an urbanized area of a State with a population of over 200,000 individuals under section 133(d)(3) 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 funds transferred under this subsection shall be transferred in the same manner

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

"(i) RECREATIONAL TRAILS PROGRAM.—

"(1) ADMINISTRATIVE COSTS.—Before apportioning sums authorized to be appropriated to carry out the recreational trails program under section 206, the Secretary shall deduct for administrative, research, technical assistance, and training expenses for such program $840,000 for each fiscal year. The Secretary may enter into contracts with for-profit organizations or contracts, partnerships, or cooperative agreements with other government agencies, institutions of higher learning, or nonprofit organizations to perform these tasks.

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

"(A) 50 percent equally among eligible States.

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

"(3) ELIGIBLE STATE DEFINED.—In this subsection, the term 'eligible State' means a State that meets the requirements of section 206(c).".

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

Section 103(b) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A) by inserting "and the modifications to the system approved by the Secretary before the date of enactment of the American Energy and Infrastructure Jobs Act of 2012" after "1996"; and

(B) in subparagraph (C) by inserting "and commerce" before the period at the end;

(2) in paragraph (2)—

(A) in subparagraph (B) by inserting "and border crossings on such routes not included on the National Highway System before the date of enactment of the American Energy and Infrastructure Jobs Act of 2012" before the period at the end; and

(B) in subparagraph (C) by inserting "not included on the National Highway System before the date of enactment of the American En-

ergy and Infrastructure Jobs Act of 2012'' before the period at the end; and

(3) by striking paragraphs (6) and (7) and inserting the following:

''(6) REQUIREMENT FOR STATE ASSET MANAGEMENT PLAN FOR NATIONAL HIGHWAY SYSTEM.—

''(A) IN GENERAL.—A State shall develop and implement a risk-based State asset management plan for managing all infrastructure assets in the right-of-way corridor of the National Highway System based on a process established by the Secretary. The process shall require use of quality information and economic and engineering analysis to identify a sequence of maintenance, repair, and rehabilitation actions that will achieve and maintain a desired state of good repair over the lifecycle of the network at the least possible cost.

''(B) PERFORMANCE GOALS.—A State asset management plan shall include strategies leading to a program of projects that will make progress toward achievement of the national goals for infrastructure condition and performance of the National Highway System in a

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

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

"(i) A summary listing of the highway infrastructure assets on the National Highway System in the State that includes current condition and performance statistics by asset.

"(ii) Asset management objectives and measures.

"(iii) Analysis of lifecycle cost, value for investment, and risk management.

"(iv) A financial plan.

"(v) Investment strategies.

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

"(E) COMPLIANCE.—Notwithstanding section 120, with respect to the second fiscal year beginning after the date of establishment of the process under subparagraph (D) or any subsequent fiscal year, if the Secretary determines that a State has not developed and implemented a State asset management plan in a manner consistent with this section, the Federal share payable on account of any project or activity carried out by the State in that fiscal year under section 119 shall be 70 percent.".

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

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

**"§ 119. National Highway System program**

"(a) ESTABLISHMENT.—The Secretary shall establish and implement a National Highway System program under this section.

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

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

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

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

"(c) ELIGIBLE FACILITIES.—Except as otherwise specifically provided by this section, to be eligible for funding apportioned under section 104(b)(1) to carry out this section, a facility must be located on the National Highway System.

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

"(1) on an eligible facility, as described in subsection (c);

"(2) a project, or is a part of a program of projects, supporting progress toward the achievement of national performance goals under section 5206 of title 49 for improving infrastructure condition, safety, mobility, or freight movement on the National Highway System;

"(3) consistent with the requirements of sections 5203 and 5204 of title 49; and

"(4) for one or more of the purposes specified in subsection (e).

"(e) PROJECT PURPOSES.—A project receiving funding under this section shall be for one or more of the following purposes:

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

"(2) Construction, reconstruction, replacement (including replacement with fill material), rehabilitation, preservation, and protection (including scour countermeasures, seismic retrofits, and impact protection measures) of bridges and tunnels on the National Highway System.

"(3) Inspection and evaluation, as defined in section 151, of bridges and tunnels on the National Highway System, or inspection and evaluation of other highway infrastructure assets on the National Highway System.

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

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

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

"(7) Capital and operating costs for traffic management and traveler information monitoring, management, and control facilities and programs for the National Highway System.

"(8) Infrastructure-based intelligent transportation systems capital improvements for the National Highway System.

"(9) Development and implementation of a State asset management plan for the National Highway System in accordance with section 103(b), 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.

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

"(11) Construction of publicly owned intracity or intercity bus terminals.

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

1 ''(f) ENVIRONMENTAL MITIGATION.—

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

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

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

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

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

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

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

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

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

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

"(B) Credits from any agency-sponsored mitigation bank that are attributable to funding under this section may be used only for projects funded under this title unless the agency pays to the Secretary an amount equal to the Federal funds attributable to the mitigation bank credits the agency uses for purposes other than mitigation of a project funded under this title.

"(4) PREFERENCE.—At the discretion of the project sponsor, preference shall be given, to the maximum extent practicable, to mitigating an environmental impact through the use of a mitigation bank or other third-party mitigation arrangement, if the use of credits from the mitigation bank for the project is approved by the applicable Federal agency.

"(g) FEDERAL SHARE.—

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

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

(b) CLERICAL AMENDMENT.—The analysis for chapter 1 is amended by striking the item relating to section 119 and inserting the following:

"119. National Highway System program.".

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

(a) ELIGIBLE PROJECTS.—Section 133(b) is amended—

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

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

(3) by inserting before paragraph (5) (as so redesignated) the following:

"(1) Construction, reconstruction, rehabilitation, resurfacing, restoration, preservation, and operational improvements for highways, including construction of designated routes of the Appalachian Development Highway System.

"(2) Replacement (including replacement with fill material), rehabilitation, preservation, and protection (including painting, scour countermeasures, seismic retrofits, impact protection measures, security countermeasures, and protection against extreme events) for bridges and tunnels on public roads of all functional classifications.

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

"(4) Inspection and evaluation of bridges and tunnels and training of bridge and tunnel inspectors (as defined in section 151), and inspection and evaluation of other highway assets (including signs, retaining walls, and drainage structures)."; and

(4) by striking paragraph (14) (as so redesignated) and inserting the following:

"(14) Environmental mitigation efforts relating to projects funded under this title in the same manner and to the same extent as such activities are eligible under section 119(f).".

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

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

on roads functionally classified as local or rural minor collectors unless the roads were on a Federal-aid highway system on January 1, 1991, and except as approved by the Secretary.''.

(c) ALLOCATION OF APPORTIONED FUNDS.—

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

(2) DIVISION BETWEEN URBANIZED AREAS OF OVER 200,000 POPULATION AND OTHER AREAS.—Section 133(d)(3) is amended—

(A) in subparagraph (A)—

(i) in the matter preceding clause (i) by striking ''62.5 percent of the remaining 90 percent'' and inserting ''50 percent''; and

(ii) in matter following clause (ii) by striking ''37.5 percent'' and inserting ''50 percent''; and

(B) by adding at the end the following:

''(E) CONSULTATION WITH RURAL PLANNING ORGANIZATIONS.—For purposes of subparagraph (A)(ii), before obligating funding attributed to an area with a population greater than 5,000 and less than 200,000, a State shall consult with the rural planning organizations that represent the area, if any.''; and

(3) in paragraph (5)(A) by striking ''funded from the allocation required under paragraph (2)''.

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

''(3) PAYMENTS.—The Secretary shall make payments to a State of costs incurred by the State for the surface transportation program in accordance with procedures to be established by the Secretary.''.

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

(1) by striking ''2004 through 2006'' and inserting ''2011 through 2013''; and

(2) by striking ''2007 through 2009'' and inserting ''2014 through 2016''.

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

(1) SPECIAL RULE.—Notwithstanding section 133(c) of title 23, United States Code, and except as provided in paragraph (2), up to 15 percent of the amounts required to be obligated by a State under section 133(d)(3)(B) of such title for each of fiscal years 2013 through 2016 may be obligated on roads functionally classified as minor collectors.

(2) SUSPENSION.—The Secretary may suspend the application of paragraph (1) with respect to a State if the Secretary determines that the authority provided under paragraph (1) is being used excessively by the State.

**SEC. 1108. CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.**

(a) ELIGIBLE PROJECTS.—Section 149(b) is amended to read as follows:

"(b) ELIGIBLE PROJECTS.—

"(1) IN GENERAL.—

"(A) REQUIREMENTS FOR OBLIGATION OF FUNDS.—A State may obligate funds apportioned to the State under section 104(b)(2) for a transportation project or program if the project or program meets the requirements of subparagraph (B) and (C).

"(B) AREA SERVED BY PROJECT OR PROGRAM.—A project or program meets the requirements of this subparagraph if the project or program is for an area in the State that—

"(i) is or was designated as a nonattainment area for ozone, carbon monoxide, or particulate matter under section 107(d) of the Clean Air Act (42 U.S.C.

7407(d)) and classified pursuant to section 181(a), 186(a), 188(a), or 188(b) of the Clean Air Act (42 U.S.C. 7511(a), 7512(a), 7513(a), or 7513(b));

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

''(iii) is required to prepare, and file with the Administrator of the Environmental Protection Agency, maintenance plans under the Clean Air Act (42 U.S.C. 7505a).

''(C) PURPOSE OF PROJECT OR PROGRAM.—A project or program meets the requirements of this subparagraph if—

''(i) the Secretary, after consultation with the Administrator, determines that—

''(I) on the basis of information published by the Environmental Protection Agency pursuant to section 108(f)(1)(A) of the Clean Air Act (other than clause (xvi) of such section), the project or program is likely to contribute to—

1 "(aa) the attainment of a
2 national ambient air quality
3 standard; or
4 "(bb) the maintenance of a
5 national ambient air quality
6 standard in a maintenance area;
7 or
8 "(II) the project or program is
9 part of a program, method, or strat-
10 egy described in such section
11 108(f)(1)(A);
12 "(ii) the project or program is in-
13 cluded in a State implementation plan that
14 has been approved pursuant to the Clean
15 Air Act and the project will have air qual-
16 ity benefits;
17 "(iii) the Secretary, after consultation
18 with the Administrator, determines that
19 the project or program is likely to con-
20 tribute to the attainment of a national am-
21 bient air quality standard through reduc-
22 tions in travel time delay, vehicle miles
23 traveled, or fuel consumption or through
24 other factors; or

"(iv) the Secretary determines that the project or program is likely to contribute to the mitigation of congestion.

"(2) SPECIAL RULES.—

"(A) PROJECTS RESULTING IN NEW CAPACITY FOR SINGLE OCCUPANT VEHICLES.—A State may obligate funds apportioned to the State under section 104(b)(2) for a project or program that will result in the construction of new capacity available to single occupant vehicles only if the project or program is likely to contribute to the mitigation of congestion or the improvement of air quality.

"(B) PROJECTS FOR PM-10 NONATTAINMENT AREAS.—A State may obligate funds apportioned to the State under section 104(b)(2) for a project or program for an area that is nonattainment for ozone or carbon monoxide, or both, and for PM–10 resulting from transportation activities, without regard to any limitation of the Department of Transportation relating to the type of ambient air quality standard such project or program addresses.".

(b) COST-EFFECTIVE EMISSION REDUCTION GUIDANCE.—Section 149 is amended—

(1) by striking subsection (f); and

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

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

Section 105 is amended to read as follows:

**"§ 105. Equity bonus program**

"(a) PROGRAM.—

"(1) IN GENERAL.—Subject to subsections (c), (d), and (e), for fiscal year 2013 and each fiscal year thereafter, the Secretary shall apportion among the States amounts sufficient to ensure that no State receives a percentage of the total apportionments for the fiscal year for the programs specified in paragraph (2) that is less than the percentage calculated under subsection (b).

"(2) SPECIFIED PROGRAMS.—The programs referred to in paragraph (1) are—

"(A) the metropolitan planning programs under section 104(f);

"(B) the equity bonus program under this section;

"(C) the National Highway System program under section 119;

"(D) the rail-highway grade crossing program under section 130;

"(E) the surface transportation program under section 133;

"(F) the highway safety improvement program under section 148;

"(G) the recreational trails programs under section 206;

"(H) the State infrastructure bank capitalization program under section 611; and

"(I) the Appalachian development highway system program under section 14501 of title 40.

"(b) STATE PERCENTAGE.—For each of fiscal years 2013 through 2016, the percentage referred to in subsection (a) for each State shall be 94 percent of the quotient obtained by dividing—

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

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

"(c) MINIMUM AMOUNT.—

"(1) IN GENERAL.—For each fiscal year, before making the apportionments under subsection (a)(1),

the Secretary shall apportion among the States amounts sufficient to ensure that each State receives a combined total apportionment for the programs specified in subsection (a)(2) and the congestion mitigation and air quality improvement program under section 149 that equals or exceeds the combined amount that the State was apportioned for fiscal year 2012 for the programs specified in section 105(a)(2) of this title (other than the high priority projects program under subparagraph (H) of such section), as in effect on the day before the date of enactment of the American Energy and Infrastructure Jobs Act of 2012.

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

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

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

1 ''(d) NO NEGATIVE ADJUSTMENT.—No negative ad-
2 justment shall be made under subsection (a)(1) to the ap-
3 portionment of any State.
4 ''(e) TREATMENT OF FUNDS.—
5 ''(1) PROGRAMMATIC DISTRIBUTION.—The Sec-
6 retary shall apportion the amounts made available
7 under this section that exceed $2,639,000,000 so
8 that the amount apportioned to each State under
9 this section for each program referred to in subpara-
10 graphs (C) and (E) of subsection (a)(2) is equal to
11 the amount determined by multiplying the amount
12 to be apportioned to such State under this section
13 by the ratio that—
14 ''(A) the amount of funds apportioned to
15 such State for each program referred to in sub-
16 paragraphs (C) and (E) of subsection (a)(2) for
17 a fiscal year; bears to
18 ''(B) the total amount of funds appor-
19 tioned to such State for all such programs for
20 such fiscal year.
21 ''(2) REMAINING DISTRIBUTION.—The Sec-
22 retary shall administer the remainder of funds made
23 available under this section to the States in accord-
24 ance with section 133, except that section 133(d)(3)
25 and section 1115(a) of the American Energy and In-

frastructure Jobs Act of 2012 shall not apply to the amounts administered pursuant to this paragraph.

"(f) METROPOLITAN PLANNING SET-ASIDE.—Notwithstanding section 104(f), no set aside provided for under that section shall apply to funds allocated under this section.

"(g) AUTHORIZATION OF APPROPRIATIONS.—

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

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

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

"(B) the amounts authorized by section 1101(a)(2) of the American Energy and Infrastructure Jobs Act of 2012 for the surface transportation program for the fiscal year shall be decreased by the amount of the shortfall.

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

"(A) the amount authorized by paragraph (1) for the fiscal year shall be decreased by the amount of the excess, so as to equal such minimum amount; and

"(B) the amounts authorized by section 1101(a)(1) of the American Energy and Infrastructure Jobs Act of 2012 for the National Highway System program for the fiscal year shall be increased by the amount of the excess.".

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

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

"(1) NHS PROJECTS.—For projects under this title that are on the National Highway System, including projects on the Interstate System, the State may assume the responsibility of the Secretary under this title for design, plans, specifications, estimates, contract awards, and inspections with respect to such projects unless the Secretary determines that such assumption is not appropriate.".

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

(1) in paragraph (2)(A)—

(A) by striking "Federal-aid system" and inserting "National Highway System receiving Federal assistance"; and

(B) by striking "$25,000,000" and inserting "$50,000,000";

(2) in paragraph (2)(B)—

(A) by inserting "on the National Highway System receiving Federal assistance" after "project"; and

(B) by striking "$20,000,000" and inserting "$40,000,000"; and

(3) by adding at the end the following:

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

(c) MAJOR PROJECTS.—Section 106(h)(3) is amended—

(1) in subparagraph (A) by striking "and";

(2) in subparagraph (B) by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(C) assess the appropriateness of a public-private partnership to deliver the project.".

(d) USE OF ADVANCED MODELING TECHNOLOGIES.—Section 106 is amended by adding at the end the following:

"(j) USE OF ADVANCED MODELING TECHNOLOGIES.—

"(1) IN GENERAL.—With respect to transportation projects that receive Federal funding, the Secretary shall encourage the use of advanced modeling technologies during environmental, planning, financial management, design, simulation, and construction processes related to the projects.

1 "(2) ACTIVITIES.—In carrying out paragraph
2 (1), the Secretary shall—
3 "(A) compile information relating to ad-
4 vanced modeling technologies, including indus-
5 try best practices with respect to the use of the
6 technologies;
7 "(B) disseminate to States information re-
8 lating to advanced modeling technologies, in-
9 cluding industry best practices with respect to
10 the use of the technologies; and
11 "(C) promote the use of advanced mod-
12 eling technologies.
13 "(3) COMPREHENSIVE PLAN.—The Secretary
14 shall develop and publish on the Internet Web site
15 of the Department of Transportation a detailed and
16 comprehensive plan for the implementation of para-
17 graph (1).
18 "(4) ADVANCED MODELING TECHNOLOGY DE-
19 FINED.—The term 'advanced modeling technology'
20 means an available or developing technology, includ-
21 ing 3-dimensional digital modeling, that can accel-
22 erate and improve the environmental review process,
23 increase effective public participation, enhance the
24 detail and accuracy of project designs, increase safe-
25 ty, accelerate construction and reduce construction

costs, or otherwise expedite project delivery with respect to transportation projects that receive Federal funding.''.

(e) REVIEW OF OVERSIGHT PROGRAM.—

(1) IN GENERAL.—The Secretary shall review the oversight program established under section 106(g) of title 23, United States Code, to determine the efficacy of the program in monitoring the effective and efficient use of funds authorized to carry out title 23, United States Code.

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

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

(B) evaluate the extent of such overruns.

(3) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of this Act, the Secretary shall transmit 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 review conducted under paragraph (1), which shall include recommendations for legislative

changes to improve the oversight program established under section 106(g) of title 23, United States Code.

(f) TRANSPARENCY AND ACCOUNTABILITY.—

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

(2) REQUIREMENTS.—In carrying out paragraph (1), the Secretary shall ensure that the data made available on the Internet Web site of the Department—

(A) is organized by project and State;

(B) to the maximum extent possible, is updated regularly to reflect the current status of obligations, expenditures, and Federal-aid projects; and

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

(3) REPORT TO CONGRESS.—The Secretary shall transmit, annually, to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works and the Committee on Banking, Hous-

ing, and Urban Affairs of the Senate a report containing a summary of the data described in paragraph (1) for the 1-year period ending on the date on which the report is submitted.

**SEC. 1111. EMERGENCY RELIEF.**

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

''(d) ELIGIBILITY.—

''(1) IN GENERAL.—Subject to the requirements of this subsection, the Secretary may expend funds from the emergency fund authorized by this section for the repair or reconstruction of Federal-aid highways in accordance with the provisions of this chapter.

''(2) MAXIMUM TOTAL PROJECT COSTS.—

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

''(B) COMPARABLE FACILITY DEFINED.—In this paragraph, the term 'comparable facility' means a facility that meets the current geometric and construction standards required for the types and volume of traffic that the facility will carry over its design life.

"(3) DEBRIS REMOVAL.—The costs of debris removal shall be an eligible expense under this section only for—

"(A) an event not declared a major disaster or emergency by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.); or

"(B) an event declared a major disaster or emergency by the President under that Act if the debris removal is not eligible for assistance pursuant to section 403, 407, or 502 of that Act (42 U.S.C. 5170b, 5173, 5192).

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

"(5) TEMPORARY SUBSTITUTE HIGHWAY TRAFFIC SERVICE.—Notwithstanding any other provision of this chapter, actual and necessary costs of maintenance and operation of ferryboats or additional transit service providing temporary substitute highway traffic service, less the amount of fares charged,

may be expended from the emergency fund under this section authorized for Federal-aid highways.

"(6) APPLICATIONS; EMERGENCY DECLARATIONS.—Except as to highways, roads, and trails referred to in subsection (e), no funds may be expended under this section unless—

"(A) a declaration is made—

"(i) by the Governor of the State and concurred in by the Secretary, that an emergency exists; or

"(ii) by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) that a major disaster or emergency exists; and

"(B) not later than 2 years after a declaration is made under subparagraph (A), the Secretary has received an application for assistance from the State transportation department that includes a comprehensive list of potentially eligible project sites and repair costs.".

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

1 "(e) TRIBAL ROADS, FEDERAL LANDS HIGHWAYS,
2 AND PUBLIC ROADS ON FEDERAL LANDS.—
3 "(1) USE OF EMERGENCY FUND.—Notwith-
4 standing subsection (d)(1), the Secretary may ex-
5 pend funds from the emergency fund authorized by
6 this section, either independently or in cooperation
7 with any other branch of the Government, a State
8 agency, tribal organization, organization, or person,
9 for the repair or reconstruction of tribal roads, Fed-
10 eral lands highways, and other federally owned roads
11 that are open to public travel, whether or not such
12 roads are Federal-aid highways.
13 "(2) REIMBURSEMENTS.—The Secretary may
14 reimburse Federal agencies, State (including polit-
15 ical subdivisions of the States) agencies, and Indian
16 tribal governments for expenditures made on
17 projects determined eligible under this section, in-
18 cluding expenditures for emergency repairs made be-
19 fore a determination of eligibility. Such reimburse-
20 ments to Federal agencies and Indian tribal govern-
21 ments shall be transferred to the account from
22 which the expenditure was made, or to a similar ac-
23 count that remains available for obligation, and the
24 budget authority associated with the expenditure
25 shall be restored to the agency from which it was de-

rived and shall be available for obligation until the end of the fiscal year following the year in which the transfer occurs.

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

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

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

(2) determine whether to raise the threshold for an eligible event and raise such threshold if warranted; and

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

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

(1) improve training for Federal and State officials on emergency relief requirements and processes;

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

(3) address program differences with the disaster assistance program of the Federal Emergency Management Agency; and

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

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

Section 126 is amended to read as follows:

**"§ 126. Uniform transferability of Federal-aid highway funds**

''(a) GENERAL RULE.—Notwithstanding any other provision of law, but subject to subsection (b), a State may transfer not to exceed 25 percent of the State's apportionment under paragraph (1), (3), or (5) of section 104(b)

for a fiscal year to any other apportionment of the State under any of those paragraphs for that fiscal year.

''(b) APPLICATION TO CERTAIN SET-ASIDES.—No funds may be transferred under this section that are subject to section 104(f) or section 133(d)(3).''.

**SEC. 1113. FERRY BOATS AND FERRY TERMINAL FACILITIES.**

Section 147 is amended—

(1) in subsection (b) by striking ''ferry boats, ferry terminals, and ferry maintenance facilities'' and inserting ''ferry boats and ferry terminals'';

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

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

''(1) 35 percent based on the total annual number of vehicles carried by ferry systems operating in each eligible State.

''(2) 35 percent based on the total annual number of passengers (including passengers in vehicles) carried by ferry systems operating in each eligible State.

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

"(d) ELIGIBLE STATE DEFINED.—In this section, the term 'eligible State' means a State that has a ferry system operating in the State or between the State and another State."; and

(3) by redesignating subsection (f) as subsection (e).

**SEC. 1114. NATIONAL HIGHWAY BRIDGE AND TUNNEL INVENTORY AND INSPECTION PROGRAM.**

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

**"§ 151. National highway bridge and tunnel inventory and inspection program**

"(a) NATIONAL HIGHWAY BRIDGE AND TUNNEL INVENTORY.—The Secretary, in consultation with the States and Federal agencies with jurisdiction over highway bridges and tunnels, shall—

"(1) inventory all bridges on public roads, on and off Federal-aid highways, including tribally owned and federally owned bridges, that are over waterways, other topographical barriers, other highways, and railroads;

"(2) inventory all tunnels on public roads, on and off Federal–aid highways, including tribally owned and federally owned tunnels;

"(3) identify each bridge or tunnel inventoried under paragraph (1) or (2) that is structurally deficient or functionally obsolete;

"(4) assign a risk-based priority for replacement or rehabilitation of each structurally deficient bridge or tunnel identified under paragraph (3) after consideration of safety, serviceability, 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 or tunnel is diminished; and

"(5) determine the cost of replacing each structurally deficient bridge or tunnel identified under paragraph (3) with a comparable facility or the cost of rehabilitating the bridge or tunnel.

"(b) NATIONAL HIGHWAY BRIDGE AND TUNNEL INSPECTION STANDARDS.—

"(1) IN GENERAL.—The Secretary shall establish and maintain inspection standards for the proper safety inspection and evaluation of all highway bridges and tunnels described in subsections (a)(1) and (a)(2). The standards shall be designed to en-

sure uniformity in the conduct of such inspections and evaluations.

"(2) MINIMUM REQUIREMENTS FOR INSPECTION STANDARDS.—At a minimum, the standards established under paragraph (1) shall—

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

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

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

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

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

"(ii) inventory data for all highway bridges and tunnels described in subsections (a)(1) and (a)(2) under the jurisdiction of the State, Federal agency, or tribal government that reflect the findings

of the most recent highway bridge and tunnel inspections;

''(E) establish a procedure for national certification of highway bridge and tunnel inspectors;

''(F) establish, in consultation with the States, Federal agencies, and interested and knowledgeable private organizations and individuals, procedures for the Secretary to conduct reviews of State and Federal agency compliance with the standards established under this subsection; and

''(G) establish, in consultation with the States, Federal agencies, and interested and knowledgeable private organizations and individuals, procedures for the States to follow in reporting to the Secretary—

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

''(ii) monitoring activities and corrective actions taken in response to a critical finding described in clause (i).

''(3) COMPLIANCE REQUIREMENTS.—

1 "(A) REVIEWS OF STATE COMPLIANCE.—
2 The Secretary shall annually review State com-
3 pliance with the standards established under
4 this section.
5 "(B) FINDINGS OF NONCOMPLIANCE.—If
6 the Secretary identifies noncompliance by a
7 State in conducting an annual review under
8 subparagraph (A), the Secretary shall issue a
9 report detailing the noncompliance by December
10 31 of the calendar year in which the review is
11 conducted and shall provide the State an oppor-
12 tunity to address the noncompliance by—
13 "(i) developing a corrective action
14 plan to remedy the noncompliance; or
15 "(ii) resolving the noncompliance
16 within 45 days of receiving notification of
17 the noncompliance.
18 "(4) PENALTY FOR NONCOMPLIANCE.—
19 "(A) FUNDING REQUIREMENT.—If the
20 Secretary identifies noncompliance by a State in
21 conducting an annual review under paragraph
22 (3)(A) in a calendar year, and the State fails to
23 address the noncompliance in the manner de-
24 scribed in paragraph (3)(B) by August 1 of the
25 succeeding year, on October 1 of such suc-

ceeding year, and each year thereafter as necessary, the Secretary shall require the State to dedicate funds apportioned to the State under sections 104(b)(1) and 104(b)(3) to correct the noncompliance.

"(B) AMOUNT.—The amount of the funds dedicated to correcting the 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.

"(c) TRAINING PROGRAM FOR BRIDGE AND TUNNEL INSPECTORS.—The Secretary, in cooperation with State transportation departments, shall establish a program designed to train appropriate personnel to carry out highway bridge and tunnel inspections.

"(d) AVAILABILITY OF FUNDS.—In carrying out this section—

"(1) the Secretary may use funds made available to the Secretary under sections 104(a) and 503;

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

"(3) an Indian tribe may use funds made available to the Indian tribe under section 502; and

"(4) a Federal agency may use funds made available to the agency under section 503.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 1 is amended by striking the item relating to section 151 and inserting the following:

"151. National highway bridge and tunnel inventory and inspection program.".

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

(a) MINIMUM INVESTMENT REQUIREMENTS.—

(1) NATIONAL HIGHWAY SYSTEM BRIDGES.—Out of amounts apportioned to a State for a fiscal year under each of sections 104(b)(1) and 104(b)(3) of title 23, United States Code, an amount equal to 10 percent of such amounts shall be available to the State only for eligible projects on highway bridges on the National Highway System if the Secretary determines under paragraph (3) for the fiscal year that more than 10 percent of the total deck area of highway bridges in the State on the National Highway System is located on highway bridges that have been classified as structurally deficient.

(2) BRIDGES NOT ON FEDERAL-AID HIGHWAYS.—Out of amounts apportioned to a State for a fiscal year under section 104(b)(3) of title 23, United States Code, an amount equal to 110 percent

of the amount that the State was required to expend for fiscal year 2009 on projects under section 144(f)(2) of such title (as in effect on the day before the date of enactment of this Act) shall be available to the State only for eligible projects on highway bridges not on Federal-aid highways if the Secretary determines under paragraph (3) for the fiscal year that more than 15 percent of the total deck area of highway bridges not on Federal-aid highways in the State is located on highway bridges not on Federal-aid highways that have been classified as structurally deficient.

(3) USE OF DATA IN NATIONAL BRIDGE AND TUNNEL INVENTORY.—The Secretary shall make the determinations under paragraphs (1) and (2) with respect to a State for a fiscal year based on an average of the final data concerning highway bridges in the State contained in the national bridge and tunnel inventory for the most recent 3 calendar years for which such data are available.

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

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

(A) ELIGIBLE PROJECT.—The term ''eligible project'' means a project to replace (including replacement with fill material), rehabilitate, preserve, or protect (including through painting, scour countermeasures, seismic retrofits, impact protection measures, security countermeasures, and protection against extreme events) a bridge or tunnel on a public road of any functional classification.

(B) NATIONAL BRIDGE AND TUNNEL INVENTORY.—The term ''national bridge and tunnel inventory'' means the national bridge and tunnel inventory established under section 151 of title 23, United States Code (as amended by this title).

(b) BRIDGE REHABILITATION AND REPLACEMENT.—Section 217(e) is amended by striking ''then such bridge'' and all that follows before the period at the end and inserting ''the State carrying out the rehabilitation or replacement is encouraged to provide such safe accommodations as part of the rehabilitation or replacement''.

**SEC. 1116. MINIMUM PENALTIES FOR REPEAT OFFENDERS FOR DRIVING WHILE INTOXICATED OR DRIVING UNDER THE INFLUENCE.**

(a) DEFINITIONS.—Section 164(a) 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 paragraph (2) of this subsection, by amending subparagraph (A) to read as follows:

''(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 with limited driving privileges permitted (subject to requirements established under State law) if an ignition interlock device is installed for not less than 1 year on each motor vehicle owned or operated, or both, by the individual;''.

(b) TRANSFER OF FUNDS.—Section 164(b)(1)(A) is amended by striking ''alcohol-impaired driving countermeasures'' and inserting ''projects and activities addressing impaired driving (as such term is defined in section 402(p)(11))''.

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

(a) IN GENERAL.—Section 165 is amended by striking subsections (a) and (b) and inserting the following:

1 ''(a) ALLOCATION OF FUNDS.—On October 1 of each
2 fiscal year, the Secretary shall allocate the funds made
3 available for the fiscal year to carry out this section to
4 the Commonwealth of Puerto Rico to carry out a highway
5 program in the Commonwealth.

6 ''(b) APPLICABILITY OF TITLE.—Amounts made
7 available to carry out this section shall be available for
8 obligation in the same manner as if such funds were ap-
9 portioned under this chapter.''.

10 (b) CONFORMING AMENDMENT.—Section 165 is
11 amended—

12 (1) in subsection (c)(1) by striking ''sections
13 104(b) and 144'' and inserting ''section 104(b)'';
14 and

15 (2) in subsection (d) by striking ''sections 104
16 and 144'' and inserting ''section 104''.

17 **SEC. 1118. APPALACHIAN DEVELOPMENT HIGHWAY SYS-**
18 **TEM.**

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

24 (1) the latest available cost to complete esti-
25 mate for the Appalachian development highway sys-

tem under section 14501 of title 40, United States Code, with respect to each State; bears to

(2) the latest available cost to complete estimate for that system with respect to all States.

(b) MINIMUM AND MAXIMUM APPORTIONMENT.—Notwithstanding subsection (a), each State that receives an apportionment under subsection (a) shall receive—

(1) not less than 1 percent of the funds apportioned under this section; and

(2) not more than 25 percent of the funds apportioned under this section.

(c) APPLICABILITY OF TITLE 23.—Funds made available under section 1101(a) of this Act for the Appalachian development highway system program shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of any project under this section shall be determined in accordance with section 14501 of title 40, United States Code, and such funds shall be available to construct highways and access roads under such section 14501 and shall remain available until expended.

(d) CREDIT FOR NON-FEDERAL SHARE.—Section 120(j)(1)(A) is amended by striking ''and the Appalachian

development highway system program under section 14501 of title 40''.

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

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

# Subtitle B—Innovative Financing

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

(a) DEFINITIONS.—

(1) ELIGIBLE PROJECT COSTS.—Section 601(a)(1) is amended in the matter preceding subparagraph (A) by inserting ''(regardless of when incurred)'' after ''including the cost''.

(2) MASTER CREDIT AGREEMENT.—Section 601(a) is amended—

(A) by redesignating paragraphs (7) through (14) as paragraphs (8) through (15), respectively; and

(B) by inserting after paragraph (6) the following:

''(7) MASTER CREDIT AGREEMENT.—The term 'master credit agreement' means an agreement en-

tered into by and between the Secretary and an obligor for a project that—

"(A) makes contingent commitments of one or more secured loans or other Federal credit instruments at future dates;

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

"(C) identifies the dedicated revenue sources that will secure the repayment of such secured loans or other Federal credit instruments, which may differ by project; and

"(D) provides for the obligation of funds for such a secured loan or other Federal credit instrument for a project included in the agreement after all requirements under this section have been met for the project.".

(3) OBLIGOR.—Section 601(a)(8) (as redesignated by paragraph (2)(A) of this subsection) is amended by inserting "limited liability company," after "corporation,".

(4) PROJECT.—Section 601(a)(9) (as redesignated by paragraph (2)(A) of this subsection) is amended—

(A) by striking ''and'' at the end of subparagraph (C);

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

(C) by adding at the end the following:

''(E) a program of related transportation projects that—

''(i) are coordinated to achieve a common transportation goal;

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

''(iii) together receive not more than 30 percent of their funding for capital costs from Federal grant funds made available under this title or chapter 53 of title 49; and

''(F) a highway, transit, or pedestrian project, or grouping of projects, that—

''(i) improves mobility; and

''(ii) is located within the station area of a transit, passenger rail, or intercity bus station.''.

(5) SUBSIDY AMOUNT.—Section 601(a)(14) (as redesignated by paragraph (2)(A) of this subsection)

is amended by inserting ", or other source of funds provided pursuant to section 608(c)(2)," after "budget authority".

(b) PROJECT APPLICATIONS AND DETERMINATIONS OF ELIGIBILITY.—

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

**"SEC. 602. PROJECT APPLICATIONS AND DETERMINATIONS OF ELIGIBILITY.**

"(a) PROJECT APPLICATIONS.—

"(1) IN GENERAL.—A State, local government, agency or instrumentality of a State or local government, public authority, private party to a public-private partnership, or any other legal entity undertaking a project may submit to the Secretary an application requesting financial assistance under this chapter for the project.

"(2) MASTER CREDIT AGREEMENTS.—An application submitted under paragraph (1) may request that financial assistance under this chapter be provided under a master credit agreement.

"(3) APPLICATIONS WHERE OBLIGOR WILL BE IDENTIFIED LATER.—A State, local government, agency or instrumentality of a State or local government, or public authority may submit an application

to the Secretary under paragraph (1) under which a private party to a public-private partnership will be the obligor and will be identified later through completion of a procurement and selection of the private party.

''(b) ELIGIBILITY.—

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

''(2) CRITERIA.—To be eligible to receive financial assistance under this chapter, a project shall meet the following criteria:

''(A) INCLUSION IN TRANSPORTATION PLANS AND PROGRAMS.—The project shall satisfy the applicable planning and programmatic requirements of sections 5203 and 5204 of title 49—

''(i) in the case of an application for financial assistance to be provided under a master credit agreement, at such time as credit assistance is provided for the project pursuant to the master credit agreement; and

"(ii) in the case of any other project application, at such time as an agreement to make available a Federal credit instrument is entered into under this chapter.

"(B) CREDITWORTHINESS.—

"(i) IN GENERAL.—The project shall satisfy applicable creditworthiness standards, including, at a minimum—

"(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.

"(ii) AMOUNTS LESS THAN $75,000,000.—Notwithstanding clauses (i)(III) and (i)(IV), if the senior debt and Federal credit instrument is for an amount less than $75,000,000, 1 rating agency opinion for each of the senior debt and

Federal credit instrument shall be sufficient.

"(iii) FEDERAL CREDIT INSTRUMENTS THAT ARE THE SENIOR DEBT.—Notwithstanding clauses (i)(III) and (i)(IV), 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.

"(C) ELIGIBLE PROJECT COSTS.—The eligible costs of the project—

"(i) in the case of a project described in section 601(a)(9)(F) or a project principally involving the installation of an intelligent transportation system, shall be reasonably anticipated to equal or exceed $15,000,000;

"(ii) in the case of a project for which financial assistance will be provided under a master credit agreement, shall be reasonably anticipated to equal or exceed $1,000,000,000; and

"(iii) in the case of any other project, shall be reasonably anticipated to equal or exceed the lesser of—

"(I) $50,000,000; or

"(II) 33⅓ percent of the amount apportioned, out of amounts made available from the Highway Trust Fund (other than the Alternative Transportation Account), to the State in which the project is located for Federal-aid highway and highway safety construction programs for the most recently completed fiscal year.

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

"(E) REGIONAL SIGNIFICANCE.—The project shall be regionally significant (as defined in regulations implementing sections 134 and 135 (as in effect on the day before the date of enactment of the American Energy and In-

1 frastructure Jobs Act of 2012)) or otherwise
2 significantly enhance the national transpor-
3 tation system.

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

11 ''(G) BENEFICIAL EFFECTS.—The Sec-
12 retary shall determine that financial assistance
13 for the project under this chapter will—

14 ''(i) foster an innovative public-private
15 partnership and attract private debt or eq-
16 uity investment for the project;

17 ''(ii) enable the project to proceed at
18 an earlier date than the project would oth-
19 erwise be able to proceed or reduce the
20 project's life cycle costs, including debt
21 service costs; and

22 ''(iii) reduce the contribution of Fed-
23 eral grant assistance for the project.

24 ''(H) PROJECT READINESS.—The appli-
25 cant shall demonstrate that the contracting

process for construction of the project can be commenced not later than 90 days after the date on which a Federal credit instrument is secured for the project under this chapter.

"(c) PRELIMINARY RATING OPINION LETTER.—For purposes of subsection (b)(2)(B), the Secretary shall require each applicant for a project to provide a preliminary rating opinion letter from at least 1 rating agency indicating that the project's senior obligations, which may consist, in whole or in part, of the Federal credit instrument, have the potential to achieve an investment-grade rating.

"(d) APPROVAL OF APPLICATIONS AND FUNDING.—

"(1) IN GENERAL.—The Secretary shall—

"(A) approve applications for projects that meet the criteria specified in subsection (b)(2) in the order in which the Secretary receives the applications; and

"(B) commit or conditionally commit budget authority for projects, out of amounts made available to carry out this chapter for a fiscal year, in the order in which the Secretary approves the applications for such projects.

"(2) INSUFFICIENT FUNDS.—If the Secretary approves an application submitted under subsection

(a)(1) for a project in a fiscal year, but is unable to provide financial assistance for the project in that fiscal year as a result of prior commitments or conditional commitments of budget authority under this chapter, the Secretary shall provide the project sponsor with the option of receiving such financial assistance as soon as sufficient budget authority is made available to carry out this chapter in a subsequent fiscal year.

''(e) PROCEDURES FOR DETERMINING PROJECT ELIGIBILITY.—

''(1) ESTABLISHMENT.—The Secretary shall establish procedures for—

''(A) processing applications received under subsection (a)(1) requesting financial assistance for projects; and

''(B) approving or disapproving the applications based on whether the projects meet the criteria specified in subsection (b)(2).

''(2) APPLICATION PROCESSING PROCEDURES.—The procedures shall meet the following requirements:

''(A) The procedures may not restrict when applications may be filed.

''(B) The procedures shall ensure that—

1 ''(i) the Secretary will provide written
2 notice to an applicant, on or before the
3 15th day following the date of receipt of
4 the applicant's application, informing the
5 applicant of whether the application is
6 complete;
7 ''(ii) if the application is complete, the
8 Secretary will provide written notice to the
9 applicant, on or before the 60th day fol-
10 lowing the date of issuance of written no-
11 tice for the application under clause (i), in-
12 forming the applicant of whether the Sec-
13 retary has approved or disapproved the ap-
14 plication;
15 ''(iii) if the application is not com-
16 plete, the Secretary will provide written no-
17 tice to the applicant, together with the
18 written notice issued for the application
19 under clause (i), informing the applicant of
20 the information and materials needed to
21 complete the application; and
22 ''(iv) if the Secretary does not provide
23 written notice to an applicant under clause
24 (i) in the 15-day period specified in clause
25 (i)—

"(I) the applicant's application is deemed complete; and

"(II) the Secretary will provide written notice to the applicant, on or before the 60th day following the last day of such 15-day period, informing the applicant of whether the Secretary has approved or disapproved the application.

"(C) The procedures may not use eligibility criteria that are supplemental to those established by this chapter.

"(D) In accordance with subsection (b)(1), the procedures shall require approval of an application if the project meets the eligibility criteria specified in subsection (b)(2).

"(E) The procedures shall require that any written notice of disapproval of an application identify the eligibility criteria that were not satisfied and contain an explanation of the deficiencies that resulted in failure to meet such criteria.

"(3) SPECIAL RULES FOR MASTER CREDIT AGREEMENTS.—The Secretary shall issue special rules for—

"(A) processing applications under which financial assistance will be provided under a master credit agreement; and

"(B) approving or disapproving such applications based on whether the proposed project or program of related projects meets the applicable eligibility criteria specified in section 601(a)(7).

"(f) APPLICATION APPROVAL.—Approval of an application for a project under subsection (a)(1) qualifies the project for execution of a conditional term sheet establishing a conditional commitment of credit assistance.

"(g) FEDERAL REQUIREMENTS.—In addition to the requirements of this title for highway projects, chapter 53 of title 49 for public transportation 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:

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

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

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

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

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

''602. Project applications and determinations of eligibility.''.

11 (c) SECURED LOANS.—

12 (1) IN GENERAL.—

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

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

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

23 (2) TERMS AND LIMITATIONS.—

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

chapter and its purpose and that'' before ''the Secretary determines appropriate.''.

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

''(2) MAXIMUM AMOUNTS.—The amount of the secured loan may not exceed 49 percent of the reasonably anticipated eligible project costs.''.

(C) PAYMENT.—Section 603(b)(3)(A)(i) is amended by inserting ''payments owing to the obligor under a public-private partnership,'' before ''or other dedicated revenue sources''.

(D) NONSUBORDINATION.—Section 603(b)(6) is amended by inserting after ''project obligations'' the following: ''entered into after the date on which the agreement to provide the secured loan is entered into under this section (except that such obligations do not include project obligations issued to refund prior project obligations or project obligations not contemplated by the parties at the time)''.

(d) LINES OF CREDIT.—

(1) APPROVAL OF PROJECTS.—Section 604(a)(1) is amended by striking ''selected'' and inserting ''approved''.

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

(3) TERMS AND LIMITATIONS.—

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

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

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

(C) SECURITY.—Section 604(b)(5)(A)(i) is amended by inserting ''payments owing to the obligor under a public-private partnership,'' before ''or other dedicated revenue sources''.

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

prior project obligations or project obligations not contemplated by the parties at the time)''.

(E) RELATIONSHIP TO OTHER CREDIT INSTRUMENTS.—Section 604(b)(10) is amended by striking ''33 percent'' and inserting ''49 percent''.

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

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

(f) FUNDING.—

(1) IN GENERAL.—Section 608(a)(1) is amended to read as follows:

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

(2) ADMINISTRATIVE COSTS.—Section 608(a)(3) is amended by striking ''$2,200,000 for each of fiscal years 2005 through 2009'' and inserting ''$3,250,000 for each of fiscal years 2013 through 2016''.

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

"(4) PROJECTS UNDER A MASTER CREDIT AGREEMENT.—The Secretary may commit or conditionally commit to projects covered by master credit agreements not more than 15 percent of the amount of budget authority for each fiscal year under paragraph (1). This limitation does not apply to a project under a master credit agreement that has received final credit approval.".

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

"(c) EXHAUSTION OF AVAILABILITY.—

"(1) NOTICE OF EXHAUSTION.—Whenever the Secretary fully commits budget authority available in a fiscal year under subparagraph (a)(1), the Secretary shall—

"(A) publish notice of that fact in the Federal Register; and

"(B) deliver written notice of that fact to the applicants under all approved and pending applications.

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

application or at any time after receipt of such notice to pay the subsidy amount from available sources other than the budget authority available in a fiscal year under subparagraph (a)(1), including from Federal assistance available to the applicant under this title or chapter 53 of title 49.

''(d) USE OF UNALLOCATED FUNDS.—

''(1) DISTRIBUTION AMONG STATES.—On September 1 of each fiscal year, the Secretary shall distribute any remaining budget authority made available in subsection (a)(1) among the States in the ratio that—

''(A) the amount authorized to be apportioned, out of amounts made available from the Highway Trust Fund (other than the Alternative Transportation Account), to each State for the National Highway System program, the surface transportation program, and highway safety improvement program for the fiscal year; bears to

''(B) the amount authorized to be apportioned, out of amounts made available from the Highway Trust Fund (other than the Alternative Transportation Account), to all States for the National Highway System program, the

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

"(2) ELIGIBLE PURPOSES.—Such budget authority shall be available for any purpose eligible for funding under section 133.".

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

(a) FUNDING.—

(1) IN GENERAL.—Section 610(d) is amended—

(A) by striking "fiscal years 2005 through 2009" each place that it appears and inserting "fiscal years 2013 through 2016"; and

(B) by striking "10 percent" each place that it appears and inserting "15 percent".

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

(A) in subparagraph (A) by striking "and" at the end;

(B) in subparagraph (B) by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(C) 100 percent of the funds apportioned to the State for each of fiscal years 2013 through 2016 under section 611.".

(b) PROGRAM ADMINISTRATION.—Section 610(k) is amended by striking ''fiscal years 2005 through 2009'' and inserting ''fiscal years 2013 through 2016''.

**SEC. 1203. STATE INFRASTRUCTURE BANK CAPITALIZATION.**

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

**''§ 611. State infrastructure bank capitalization**

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

''(1) the amount authorized to be apportioned, out of amounts made available from the Highway Trust Fund (other than the Alternative Transportation Account), to each State for the National Highway System program, the surface transportation program, and highway safety improvement program for the fiscal year; bears to

''(2) the amount authorized to be apportioned, out of amounts made available from the Highway Trust Fund (other than the Alternative Transportation Account), to all States for the National Highway System program, the surface transportation

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

''(b) ELIGIBLE USES OF FUNDING.—

''(1) IN GENERAL.—Except as provided in paragraph (2), funds apportioned to a State under subsection (a) shall be used by the State to make capitalization grants to the highway account of the State's infrastructure bank established under section 610.

''(2) FISCAL YEARS 2013 AND 2014.—Funds apportioned to a State under subsection (a) for fiscal years 2013 and 2014 may be used by the State for eligible projects on the National Highway System, as described in section 119(d).

''(c) REAPPORTIONMENT OF FUNDS.—For fiscal year 2015 and each fiscal year thereafter, if by August 1 of the fiscal year a State does not obligate the funds apportioned to the State for the fiscal year under subsection (a) for providing capitalization grants described in subsection (b), the Secretary shall reapportion the remaining funds among those States that—

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

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

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

"(e) APPLICABILITY OF FEDERAL LAW.—The requirements referred to in section 610(h) shall apply to any funds apportioned under this section.

"(f) FUNDING.—

"(1) IN GENERAL.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Alternative Transportation Account) to carry out this section $750,000,000 for each of fiscal years 2013 through 2016.

"(2) CONTRACT AUTHORITY.—Funds made available under paragraph (1) shall be available for obligation in the same manner as if the funds were apportioned under chapter 1.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 6 is amended by adding at the end the following:

"611. State infrastructure bank capitalization.".

**SEC. 1204. TOLLING.**

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

"(a) BASIC PROGRAM.—

"(1) AUTHORIZATION FOR FEDERAL PARTICIPATION.—Subject to the provisions of this section, Federal participation shall be permitted on the same basis and in the same manner as construction of toll-free highways is permitted under this chapter in the—

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

"(B) initial construction of one or more lanes or other improvements that increase capacity of a highway, bridge, or tunnel (other than a highway on the Interstate System) and conversion of that highway, bridge, or tunnel to a tolled facility;

"(C) initial construction of one or more lanes or other improvements that increase the capacity of a highway, bridge, or tunnel on the Interstate System and conversion of that highway, bridge, or tunnel to a tolled facility, if the number of toll-free non-HOV lanes, excluding auxiliary lanes, after such construction is not less than the number of toll-free non-HOV lanes, excluding auxiliary lanes, before such construction;

"(D) reconstruction, resurfacing, restoration, rehabilitation, or replacement of a toll highway, bridge, or tunnel or approach thereto;

"(E) reconstruction or replacement of a toll-free bridge or tunnel and conversion of the bridge or tunnel to a toll facility;

"(F) reconstruction, restoration, or rehabilitation of a toll-free Federal-aid highway (other than a highway on the Interstate System) and conversion of the highway to a toll facility;

"(G) reconstruction, restoration, or rehabilitation of a highway on the Interstate System if the number of toll-free non-HOV lanes, excluding auxiliary lanes, after reconstruction, restoration, or rehabilitation is not less than the number of toll-free non-HOV lanes, excluding auxiliary lanes, before reconstruction, restoration or rehabilitation;

"(H) conversion of a high occupancy vehicle lane on a highway, bridge, or tunnel to a toll facility; and

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

participation is authorized under this paragraph.

''(2) OWNERSHIP.—Each highway, bridge, tunnel, or approach thereto constructed under this subsection must—

''(A) be publicly owned; or

''(B) be privately owned if the public authority with jurisdiction over the highway, bridge, tunnel, or approach has entered into a contract with a private person or persons to design, finance, construct, and operate the facility and the public authority will be responsible for complying with all applicable requirements of this title with respect to the facility.

''(3) LIMITATIONS ON USE OF REVENUES.—

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

''(i) debt service with respect to the projects on or for which the tolls are authorized, including funding of reasonable reserves and debt service on refinancing;

''(ii) reasonable return on investment of any private person financing the project,

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

''(iii) any costs necessary for the improvement and proper operation and maintenance of the toll facility, including reconstruction, resurfacing, restoration, and rehabilitation;

''(iv) if the toll facility is subject to a public-private partnership agreement, payments that the party holding the right to toll revenues owes to the other party under the public-private partnership agreement; and

''(v) if the public authority certifies annually that the tolled facility is being adequately maintained, the public authority may use toll revenues for any other purpose for which Federal funds may be obligated by a State under this title.

''(B) ANNUAL AUDIT.—A public authority with jurisdiction over a toll facility shall conduct or have an independent auditor conduct an annual audit of toll facility records to verify adequate maintenance and compliance with subparagraph (A), and report the results of such

audits to the Secretary. Upon reasonable notice, the public authority shall make all records of the public authority pertaining to the toll facility available for audit by the Secretary.

"(C) NONCOMPLIANCE.—If the Secretary concludes that a public authority has not complied with the limitations on the use of revenues described in subparagraph (A), the Secretary may require the public authority to discontinue collecting tolls until an agreement with the Secretary is reached to achieve compliance with the limitation on the use of revenues described in subparagraph (A).

"(4) LIMITATIONS ON CONVERSION OF HIGH OCCUPANCY VEHICLE FACILITIES ON INTERSTATE SYSTEM.—

"(A) IN GENERAL.—A public authority with jurisdiction over a high occupancy vehicle facility on the Interstate System may undertake reconstruction, restoration, or rehabilitation under subsection (a)(1)(G) on the facility, and may levy tolls on vehicles, excluding high occupancy vehicles, using the reconstructed, restored, or rehabilitated facility, if the public authority—

"(i) in the case of a high occupancy vehicle facility that affects a metropolitan area, submits to the Secretary a written assurance that the metropolitan planning organization designated under section 5203 of title 49 for the area has been consulted concerning the placement and amount of tolls on the converted facility;

"(ii) develops, manages, and maintains a system that will automatically collect the toll; and

"(iii) establishes policies and procedures to—

"(I) manage the demand to use the facility by varying the toll amount that is charged; and

"(II) enforce sanctions for violations of use of the facility.

"(B) EXEMPTION FROM TOLLS.—In levying tolls on a facility under subparagraph (A), a public authority may designate classes of vehicles that are exempt from the tolls or charge different toll rates for different classes of vehicles.

"(5) SPECIAL RULE FOR FUNDING.—In the case of a toll facility under the jurisdiction of a public authority of a State (other than the State transportation department), upon request of the State transportation department and subject to such terms and conditions as such department and public authority may agree, the Secretary, working through the State department of transportation, shall reimburse such public authority for the Federal share of the costs of construction of the project carried out on the toll facility under this subsection in the same manner and to the same extent as such department would be reimbursed if such project was being carried out by such department. The reimbursement of funds under this paragraph shall be from sums apportioned to the State under this chapter and available for obligations on projects on the Federal-aid system in such State on which the project is being carried out.

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

"(7) MODIFICATIONS.—If a public authority (including a State transportation department) with

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

"(8) LOANS.—

"(A) IN GENERAL.—Using amounts made available under this title, a State may loan to a public or private entity constructing or proposing to construct under this section a toll facility or non-toll facility with a dedicated revenue source an amount equal to all or part of the Federal share of the cost of the project if the project has a revenue source specifically dedicated to it. Dedicated revenue sources for non-toll facilities include excise taxes, sales taxes, motor vehicle use fees, tax on real property, tax increment financing, and such other dedicated revenue sources as the Secretary determines appropriate.

"(B) COMPLIANCE WITH FEDERAL LAWS.—As a condition of receiving a loan

under this paragraph, the public or private entity that receives the loan shall ensure that the project will be carried out in accordance with this title and any other applicable Federal law, including any applicable provision of a Federal environmental law.

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

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

"(E) REPAYMENT.—The repayment of a loan made under this paragraph shall commence not later than 5 years after date on which the facility that is the subject of the loan is open to traffic.

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

"(G) INTEREST.—A loan made under this paragraph shall bear interest at or below market interest rates, as determined by the State,

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

"(H) REUSE OF FUNDS.—Amounts repaid to a State from a loan made under this paragraph may be obligated—

"(i) for any purpose for which the loan funds were available under this title; and

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

"(I) GUIDELINES.—The Secretary shall establish procedures and guidelines for making loans under this paragraph.

"(9) STATE LAW PERMITTING TOLLING.—If a State does not have a highway, bridge, or tunnel toll facility as of the date of enactment of the American Energy and Infrastructure Jobs Act of 2012, before commencing any activity authorized under this section, the State must have in effect a law that permits tolling on a highway, bridge, or tunnel.

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

"(A) HIGH OCCUPANCY VEHICLE; HOV.—The term 'high occupancy vehicle' or 'HOV' means a vehicle with no fewer than 2 occupants.

"(B) INITIAL CONSTRUCTION.—The term 'initial construction' means the construction of a highway, bridge, tunnel, or other facility at any time before it is open to traffic and does not include any improvement to a highway, bridge, tunnel, or other facility after it is open to traffic.

"(C) PUBLIC AUTHORITY.—The term 'public authority' means a State, interstate compact of States, or public entity designated by a State.

"(D) TOLL FACILITY.—The term 'toll facility' means a toll highway, bridge, or tunnel or approach thereto constructed under this subsection.".

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

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

**SEC. 1205. HOV FACILITIES.**

(a) HOV EXCEPTIONS.—Section 166(b)(5) is amended—

(1) in subparagraphs (A) and (B) by striking ''2009'' and inserting ''2016''; and

(2) in subparagraph (C)—

(A) by striking ''subparagraph (B)'' and inserting ''this paragraph''; and

(B) by inserting ''or equal to'' after ''less than''.

(b) REQUIREMENTS APPLICABLE TO TOLLS.—Section 166(c)(3) is amended to read as follows:

''(3) TOLL REVENUE.—Toll revenue collected under this section is subject to the requirements of section 129(a)(3).''.

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

''(D) MAINTENANCE OF OPERATING PERFORMANCE.—Not later than 6 months after a facility has been determined to be degraded pursuant to the standard specified in subparagraph (B), the State agency with jurisdiction

over the facility shall bring the facility into compliance with the minimum average operating speed performance standard through changes to operation of the facility, including—

''(i) increasing the occupancy requirement for HOV lanes;

''(ii) varying the toll charged to vehicles allowed under subsection (b) to reduce demand;

''(iii) discontinuing allowing non-HOV vehicles to use HOV lanes under subsection (b); or

''(iv) increasing the available capacity of the HOV facility;''.

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

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

(b) CONTENTS.—The best practices shall include polices and techniques to ensure that the interests of the traveling public and State and local governments are protected in any agreement entered into with the private sec-

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

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

12 (d) STANDARD TRANSACTION CONTRACTS.—

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

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

ing, construction, and operation of transportation facilities.

# Subtitle C—Highway Safety

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

Section 148 is amended to read as follows:

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

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

''(1) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—The term 'highway safety improvement program' means the program carried out under this section.

''(2) HIGHWAY SAFETY IMPROVEMENT PROJECT.—The term 'highway safety improvement project' means a project consistent with an applicable State strategic highway safety plan that—

''(A) corrects or improves a roadway feature that constitutes a hazard to any road users; or

''(B) addresses any other highway safety problem.

''(3) PROJECT TO MAINTAIN MINIMUM LEVELS OF RETROREFLECTIVITY.—The term 'project to maintain minimum levels of retroreflectivity' means a project undertaken pursuant to the provisions of

the Manual on Uniform Traffic Control Devices that require the use of an assessment or management method designed to maintain highway sign or pavement marking retroreflectivity at or above minimum levels prescribed in the Manual.

"(4) ROAD USERS.—The term 'road users' means motor vehicle drivers and passengers, public transportation operators and users, truck drivers, bicyclists, motorcyclists, and pedestrians, including persons with disabilities.

"(5) SAFETY DATA.—The term 'safety data' includes crash, roadway, driver licensing, and traffic data with respect to all public roads and, for highway-rail grade crossings, data on the characteristics of highway and train traffic.

"(6) 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) projects consistent with an applicable State strategic highway safety plan

that promote the awareness of the public and educate the public concerning highway safety matters (including motorcycle safety);

''(ii) projects to enforce highway safety laws; and

''(iii) projects to provide infrastructure and equipment to support emergency services.

''(7) STATE HIGHWAY SAFETY IMPROVEMENT PROGRAM.—The term 'State highway safety improvement program' means a program of highway safety improvement projects carried out as part of the statewide transportation improvement program under section 5204(g) of title 49.

''(8) STATE STRATEGIC HIGHWAY SAFETY PLAN.—The term 'State strategic highway safety plan' means a comprehensive, data-driven safety plan developed in accordance with subsection (c)(2).

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

''(c) STATE HIGHWAY SAFETY IMPROVEMENT PROGRAMS.—

"(1) IN GENERAL.—To obligate funds apportioned under section 104(b)(5) to carry out this section, a State shall have in effect a State highway safety improvement program that—

"(A) includes a set of projects that are consistent with the State strategic highway safety plan of the State;

"(B) satisfies the requirements of this section; and

"(C) is consistent with the State's statewide transportation improvement program under section 5204(g) of title 49.

"(2) STRATEGIC HIGHWAY SAFETY PLAN.—As part of the State highway safety improvement program of the State, each State shall have in effect, update at least every 2 years, and submit to the Secretary a State strategic highway safety plan 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;

1 ''(iv) State and local traffic enforce-
2 ment officials;
3 ''(v) representatives of entities con-
4 ducting a Federal or State motor carrier
5 safety program;
6 ''(vi) motor vehicle administration
7 agencies;
8 ''(vii) a highway-rail grade crossing
9 safety representative of the Governor of
10 the State; and
11 ''(viii) other major Federal, State,
12 tribal, regional, and local safety stake-
13 holders;
14 ''(B) is approved by the Governor of the
15 State or a responsible State agency;
16 ''(C) defines State safety goals, including
17 with respect to performance measures estab-
18 lished under section 5206 of title 49;
19 ''(D) addresses engineering, management,
20 operation, education, enforcement, and emer-
21 gency services elements of highway safety (in-
22 cluding integrated, interoperable emergency
23 communications) as key factors in evaluating
24 highway projects;

"(E) analyzes and makes effective use of State, regional, and local safety data, including data from the safety data system required under subsection (e);

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

"(G) considers the safety needs of, and high-fatality segments of, public roads.

"(3) IMPLEMENTATION.—

"(A) IDENTIFICATION AND ANALYSIS OF HIGHWAY SAFETY PROBLEMS AND OPPORTUNITIES.—As part of the State highway safety improvement program of the State, each State shall, including through use of the safety data system required under subsection (e)—

"(i) identify roadway features that constitute a hazard to road users;

"(ii) identify highway safety improvement projects on the basis of crash history (including crash rates), crash potential, or other data-supported means;

"(iii) establish the relative severity of the risks of roadway features based on crash, injury, fatality, traffic volume, and

other relevant data (including the number and rates of crashes, injuries, and fatalities);

''(iv) consider whether highway safety improvement projects maximize opportunities to advance safety; and

''(v) in conjunction with the National Highway Traffic Safety Administration and the Federal Motor Carrier Safety Administration, evaluate the progress made each year in achieving State safety goals identified in the State strategic highway safety plan.

''(B) SCHEDULE OF HIGHWAY SAFETY IMPROVEMENT PROJECTS.—As part of the State highway safety improvement program of the State, each State shall, including through use of the safety data system required under subsection (e)—

''(i) identify highway safety improvement projects;

''(ii) determine priorities for the correction of roadway features that constitute a hazard to road users as identified through safety data analysis; and

"(iii) establish and implement a schedule of highway safety improvement projects to address roadway features identified as constituting a hazard to road users.

"(4) ELIGIBLE PROJECTS.—

"(A) IN GENERAL.—A State may obligate funds apportioned to the State under section 104(b)(5) to carry out—

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

"(ii) any project to put in effect or improve the safety data system required under subsection (e), without regard to whether the project is included in an applicable State strategic highway safety plan;

"(iii) any project to maintain minimum levels of retroreflectivity with respect to a public road, without regard to whether the project is included in an applicable State strategic highway safety plan; or

"(iv) as provided in subsection (d), other projects.

"(B) USE OF OTHER FUNDING FOR SAFETY IMPROVEMENT PROJECTS.—

"(i) 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.

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

"(C) AUTOMATED TRAFFIC ENFORCEMENT SYSTEMS.—

"(i) PROHIBITION.—A State may not obligate funds apportioned to the State under section 104(b) to carry out any program to purchase, operate, or maintain an automated traffic enforcement system.

"(ii) AUTOMATED TRAFFIC ENFORCEMENT SYSTEM DEFINED.—In this subparagraph, the term 'automated traffic enforce-

ment system' means automated technology that monitors compliance with traffic laws.

"(5) UPDATED STATE STRATEGIC HIGHWAY SAFETY PLAN REQUIRED.—

"(A) IN GENERAL.—A State may obligate funds apportioned to the State under section 104(b)(5) for the second fiscal year beginning after the date of enactment of the American Energy and Infrastructure Jobs Act of 2012 only if the State has in effect and has submitted to the Secretary an updated State strategic highway safety plan that satisfies requirements under this subsection.

"(B) TRANSITION.—Before the second fiscal year beginning after the date of enactment of the American Energy and Infrastructure Jobs Act of 2012, a State may obligate funds apportioned to the State under section 104(b)(5) in a manner consistent with a State strategic highway safety plan of the State developed before such date of enactment.

"(d) FLEXIBLE FUNDING.—To further the implementation of a State strategic highway safety plan and the achievement of performance measures established under section 5206 of title 49, a State may use not more

than 10 percent of the funds apportioned to the State under section 104(b)(5) for a fiscal year to carry out safety projects under any other section if—

"(1) the use is consistent with the State strategic highway safety plan of the State; and

"(2) the State certifies to the Secretary that the funds are being used for the most effective projects for making progress toward achieving performance measures established under section 5206 of title 49.

"(e) SAFETY DATA SYSTEM.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of the American Energy and Infrastructure Jobs Act of 2012, each State, as part of the State highway safety improvement program of the State, shall have in effect a safety data system to—

"(A) collect and maintain a record of safety data with respect to all public roads in the State;

"(B) advance the capabilities of the State with respect to safety data collection, analysis, and integration;

"(C) identify roadway features that constitute a hazard to road users; and

"(D) perform safety problem identification and countermeasure analysis.

"(2) IMPROVEMENT EFFORTS.—Each State shall carry out projects, as needed, to ensure that the safety data system of the State enhances—

"(A) the timeliness, accuracy, completeness, uniformity, and accessibility of safety data with respect to all public roads in the State;

"(B) the ability of the State to integrate all safety data collected throughout the State;

"(C) the ability of State and national safety data systems to be compatible and interoperable;

"(D) the ability of the Secretary to observe and analyze national trends in crash rates, outcomes, and circumstances; and

"(E) the collection of data on crashes that involve a bicyclist or pedestrian.

"(3) EVALUATION OF IMPROVEMENT EFFORTS.—Each State shall collect and maintain a record of projects undertaken to improve the safety data system of the State and shall evaluate the effectiveness of such projects.

1 ''(f) TRANSPARENCY.—A State shall make all plans
2 and reports submitted to the Secretary under this section
3 available to the public through—
4 ''(1) the Internet Web site of the State trans-
5 portation department of the State; or
6 ''(2) such other means as the Secretary deter-
7 mines to be appropriate.
8 ''(g) DISCOVERY AND ADMISSION INTO EVIDENCE OF
9 CERTAIN REPORTS, SURVEYS, AND INFORMATION.—Not-
10 withstanding any other provision of law, reports, surveys,
11 schedules, lists, or data compiled or collected for any pur-
12 pose directly relating to this section, or published in ac-
13 cordance with subsection (f), shall not be subject to dis-
14 covery or admitted into evidence in a Federal or State
15 court proceeding or considered for other purposes in any
16 action for damages arising from any occurrence at a loca-
17 tion identified or addressed in such reports, surveys,
18 schedules, lists, or other data.
19 ''(h) FEDERAL SHARE OF HIGHWAY SAFETY IM-
20 PROVEMENT PROJECTS.—The Federal share of the cost
21 of a highway safety improvement project carried out with
22 funds apportioned to a State under section 104(b)(5) shall
23 be 90 percent, unless a Federal share exceeding 90 per-
24 cent would apply to the project under section 120 or
25 130.''.

**SEC. 1302. RAILWAY-HIGHWAY CROSSINGS.**

(a) TRANSPARENCY OF STATE SURVEYS AND SCHEDULES WITH RESPECT TO RAILWAY-HIGHWAY CROSSINGS.—

(1) SURVEY AND SCHEDULE OF PROJECTS.—Section 130(d) is amended by adding at the end the following: ''Each State shall make the surveys conducted and schedules implemented under this subsection available to the public on an appropriate Internet Web site of the State.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect 1 year after the date of enactment of this Act.

(b) RAILWAY-HIGHWAY CROSSING INFORMATION.—Section 130 is amended by adding at the end the following:

''(m) RAILWAY-HIGHWAY CROSSING INFORMATION.—

''(1) PRIORITY LISTS AND ACTION PLANS.—

''(A) IN GENERAL.—Not later than 1 year after the date of enactment of this subsection, each State shall compile and submit to the Secretary a report that includes—

''(i) a list of the 10 railway-highway crossings in the State that have the greatest need for safety improvements;

"(ii) an action plan that identifies projects and activities the State plans to carry out to improve safety at those railway-highway crossings; and

"(iii) a list of projects and activities the State carried out to improve safety at those railway-highway crossings during the 2-year period ending on the date on which the report is submitted to the Secretary.

"(B) UPDATES.—Each State shall update and submit to the Secretary, at least once every 2 years, the report of that State under subparagraph (A).

"(2) PUBLICATION OF REPORTS ON U.S. DOT WEB SITE.—The Secretary shall make the reports submitted under paragraph (1) available to the public on the Internet Web site of the Department of Transportation.

"(3) PUBLICATION OF REPORTS ON STATE WEB SITES.—Each State shall make the reports compiled under paragraph (1) available to the public on an appropriate Internet Web site of the State.

"(4) LIMITATION ON USE OF DATA IN JUDICIAL PROCEEDINGS.—Notwithstanding any other provision of law, any report, review, survey, schedule, list,

data, information, or document of any kind compiled or collected pursuant to this subsection, including for the purpose of identifying, evaluating, or planning the safety enhancement of a potential accident site or railway-highway crossing pursuant 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 mentioned or addressed in such report, review, survey, schedule, list, data, information, or document.

''(5) NONCOMPLIANCE.—If the Secretary determines that a State is not in compliance with requirements under this subsection, the Secretary may withhold funding that would otherwise be apportioned to that State under this section.''.

**SEC. 1303. HIGHWAY WORKER SAFETY.**

(a) POSITIVE PROTECTIVE MEASURES.—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, 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 where traffic is present and where workers have no

means of escape, including tunnels and bridges, unless an engineering analysis determines such measures are not necessary;

(2) temporary longitudinal traffic barriers are used to protect workers on highway construction projects in stationary work zones lasting 2 weeks or more if traffic is present, the traffic will be traveling at a speed of 45 miles per hour or more, 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 engineering analysis determines such barriers are not necessary; or

(B) the project is located—

(i) in a State with a population density of 20 or fewer persons per square mile;

(ii) outside of an urbanized area; and

(iii) on a roadway with an annual average daily traffic load that is less than 100 vehicles per hour; and

(3) when positive protective measures are necessary for a highway construction project, such measures are paid for on a unit pay basis, unless doing so would create a conflict with innovative con-

tracting approaches, including a design-build contract or a performance-based contract, under which the contractor is paid to assume a certain risk allocation and payment is generally made on a lump sum basis.

(b) APPAREL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall modify regulations issued pursuant to section 1402 of SAFETEA–LU (23 U.S.C. 401 note)—

(1) to allow fire services personnel, who are subject to the regulations, to wear apparel meeting the high visibility requirements set forth in NFPA 1971–2007 (Standard on Protective Ensembles for Structural Fire Fighting and Proximity Fire Fighting); and

(2) to not require such personnel to wear apparel meeting requirements set forth in ANSI/ISEA 107–2004.

# Subtitle D—Freight Mobility

**SEC. 1401. NATIONAL FREIGHT POLICY.**

(a) DEVELOPMENT.—Not later than 1 year after the date of enactment of this Act, and every 5 years thereafter, the Secretary, in consultation with interested public and private sector freight stakeholders, including representatives of ports, shippers, carriers, freight-related as-

1 sociations, State transportation departments, and local
2 governments, shall develop a 5-year National Freight Pol-
3 icy.

4 (b) CONTENTS.—The National Freight Policy shall—

5 (1) specify goals, objectives, and milestones
6 with respect to the expansion of freight transpor-
7 tation capacity and the improvement of freight
8 transportation infrastructure in the United States;

9 (2) specify programs, strategies, and projects
10 that will assist in achieving the goals, objectives, and
11 milestones specified under paragraph (1);

12 (3) specify the manner in which the programs,
13 strategies, and projects specified under paragraph
14 (2) will achieve the goals, objectives, and milestones
15 specified under paragraph (1), including with respect
16 to a 5-year timeframe for meeting the goals, objec-
17 tives, and milestones;

18 (4) identify protocols to promote and ensure the
19 implementation of the National Freight Policy; and

20 (5) identify a cooperative process, which in-
21 cludes State and local governments, for imple-
22 menting the National Freight Policy.

23 (c) GOALS.—In developing the National Freight Pol-
24 icy, the Secretary shall consider the goals of—

(1) investing in freight transportation infrastructure to strengthen the economic competitiveness of the United States, reduce congestion, and increase productivity, particularly with respect to domestic industries and businesses that create high-value jobs;

(2) improving and maintaining existing freight transportation infrastructure to ensure that infrastructure meets appropriate standards;

(3) expanding the capacity of freight transportation infrastructure to meet future demand;

(4) incorporating concepts of performance, innovation, competition, and accountability into the operation and maintenance of freight transportation infrastructure;

(5) increasing the usage and number of strategically-located, multi-modal freight transportation facilities to reduce congestion and emissions relating to highways in the United States;

(6) improving the safety of freight transportation;

(7) implementing new technologies to improve the coordination and efficiency of the movement of freight throughout the United States; and

(8) improving methods for incorporating international trade estimates into transportation planning.

(d) REPORTING.—The Secretary shall include the National Freight Policy in the National Strategic Transportation Plan developed under section 5205 of title 49, United States Code.

(e) COMMODITY FLOW SURVEY.—The Secretary, in consultation with other relevant Federal agencies, shall make changes to the commodity flow survey (conducted by the Bureau of Transportation Statistics pursuant to section 111(c)(5) of title 49, United States Code) that the Secretary determines will reduce identified freight data gaps and deficiencies and assist in the evaluation of forecasts of transportation demand.

**SEC. 1402. STATE FREIGHT ADVISORY COMMITTEES.**

(a) IN GENERAL.—The Secretary shall encourage each State to establish a freight advisory committee consisting of a representative cross-section of public and private sector freight stakeholders, including representatives of ports, shippers, carriers, freight-related associations, the State's transportation department, and local governments.

(b) ROLE OF COMMITTEE.—A freight advisory committee described in subsection (a) shall—

(1) advise the State on freight-related priorities, issues, projects, and funding needs;

(2) serve as a forum for discussion for State transportation decisions affecting freight mobility;

(3) communicate and coordinate regional priorities with other organizations;

(4) promote the sharing of information between the private and public sectors on freight issues; and

(5) participate in the development of the State's freight plan described in section 1403 of this Act.

**SEC. 1403. STATE FREIGHT PLANS.**

(a) IN GENERAL.—The Secretary shall encourage each State to develop a freight plan that provides a comprehensive plan for the State's immediate and long-range planning activities and investments with respect to freight.

(b) PLAN CONTENTS.—A freight plan described in subsection (a) shall include, at a minimum—

(1) an identification of significant freight system trends, needs, and issues with respect to the State;

(2) a description of the freight policies, strategies, and performance measures that will guide the State's freight-related transportation investment decisions;

(3) evidence of consideration of innovative technologies and operational strategies, including intelligent transportation systems, that improve the safety and efficiency of freight movement; and

(4) for routes on which travel by heavy vehicles, including mining, agricultural, and timber vehicles, is projected to substantially deteriorate the condition of roadways, a description of improvements that may be required to reduce or impede such deterioration.

(c) RELATIONSHIP TO LONG-RANGE PLAN.—A freight plan described in subsection (a) may be developed separate from or incorporated into the statewide strategic long-range transportation plan required by section 5204 of title 49, United States Code.

**SEC. 1404. TRUCKING PRODUCTIVITY.**

(a) WEIGHT LIMITATIONS.—Section 127(a) is amended by adding at the end the following:

''(13) A State may allow, by special permit, the operation of vehicles with a gross vehicle weight of up to 126,000 pounds, and with loads conforming to such single axle, tandem axle, and bridge formula limits as may be established by the State, on a segment on the Interstate System in the State that is not more than 25 miles in length.''.

(b) LONGER COMBINATION VEHICLES.—Section 127(d) is amended by adding at the end the following:

"(6) OPERATIONS ON SPECIFIC ROUTES.—

"(A) IN GENERAL.—If, as of the date of enactment of this paragraph, a State has authority under paragraph (1) to allow longer combination vehicles to operate in the State, the State may allow, in addition to such operations, the operation of longer combination vehicles on additional routes in the State.

"(B) DETERMINATIONS BY THE SECRETARY.—The Secretary may prohibit the operation of a longer combination vehicle under subparagraph (A) if the Secretary determines that the operation poses an unreasonable safety risk based on an analysis of engineering data, safety data, or other applicable data.".

(c) ADDITIONAL VEHICLE WEIGHT PROVISIONS.—Section 127 is amended by adding at the end the following:

"(i) AUTOMOBILE TRANSPORTERS LIMITATIONS.—

"(1) IN GENERAL.—A State may not prohibit the operation of an automobile transporter with a gross weight of 88,000 pounds or less on—

"(A) any segment of the Interstate System (except a segment exempted under section 31111(f) of title 49); or

"(B) those classes of qualifying Federal-aid primary highways designated by the Secretary under section 31111(e) of title 49.

"(2) REASONABLE ACCESS.—A State may not enact or enforce a law denying reasonable access to automobile transporters, to and from highways described in paragraph (1), to loading or unloading points or facilities for food, fuel, repair, or rest.

"(3) AXLE WEIGHT TOLERANCE.—A State shall allow an automobile transporter a tolerance of no more than 10 percent on axle weight limitations set forth in subsection (a).

"(4) AUTOMOBILE TRANSPORTER DEFINED.—In this subsection, the term 'automobile transporter' has the meaning given that term in section 31111(a) of title 49.

"(j) ADDITIONAL EXCEPTION TO WEIGHT REQUIREMENTS.—

"(1) EXCEPTION FOR CERTAIN VEHICLES.—

"(A) IN GENERAL.—A State may allow the maximum gross weight, including all enforcement tolerances, for a vehicle using Interstate

System routes in the State to exceed the maximum gross weight otherwise applicable under subsection (a), if—

"(i) the vehicle is equipped with at least 6 axles;

"(ii) the weight of any single axle on the vehicle does not exceed 20,000 pounds, including enforcement tolerances;

"(iii) the weight of any tandem axle on the vehicle does not exceed 34,000 pounds, including enforcement tolerances;

"(iv) the weight of any group of 3 or more axles on the vehicle does not exceed 51,000 pounds, including enforcement tolerances; and

"(v) the gross weight of the vehicle does not exceed 97,000 pounds, including enforcement tolerances.

"(B) DETERMINATIONS BY THE SECRETARY.—The Secretary may prohibit the operation of a vehicle under subparagraph (A) if the Secretary determines that the operation poses an unreasonable safety risk based on an analysis of engineering data, safety data, or any other applicable data the Secretary may use.

"(2) SPECIAL RULES.—

"(A) SPECIAL EXCEPTION FOR CERTAIN STATES.—This subsection does not—

"(i) apply to a vehicle exceeding the maximum gross weight requirements under subsection (a) that could have operated lawfully in a State before the date of enactment of this subsection; or

"(ii) otherwise restrict a vehicle that may lawfully operate under another provision of this section.

"(B) INCREASE IN AXLE WEIGHT REQUIREMENT.—A State may authorize a vehicle to exceed the maximum axle weight requirement that applies to any one of the axle groupings described in clauses (ii), (iii), and (iv) of paragraph (1)(A) by not more than 2,000 pounds.

"(3) AUTHORITY TO COLLECT FEES.—

"(A) GENERAL AUTHORITY.—The Secretary shall establish and collect a fee for vehicles allowed to operate on Interstate System routes under paragraph (1).

"(B) AMOUNT TO BE COLLECTED.—The fee established under this paragraph shall equal as nearly as possible the pro rata share of the

increased costs, if any, to the Interstate System attributable to the operation of vehicles described in paragraph (1) on the Interstate System.

"(C) DEPOSIT.—The Secretary shall deposit the amounts collected in fees under this paragraph in the Highway Trust Fund (other than the Alternative Transportation Account).

"(k) SPECIAL PERMITS DURING PERIODS OF EMERGENCY.—

"(1) IN GENERAL.—A State may issue special permits with respect to a major disaster or emergency declared under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) to overweight vehicles and loads that can be easily dismantled or divided allowing operations on the Interstate System that would otherwise be prohibited under subsection (a), if—

"(A) the permits are issued in accordance with State law; and

"(B) the permits are issued exclusively to vehicles and loads that are delivering relief supplies in response to the major disaster or emergency.

"(2) EXPIRATION.—A permit issued with respect to a major disaster or emergency under paragraph (1) shall expire not later than 120 days after the date of the declaration of the major disaster or emergency as described in paragraph (1).

"(l) EMERGENCY VEHICLES.—

"(1) IN GENERAL.—Notwithstanding subsection (a), a State may not enforce against an emergency vehicle a weight limit of—

"(A) less than 24,000 pounds on a single steering axle;

"(B) less than 33,500 pounds on a single drive axle;

"(C) less than 62,000 pounds on a tandem axle; or

"(D) less than 52,000 pounds on a tandem rear drive steer axle, up to a maximum gross vehicle weight of 86,000 pounds.

"(2) EMERGENCY VEHICLE DEFINED.—In this subsection, the term 'emergency vehicle' means a vehicle designed to be used under emergency conditions—

"(A) to transport personnel and equipment; and

"(B) to support the suppression of fires or mitigation of other hazardous situations.".

(d) WAIVER OF HIGHWAY FUNDING REDUCTION.—The total amount of funds apportioned to a State under section 104(b)(1) of title 23, United States Code, for any period may not be reduced under section 127(a) of such title on the basis that the State authorizes a vehicle to operate on the Interstate System in the State in accordance with the amendments made by this section.

(e) LENGTH LIMITATIONS.—Section 31111 of title 49, United States Code, is amended—

(1) in subsection (a) by adding at the end the following:

"(5) TRAILER TRANSPORTER TOWING UNIT.—The term 'trailer transporter towing unit' means a power unit that is not used to carry property when operating in a towaway trailer transporter combination.

"(6) TOWAWAY TRAILER TRANSPORTER COMBINATION.—The term 'towaway trailer transporter combination' means a combination of vehicles consisting of a trailer transporter towing unit and 2 trailers or semitrailers—

"(A) with a total weight that does not exceed 26,000 pounds; and

"(B) in which the trailers or semitrailers carry no property and constitute inventory property of a manufacturer, distributor, or dealer of such trailers or semitrailers."; and

(2) in subsection (b)(1)—

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

"(A) imposes a vehicle length limitation, on any segment of the Dwight D. Eisenhower System of Interstate and Defense Highways (except a segment exempted under subsection (f)) and those classes of qualifying Federal-aid primary system highways designated by the Secretary of Transportation under subsection (e), of—

"(i) less than 45 feet on a bus;

"(ii) less than 53 feet on a semitrailer operating in a truck tractor-semitrailer combination; or

"(iii) notwithstanding section 31112, less than 33 feet on a semitrailer or trailer operating in a truck tractor-semitrailer-trailer combination;";

(B) in subparagraph (E) by striking "; or" and inserting a semicolon;

(C) in subparagraph (F) by striking the period at the end and inserting a semicolon; and

(D) by adding at the end the following:

''(G) imposes a vehicle length limitation of less than 80 feet on a stinger steered automobile transporter with a rear overhand of less than 6 feet;

''(H) has the effect of imposing an overall length limitation of less than 82 feet on a towaway trailer transporter combination;

''(I) imposes a limitation of less than 46 feet on the distance from the kingpin to the center of the rear axle on a trailer used exclusively or primarily for the transport of livestock; or

''(J) has the effect of prohibiting the use of a device designed by a bus manufacturer to affix to the rear of an intercity bus purchased after October 1, 2012, for use in carrying passenger baggage, if the device does not result in the bus exceeding 47 feet in total length.''.

(f) PROPERTY-CARRYING UNIT LIMITATION.—Section 31112 of title 49, United States Code, is amended—

(1) in subsection (a)(1) by striking the period at the end and inserting '', but not including a trailer or semitrailer transported as part of a towaway

trailer transporter combination as defined in section 31111(a).''; and

(2) by adding at the end the following:

''(h) ADDITIONAL OPERATIONS.—

''(1) IN GENERAL.—If, as of the date of enactment of this subsection, a State has authority under subsection (b) or (c) to allow a commercial motor vehicle combination with more than one property-carrying unit (not including the truck tractor) to operate in the State, the State may allow, in addition to such operations, the operation of commercial motor vehicle combinations with more than one property-carrying unit (not including the truck tractor) on additional routes in the State.

''(2) DETERMINATIONS BY THE SECRETARY.—The Secretary may prohibit the operation of a vehicle under paragraph (1) if the Secretary determines that the operation poses an unreasonable safety risk based on an analysis of engineering data, safety data, or any other applicable data the Secretary may use.''.

(g) ACCESS TO INTERSTATE SYSTEM.—Section 31114(a)(2) of title 49, United States Code, is amended by inserting ''a towaway trailer transporter combination as defined in section 31111(a),'' before ''or any''.

# Subtitle E—Federal Lands and Tribal Transportation

**SEC. 1501. FEDERAL LANDS AND TRIBAL TRANSPORTATION PROGRAMS.**

Chapter 2 is amended by striking sections 201 through 203 and inserting the following:

**"§ 201. General provisions**

''(a) PURPOSE.—Recognizing the need for all Federal lands transportation facilities and tribal transportation facilities to be treated under uniform policies similar to the policies that apply to Federal-aid highways and other public road and transit facilities constructed with Federal assistance, the Secretary, in consultation with the Secretary of each Federal land management agency, shall establish and coordinate, in accordance with the requirements of this section, a uniform policy for all transportation facilities constructed under a covered program.

''(b) COVERED PROGRAM DEFINED.—In this section, the term 'covered program' means—

''(1) the tribal transportation program established under section 202; and

''(2) the Federal lands transportation program established under section 203.

''(c) AVAILABILITY OF FUNDS.—

"(1) AVAILABILITY.—Funds made available to carry out a covered program shall be available for contract—

"(A) upon apportionment; or

"(B) if no apportionment is required, on October 1 of the fiscal year for which authorized.

"(2) PERIOD OF AVAILABILITY.—Funds apportioned or allocated to carry out a covered program shall remain available for obligation for a period of 3 years after the last day of the fiscal year for which the funds are authorized. Any amounts so apportioned or allocated that remain unobligated at the end of that period shall lapse.

"(3) AUTHORITY OF DEPARTMENT SECRETARIES.—

"(A) AUTHORITY TO INCUR OBLIGATIONS, APPROVE PROJECTS, AND ENTER INTO CONTRACTS.—The Secretary of a Department charged with the administration of funds made available to carry out a covered program may incur obligations, approve projects, and enter into contracts with respect to such funds.

"(B) CONTRACTUAL OBLIGATIONS.—A Secretary's action under subparagraph (A) shall

be deemed to be a contractual obligation of the United States to pay the cost thereof, and the funds subject to the action shall be deemed to have been expended when so obligated.

''(4) EXPENDITURE.—Any funds made available to carry out a covered program for a fiscal year shall be deemed to have been expended if a sum equal to the total of the sums appropriated for the fiscal year and previous fiscal years have been obligated. Any of such funds released by payment of final voucher or modification of project authorizations shall be credited to the balance of unobligated appropriations and be immediately available for expenditure.

''(5) AUTHORITY OF SECRETARY.—

''(A) OBLIGATING FUNDS FOR COVERED PROGRAMS.—Notwithstanding any other provision of law, either of the following actions shall be deemed to constitute a contractual obligation of the United States to pay the total eligible cost of any construction project funded under a covered program:

''(i) The authorization by the Secretary, or the Secretary of a Department charged with the administration of funds

made available to carry out a covered program, of engineering and related work for the development, design, and acquisition associated with the project, whether performed by contract or agreement authorized by law.

"(ii) The approval by the Secretary, or the Secretary of a Department charged with the administration of funds made available to carry out a covered program, of plans, specifications, and estimates for the project.

"(B) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this paragraph may be construed to affect the application of the Federal share associated with a project undertaken under a covered program or to modify the point of obligation associated with Federal salaries and expenses.

"(d) FEDERAL SHARE.—

"(1) IN GENERAL.—Except as provided by paragraph (2), the Federal share payable on account of a project carried out under a covered program shall be 100 percent of the total cost of the project.

"(2) OPERATING ASSISTANCE.—The Federal share payable, with amounts made available to carry out this chapter, on account of operating expenses for a project carried out under a covered program may not exceed 50 percent of the net operating costs, as determined by the Secretary.

"(e) TRANSPORTATION PLANNING.—

"(1) TRANSPORTATION PLANNING PROCEDURES.—In consultation with the Secretary of each Federal land management agency, the Secretary shall implement transportation planning procedures for tribal transportation facilities and Federal lands transportation facilities that are consistent with the planning processes required under sections 5203 and 5204 of title 49.

"(2) APPROVAL OF TRANSPORTATION IMPROVEMENT PROGRAM.—A transportation improvement program developed as a part of the transportation planning process under this subsection shall be subject to approval by the Secretary, acting in coordination with the Secretary of the appropriate Federal land management agency.

"(3) INCLUSION IN OTHER PLANS.—Any project under a covered program that is regionally significant shall—

"(A) be developed in cooperation with appropriate States and metropolitan planning organizations; and

"(B) be included in—

"(i) plans for the covered program;

"(ii) appropriate State and metropolitan long-range transportation plans; and

"(iii) appropriate State and metropolitan transportation improvement programs.

"(4) INCLUSION IN STATE PROGRAMS.—A transportation improvement program that is approved by the Secretary as a part of the transportation planning process under this subsection shall be included in appropriate plans and programs of States and metropolitan planning organizations without further action on the transportation improvement program.

"(5) ASSET MANAGEMENT.—The Secretary and the Secretary of each Federal land management agency, to the extent appropriate, shall have in effect safety, bridge, pavement, and congestion management systems in support of asset management for highways funded under a covered program.

"(6) DATA COLLECTION.—

"(A) IN GENERAL.—The Secretary of each Federal land management agency shall collect and report on the data that is necessary to implement a covered program, including at a minimum—

"(i) inventory and condition information on tribal roads and Federal lands highways; and

"(ii) bridge inspection and inventory information on any Federal bridge that is open to the public.

"(B) STANDARDS.—The Secretary, in coordination with the Secretary of each Federal land management agency, shall define collection and reporting data standards for purposes of subparagraph (A).

"(7) ADMINISTRATIVE EXPENSES.—The Secretary may use up to 5 percent of the funds made available to carry out section 203 for a fiscal year for purposes of implementing the activities described in this subsection, including direct support of transportation planning activities among Federal land management agencies.

"(f) REFERENCES TO SECRETARIES OF FEDERAL LAND MANAGEMENT AGENCIES.—In this chapter, the

term 'Secretary', when used in connection with a Federal land management agency, means the Secretary of the department that contains the agency.

**"§ 202. Tribal transportation program**

''(a) IN GENERAL.—The Secretary shall carry out a tribal transportation program in accordance with the requirements of this section.

''(b) USE OF FUNDS.—

''(1) IN GENERAL.—Funds made available to carry out the tribal transportation program shall be used by the Secretary and the Secretary of the Interior to pay for the following:

''(A) The covered costs of—

''(i) tribal roads;

''(ii) vehicular parking areas adjacent to tribal roads;

''(iii) pedestrian walkways and bicycle transportation facilities (as defined in section 217) on tribal lands; and

''(iv) roadside rest areas, including sanitary and water facilities, on tribal lands.

''(B) The costs of transportation projects eligible for assistance under this title that are within, or provide access to, tribal lands.

"(C) The costs of public transportation projects eligible for assistance under section 5311(b)(1) of title 49 that are within, or provide access to, tribal lands (without regard to whether the project is located in an urbanized area).

"(D) The costs of rehabilitation, restoration, and construction of interpretive signage at tribal roads.

"(E) The costs of acquisition of necessary scenic easements and scenic or historic sites associated with tribal roads.

"(2) COVERED COSTS DEFINED.—In paragraph (1), the term 'covered costs' means the costs of transportation planning, research, preventive maintenance, engineering, rehabilitation, restoration, construction, and reconstruction.

"(3) 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 such activity with—

"(A) a State (including a political subdivision of a State); or

"(B) an Indian tribe.

"(4) 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).

"(5) FEDERAL EMPLOYMENT.—No maximum limitation on Federal employment shall apply to construction or improvement of tribal transportation facilities.

"(6) ADMINISTRATIVE EXPENSES.—

"(A) IN GENERAL.—Of the funds made available to carry out the tribal transportation program for a fiscal year, up to 6 percent may be used by the Secretary or the Secretary of the Interior for program management and oversight and project-related administrative expenses.

"(B) RESERVATION OF FUNDS.—The Secretary of the Interior may reserve funds 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 funds al-

located to an Indian tribe under the tribal transportation program for a fiscal year, the Secretary may use for the purpose of maintenance (excluding road sealing, which shall not be subject to any limitation) an amount that does not exceed the greater of—

"(i) 25 percent of the funds; or

"(ii) $500,000.

"(B) ROAD MAINTENANCE PROGRAMS ON INDIAN RESERVATIONS.—

"(i) BIA RESPONSIBILITY.—The Bureau of Indian Affairs shall continue to retain primary responsibility, including annual funding request responsibility, for road maintenance programs on Indian reservations.

"(ii) FUNDING.—The Secretary of the Interior shall ensure that funding made available under this paragraph for maintenance of tribal transportation facilities for a 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) AUTHORITY TO ENTER INTO AGREEMENTS.—An Indian tribe and a State may enter into a road maintenance agreement under which the Indian tribe assumes the responsibilities of the State for tribal transportation facilities.

"(ii) NEGOTIATIONS.—Agreements entered into under clause (i)—

"(I) shall be negotiated between the State and the Indian tribe; and

"(II) shall not require the approval of the Secretary.

"(8) COOPERATION OF STATES AND COUNTIES.—

"(A) IN GENERAL.—The cooperation of States, counties, and other political subdivisions of States may be accepted in construction and improvement of tribal transportation facilities.

"(B) CREDITING OF FUNDS.—Any funds received from a State, county, or other political subdivision of a State for construction or improvement of tribal transportation facilities

shall be credited to appropriations available for the tribal transportation program.

"(9) COMPETITIVE BIDDING.—

"(A) IN GENERAL.—Construction of a project under the tribal transportation program shall be performed pursuant to a contract awarded by competitive bidding unless the Secretary or the Secretary of the Interior affirmatively finds that, under the circumstances relating to the project, some other method is in the public interest.

"(B) APPLICABILITY OF OTHER LAWS.—Notwithstanding subparagraph (A), section 23 of the Act of June 25, 1910 (36 Stat. 861; known as the Buy Indian Act) and section 7(b) of the Indian Self-Determination and Education Assistance Act (88 Stat. 2205) shall apply to all funds administered by the Secretary of the Interior that are appropriated for the construction and improvement of tribal roads.

"(c) FUNDS DISTRIBUTION.—

"(1) IN GENERAL.—All funds authorized to be appropriated for the tribal transportation program shall be allocated among Indian tribes in accordance

with the formula maintained by the Secretary of the Interior under paragraph (4).

"(2) NATIONAL TRIBAL ROADS INVENTORY.—

"(A) IN GENERAL.—The Secretary of the Interior, in cooperation with the Secretary, shall maintain a comprehensive national inventory of tribal roads that are eligible for assistance under the tribal transportation program.

"(B) TRIBAL ROADS INCLUDED IN THE INVENTORY.—For purposes of identifying the tribal transportation system and determining the relative transportation needs of Indian tribes, the Secretary of the Interior shall include in the inventory, at a minimum, tribal roads that are eligible for assistance under the tribal transportation program that a 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 Trust Fund under the Indian reservation roads program since 1983;

"(v) are community streets or bridges within the exterior boundary of Indian reservations, Alaska native villages, or other recognized Indian communities (including communities in former Indian reservations in Oklahoma) in which the majority of residents are American Indians or Alaska Natives; or

"(vi) 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 shall preclude the Secretary of the Interior from including additional transportation facilities that are eligible for funding under the tribal transportation program in the inventory if such additional facilities are included in the inventory in a uniform and consistent manner nationally.

"(3) REGULATIONS.—Notwithstanding sections 563(a) and 565(a) of title 5, the Secretary of the Interior shall maintain regulations governing the tribal transportation program and the funding formula under paragraph (4) in accordance with established policies and procedures.

"(4) BASIS FOR FUNDING FORMULA FACTORS.—

"(A) IN GENERAL.—The Secretary of the Interior shall maintain a formula for distributing funds made available under the tribal transportation program among Indian tribes.

"(B) FACTORS.—Subject to subparagraph (C), such formula shall be based on factors that reflect—

"(i) the relative needs among the Indian tribes, and reservation or tribal communities, for transportation assistance;

"(ii) the relative administration capacities of, and challenges faced by, various Indian tribes, including the cost of road construction in each Bureau of Indian Affairs area, geographic isolation, and difficulty in maintaining all-weather access to employment, commerce, health, safety, and educational resources; and

"(iii) the public roads included in the national tribal roads inventory to be maintained under paragraph (2)(A).

"(C) SPECIAL RULE.—Not less than 50 percent of the funds distributed under the funding formula shall be allocated among Indian tribes based on an Indian tribe's relative share of the tribal roads that are included in the national tribal roads inventory as a result of paragraph (2)(B)(i), (2)(B)(ii), or (2)(B)(iii).

"(D) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection may be construed to prohibit the Secretary of the Interior from distributing funds made available

under the tribal transportation program among Indian tribes in accordance with the formula established by the Secretary of the Interior under part 170 of title 25, Code of Federal Regulations, as in effect on the date of enactment of the American Energy and Infrastructure Jobs Act of 2012, except that the special rule established by subparagraph (C) shall apply to any such distribution.

"(5) DISTRIBUTION OF FUNDS TO INDIAN TRIBES.—

"(A) IN GENERAL.—Not later than 30 days after the date on which funds are made available to the Secretary of the Interior for a fiscal year to carry out the tribal transportation program, the funds shall be distributed to, and available for immediate use by, eligible Indian tribes in accordance with the formula maintained by the Secretary of the Interior under paragraph (4).

"(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.

"(6) HEALTH AND SAFETY ASSURANCES.—Notwithstanding any other provision of law, an Indian tribal government may approve plans, specifications, and estimates for, and may commence, a project for construction of a tribal transportation facility with funds made available to carry out the tribal transportation program through a contract or agreement entered into under the 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 for the project from a State-licensed civil engineer that has certified that the plans and specifications meet or exceed the applicable health and safety standards;

"(C) provides a copy of the certification under subparagraph (A) to the Deputy Assistant Secretary for Tribal Government Affairs of the Department of Transportation or the As-

sistant Secretary of Indian Affairs of the Department of the Interior, as appropriate; and

''(D) obtains the advance written approval of the plans, specifications, and estimates from the facility owner or public authority having maintenance responsibility for the facility and provides a copy of the approval to the officials referred to in subparagraph (C).

''(7) CONTRACTS AND AGREEMENTS WITH INDIAN TRIBES FOR PROGRAM COSTS.—

''(A) IN GENERAL.—Notwithstanding any other provision of law or any interagency agreement, program guideline, manual, or policy directive, all funds made available under this chapter and section 125(e) for tribal transportation facilities to pay for the costs of programs, services, functions, and activities, or portions thereof, that are specifically or functionally related to the cost of any tribal transportation facility that provides access to or is located within the reservation or community of an Indian tribe shall be made available, upon request of the Indian tribal government, to the Indian tribal government for contracts and agreements for such planning, research, engi-

neering, and construction in accordance with the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

"(B) EXCLUSION OF AGENCY PARTICIPATION.—Funds for programs, functions, services, or activities, or portions thereof (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.

"(8) CONTRACTS AND AGREEMENTS WITH INDIAN TRIBES FOR TRIBAL TRANSPORTATION FACILITY PROGRAMS AND PROJECTS.—

"(A) IN GENERAL.—Notwithstanding any other provision of law or any interagency agreement, program guideline, manual, or policy directive, all funds made available to an Indian tribal government under this chapter for a tribal transportation facility program or project that is located on an Indian reservation or provides access to the reservation or a community of an Indian tribe 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 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, 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), funds may be made available under subparagraph (A) to an Indian tribal gov-

ernment for a program or project in a fiscal year only if the Indian tribal government requesting the funds demonstrates to the satisfaction of the Secretary financial stability and financial management capability during the 3 fiscal years immediately preceding the fiscal year for which the request is made.

"(ii) CRITERIA FOR DETERMINING FINANCIAL STABILITY AND FINANCIAL MANAGEMENT CAPABILITY.—If an Indian tribal government did not have an uncorrected significant and material audit exception in a required annual audit of the Indian tribal government's self-determination contracts or self-governance funding agreements with a Federal agency during the 3-fiscal year period referred in clause (i), the Indian tribe shall be treated as having conclusive evidence of its financial stability and financial management capability for purposes of clause (i).

"(G) ASSUMPTION OF FUNCTIONS AND DUTIES.—An Indian tribal government receiving 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 under the In-

1 dian Self-Determination and Education Assist-
2 ance Act (25 U.S.C. 450 et seq.), the Indian
3 tribe shall have the right to pursue all alter-
4 native dispute resolutions and appeal proce-
5 dures authorized by such Act, including regula-
6 tions issued to carry out such Act.

7 ''(J) TERMINATION OF CONTRACT OR
8 AGREEMENT.—On the date of the termination
9 of a contract or agreement under this section
10 by an Indian tribal government, the Secretary
11 shall transfer all funds that would have been al-
12 located to the Indian tribal government under
13 the contract or agreement to the Secretary of
14 the Interior to provide continued transportation
15 services in accordance with applicable law.

16 ''(d) PLANNING BY INDIAN TRIBAL GOVERN-
17 MENTS.—

18 ''(1) IN GENERAL.—Of the funds made avail-
19 able for a fiscal year to carry out the tribal trans-
20 portation program, up to 2 percent may be allocated
21 to Indian tribal governments that have been author-
22 ized to conduct transportation planning pursuant to
23 the Indian Self-Determination and Education Assist-
24 ance Act (25 U.S.C. 450 et seq.).

"(2) COOPERATION.—An Indian tribal government described in paragraph (1), in cooperation with the Secretary of the Interior, and as appropriate with a State, local government, or metropolitan planning organization, shall carry out a transportation planning process in accordance with section 201(e).

"(3) APPROVAL.—Projects selected by an Indian tribal government described in paragraph (1) from a transportation improvement program shall be subject to the approval of the Secretary of the Interior and the Secretary.

"(e) FEDERAL-AID ELIGIBLE PROJECT.—Before approving as a project on a tribal transportation facility any project eligible funds apportioned under section 104 in a State, the Secretary shall determine that the obligation of funds for such project is supplementary to and not in lieu of the obligation, for projects on tribal transportation facilities, of a fair and equitable share of funds apportioned to such State under section 104.

**"§ 203. Federal lands transportation program**

"(a) IN GENERAL.—The Secretary shall carry out a Federal lands transportation program in accordance with the requirements of this section.

"(b) USE OF FUNDS.—

"(1) IN GENERAL.—Funds made available to carry out the Federal lands transportation program shall be used by the Secretary and the Secretaries of Federal land management agencies to pay for the following:

"(A) The covered costs of—

"(i) Federal lands highways;

"(ii) vehicular parking areas adjacent to Federal lands highways;

"(iii) pedestrian walkways and bicycle transportation facilities (as defined in section 217) on Federal lands; and

"(iv) roadside rest areas, including sanitary and water facilities, on Federal lands.

"(B) The costs of transportation projects on public roads or trails eligible for assistance under this title that are within, or provide access to, Federal lands.

"(C) The costs of public transportation projects eligible for assistance under section 5311(b)(1) of title 49 that are within, or provide access to, Federal lands (without regard to whether the project is located in an urbanized area).

"(D) The costs of rehabilitation, restoration, and construction of interpretive signage at Federal lands highways.

"(E) The costs of acquisition of necessary scenic easements and scenic or historic sites associated with Federal lands highways.

"(2) COVERED COSTS DEFINED.—In paragraph (1), the term 'covered costs' means the costs of program administration, transportation planning, research, preventive maintenance, engineering, rehabilitation, restoration, construction, and reconstruction.

"(3) 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 such activity with—

"(A) a State (including a political subdivision of a State); or

"(B) an Indian tribe.

"(4) ADMINISTRATION.—All appropriations for the construction and improvement of Federal lands transportation facilities shall be administered in conformity with regulations and agreements jointly ap-

1 proved by the Secretary and the Secretary of the ap-
2 propriate Federal land management agency.
3 ''(5) COOPERATION.—
4 ''(A) IN GENERAL.—The cooperation of
5 States and political subdivisions of States may
6 be accepted in construction and improvement of
7 Federal lands transportation facilities.
8 ''(B) CREDITING OF FUNDS.—Any funds
9 received from a State or a political subdivision
10 of a State for such construction or improvement
11 of Federal lands transportation facilities shall
12 be credited to appropriations available for the
13 class of Federal lands transportation facilities
14 to which funds were contributed.
15 ''(6) COMPETITIVE BIDDING.—Construction of
16 a project under the Federal lands transportation
17 program shall be performed pursuant to a contract
18 awarded by competitive bidding unless the Secretary
19 or the Secretary of the appropriate Federal land
20 management agency affirmatively finds that, under
21 the circumstances relating to the project, some other
22 method is in the public interest.
23 ''(c) AGENCY PROGRAM DISTRIBUTIONS.—
24 ''(1) IN GENERAL.—On October 1 of each fiscal
25 year, the Secretary shall allocate the funds made

available to carry out the Federal lands transportation program for the fiscal year on the basis of applications of need, as determined by the Secretary, and in coordination with the transportation plans required by section 201(e), of the respective transportation systems of the Federal land management agencies.

"(2) MINIMUM ALLOCATIONS.—When making an allocation of funds under paragraph (1) for a fiscal year, the Secretary shall ensure that, of the total amount of funds subject to the allocation—

"(A) the National Park Service receives, at a minimum, 38 percent;

"(B) the Forest Service receives, at a minimum, 32 percent; and

"(C) the United States Fish and Wildlife Service receives, at a minimum, 4.5 percent.

"(3) APPLICATIONS.—

"(A) IN GENERAL.—The Secretary of a Federal land management agency may submit to the Secretary an application for assistance under the Federal lands transportation program.

"(B) CONTENTS.—An application submitted by the Secretary of a Federal land man-

agement agency under subparagraph (A) shall contain such information as the Secretary may require, including a description of any proposed program for which the agency is seeking assistance and the potential funding levels for the program.

"(C) CONSIDERATIONS.—In reviewing a proposed program described in an application submitted by the Secretary of a Federal land management agency under subparagraph (A), the Secretary shall consider the extent to which the program supports—

"(i) a state of good repair of transportation facilities across the agency's inventory;

"(ii) a reduction of deficient bridges across the agency's inventory;

"(iii) improvement of safety across the agency's inventory;

"(iv) high use Federal recreation sites or Federal economic generators; and

"(v) the resource management goals of the Secretary of the respective Federal land management agency.

1 "(d) NATIONAL FEDERAL LANDS HIGHWAYS INVEN-
2 TORY.—
3 "(1) IN GENERAL.—The Secretaries of the Fed-
4 eral land management agencies, in cooperation with
5 the Secretary, shall maintain a comprehensive na-
6 tional inventory of Federal lands highways.
7 "(2) HIGHWAYS INCLUDED IN THE INVEN-
8 TORY.—For purposes of identifying the Federal
9 lands transportation system and determining the rel-
10 ative transportation needs among Federal land man-
11 agement agencies, the inventory shall include, at a
12 minimum, highways that—
13 "(A) provide access to high use Federal
14 recreation sites or Federal economic generators,
15 as determined by the Secretary in coordination
16 with the Secretaries of the Federal land man-
17 agement agencies; and
18 "(B) are administered by a Federal land
19 management agency.
20 "(3) AVAILABILITY.—The Secretary of each
21 Federal land management agency shall maintain an
22 inventory of the Federal lands highways adminis-
23 tered by the agency and make the inventory avail-
24 able to the Secretary.

"(4) UPDATES.—The Secretary of each Federal land management agency shall update its inventory referred to in paragraph (3) as determined by the Secretary.

"(5) REVIEW.—A decision to add or remove a highway from an inventory referred to in paragraph (1) or (4) 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.).".

**SEC. 1502. DEFINITIONS.**

(a) REPEALS.—Paragraphs (7), (9), (12), (19), (20), (24), (25), (26), and (28) of section 101(a) are repealed.

(b) DEFINITIONS RELATING TO FEDERAL LANDS AND TRIBAL TRANSPORTATION PROGRAMS.—Section 101(a) is amended by adding at the end the following:

"(40) FEDERAL LAND MANAGEMENT AGENCY.—The term 'Federal land management agency' means each of the following:

"(A) The National Park Service.

"(B) The Forest Service.

"(C) The United States Fish and Wildlife Service.

"(D) The Corps of Engineers.

"(E) The Bureau of Land Management.

"(41) FEDERAL LANDS.—The term 'Federal lands' means lands administered by a Federal land management agency.

"(42) FEDERAL LANDS HIGHWAY.—The term 'Federal lands highway' means a public road, highway, bridge, or trail that is located on, is adjacent to, or provides access to Federal lands and appears on the national inventory of Federal lands highways maintained under section 203(d).

"(43) FEDERAL LANDS TRANSPORTATION FACILITY.—The term 'Federal lands transportation facility' means a transportation facility eligible for assistance under section 203(b).

"(44) TRIBAL ROAD.—The term 'tribal road' means a public road, highway, bridge, or trail that is located on or provides access to tribal lands and appears on the national inventory of tribal roads maintained under section 202(c).

"(45) TRIBAL TRANSPORTATION FACILITY.—The term 'tribal transportation facility' means a transportation facility eligible for assistance under section 202(b).".

**SEC. 1503. CONFORMING AMENDMENTS.**

(a) FEDERAL SHARE PAYABLE.—Section 120 is amended—

(1) in subsection (e) by striking ''forest highways, forest development roads and trails, park roads and trails, parkways, public lands highways, public lands development roads and trails, and Indian reservation roads'' and inserting ''tribal roads and Federal lands highways''; and

(2) in subsection (l)—

(A) in the subsection heading by striking ''FEDERAL LANDS HIGHWAYS PROGRAM'' and inserting ''TRIBAL TRANSPORTATION PROGRAM AND FEDERAL LANDS TRANSPORTATION PROGRAM''; and

(B) by striking ''the Federal lands highways program under section 204'' and inserting ''the tribal transportation program under section 202 and the Federal lands transportation program under section 203''.

(b) PRESERVATION OF PARKLANDS.—Section 138(a) is amended by striking ''park road or parkway under section 204 of this title'' and inserting ''Federal lands transportation facility under section 203''.

(c) EFFICIENT ENVIRONMENTAL REVIEWS FOR PROJECT DECISIONMAKING.—Section 139(j)(3) is amended—

(1) in the paragraph heading by striking ''USE OF FEDERAL LANDS HIGHWAY FUNDS'' and inserting ''USE OF TRIBAL TRANSPORTATION PROGRAM AND FEDERAL LANDS TRANSPORTATION PROGRAM FUNDS''; and

(2) by striking ''section 204'' and inserting ''sections 202 and 203''.

(d) BICYCLE TRANSPORTATION AND PEDESTRIAN WALKWAYS.—Section 217(c) is amended—

(1) in the subsection heading by striking ''FEDERAL LANDS HIGHWAYS'' and inserting ''TRIBAL TRANSPORTATION PROGRAM AND FEDERAL LANDS TRANSPORTATION PROGRAM FUNDS''; and

(2) by striking ''Funds authorized for'' and all that follows through ''public lands highways'' and inserting ''Funds authorized for tribal transportation facilities and Federal lands transportation facilities''.

(e) RULES, REGULATIONS, AND RECOMMENDATIONS.—Section 315 is amended by striking ''sections 204(f) and 205(a) of this title'' and inserting ''sections 203(b)(4) and 205(a)''.

**SEC. 1504. REPEALS; EFFECTIVE DATE.**

(a) IN GENERAL.—Sections 204 and 214, and the items relating to such sections in the analysis for chapter 2, are repealed.

(b) EXISTING FUNDS.—A repeal or amendment made by this subtitle shall not affect funds apportioned or allocated (or funds awarded but not yet allocated) before the effective date of the repeal or amendment.

**SEC. 1505. CLERICAL AMENDMENT.**

The analysis for chapter 2 is amended by striking the items relating to sections 201 through 203 and inserting the following:

"201. General provisions.
"202. Tribal transportation program.
"203. Federal lands transportation program.".

# Subtitle F—Program Elimination and Consolidation

**SEC. 1601. PROGRAM ELIMINATION AND CONSOLIDATION.**

(a) GENERAL PROVISIONS.—

(1) EXISTING FUNDS.—A repeal or amendment made by this section shall not affect funds apportioned or allocated before the effective date of the repeal.

(2) AMENDATORY PROVISIONS.—A repeal made by this section of a provision that contains an amendment to or repeal of another law shall not be construed to affect that law. The amendment to or

repeal of that law shall remain in effect as if this section had not been enacted.

(b) REVENUE ALIGNED BUDGET AUTHORITY.—Section 110, and the item relating to that section in the analysis for chapter 1, are repealed.

(c) HIGH PRIORITY PROJECTS PROGRAM.—Section 117, and the item relating to that section in the analysis for chapter 1, are repealed.

(d) SET ASIDES FOR INTERSTATE DISCRETIONARY PROJECTS.—Section 118(c) is repealed.

(e) CONTROL OF JUNKYARDS.—Section 136, and the item relating to that section in the analysis for chapter 1, are repealed.

(f) HIGHWAY BRIDGE PROGRAM.—Section 144, and the item relating to that section in the analysis for chapter 1, are repealed.

(g) HAZARD ELIMINATION PROGRAM.—Section 152, and the item relating to that section in the analysis for chapter 1, are repealed.

(h) SAFETY INCENTIVE GRANTS FOR THE USE OF SEAT BELTS.—Section 157, and the item relating to that section in the analysis for chapter 1, are repealed.

(i) ACCESS HIGHWAYS TO PUBLIC RECREATION AREAS ON CERTAIN LAKES.—Section 155, and the item

relating to that section in the analysis for chapter 1, are repealed.

(j) REIMBURSEMENT FOR SEGMENTS OF THE INTERSTATE SYSTEM CONSTRUCTED WITHOUT FEDERAL ASSISTANCE.—Section 160, and the item relating to that section in the analysis for chapter 1, are repealed.

(k) NATIONAL SCENIC BYWAYS PROGRAM.—Section 162, and the item relating to that section in the analysis for chapter 1, are repealed.

(l) INTER-AMERICAN HIGHWAY.—Section 212, and the item relating to that section in the analysis for chapter 2, are repealed.

(m) DARIEN GAP HIGHWAY.—Section 216, and the item relating to that section in the analysis for chapter 2, are repealed.

(n) STATE COORDINATORS.—Section 217 (as amended by this Act) is further amended—

(1) by striking subsection (d); and

(2) by redesignating subsections (e) through (j) as subsections (d) through (i), respectively.

(o) ALASKA HIGHWAY.—Section 218 is amended—

(1) in subsection (a)—

(A) by striking the first 2 sentences;

(B) in the third sentence—

(i) by striking ", in addition to such funds,"; and

(ii) by striking "such highway or"; and

(C) by striking "No expenditures" and all that follows through the period at the end;

(2) by striking subsection (b); and

(3) by redesignating subsection (c) as subsection (b).

(p) MANAGEMENT SYSTEMS.—Section 303, and the item relating to that section in the analysis for chapter 3, are repealed.

(q) COOPERATION WITH OTHER AMERICAN REPUBLICS.—Section 309, and the item relating to that section in the analysis for chapter 3, are repealed.

(r) LANDSCAPING AND SCENIC ENHANCEMENT.—Section 319 is amended—

(1) by striking "(a) LANDSCAPE AND ROADSIDE DEVELOPMENT.—"; and

(2) by striking subsection (b).

(s) MAGNETIC LEVITATION TRANSPORTATION TECHNOLOGY DEPLOYMENT PROGRAM.—Section 322, and the item relating to that section in the analysis for chapter 3, are repealed.

(t) TRANSPORTATION, COMMUNITY, AND SYSTEM PRESERVATION PROGRAM.—Section 1117 of SAFETEA–LU (119 Stat. 1177), and the item relating to that section in the table of contents contained in section 1(b) of that Act, are repealed.

(u) PROJECTS OF NATIONAL AND REGIONAL SIGNIFICANCE.—Section 1301 of SAFETEA–LU (119 Stat. 1198), and the item relating to that section in the table of contents contained in section 1(b) of that Act, are repealed.

(v) NATIONAL CORRIDOR INFRASTRUCTURE IMPROVEMENT PROGRAM.—Section 1302 of SAFETEA–LU (119 Stat. 1204), and the item relating to that section in the table of contents contained in section 1(b) of that Act, are repealed.

(w) TRUCK PARKING FACILITIES.—Section 1305 of SAFETEA–LU (119 Stat. 1214), and the item relating to that section in the table of contents contained in section 1(b) of that Act, are repealed.

(x) FREIGHT INTERMODAL DISTRIBUTION PILOT GRANT PROGRAM.—Section 1306 of SAFETEA–LU (119 Stat. 1215), and the item relating to that section in the table of contents contained in section 1(b) of that Act, are repealed.

(y) DEPLOYMENT OF MAGNETIC LEVITATION TRANSPORTATION PROJECTS.—Section 1307 of SAFETEA–LU (119 Stat. 1217), and the item relating to that section in the table of contents contained in section 1(b) of that Act, are repealed.

(z) DELTA REGION TRANSPORTATION DEVELOPMENT PROGRAM.—Section 1308 of SAFETEA–LU (119 Stat. 1218), and the item relating to that section in the table of contents contained in section 1(b) of that Act, are repealed.

(aa) SAFE ROUTES TO SCHOOL PROGRAM.—Section 1404 of SAFETEA–LU (119 Stat. 1228), and the item relating to that section in the table of contents contained in section 1(b) of that Act, are repealed.

(bb) NATIONAL WORK ZONE SAFETY INFORMATION CLEARINGHOUSE.—Section 1410 of SAFETEA–LU (119 Stat. 1233), and the item relating to that section in the table of contents contained in section 1(b) of that Act, are repealed.

(cc) ROADWAY SAFETY.—Section 1411(b) of SAFETEA–LU (119 Stat. 1234) is repealed.

(dd) HIGHWAYS FOR LIFE PILOT PROGRAM.—Section 1502 of SAFETEA–LU (119 Stat. 1236), and the item relating to that section in the table of contents contained in section 1(b) of that Act, are repealed.

(ee) EXPRESS LANES DEMONSTRATION PROGRAM.—Section 1604(b) of SAFETEA–LU (119 Stat. 1250) is repealed.

(ff) INTERSTATE SYSTEM CONSTRUCTION TOLL PILOT PROGRAM.—Section 1604(c) of SAFETEA–LU (119 Stat. 1253) is repealed.

(gg) AMERICA'S BYWAYS RESOURCE CENTER.—Section 1803 of SAFETEA–LU (119 Stat. 1458), and the item relating to that section in the table of contents contained in section 1(b) of that Act, are repealed.

(hh) NATIONAL HISTORIC COVERED BRIDGE PRESERVATION.—Section 1804 of SAFETEA–LU (119 Stat. 1458), and the item relating to that section in the table of contents contained in section 1(b) of that Act, are repealed.

(ii) NONMOTORIZED TRANSPORTATION PILOT PROGRAM.—Section 1807 of SAFETEA–LU (119 Stat. 1460), and the item relating to that section in the table of contents contained in section 1(b) of that Act, are repealed.

(jj) GRANT PROGRAM TO PROHIBIT RACIAL PROFILING.—Section 1906 of SAFETEA–LU (119 Stat. 1468), and the item relating to that section in the table of contents contained in section 1(b) of that Act, are repealed.

(kk) PAVEMENT MARKING SYSTEMS DEMONSTRATION PROJECTS.—Section 1907 of SAFETEA–LU (119 Stat. 1469), and the item relating to that section in the table of contents contained in section 1(b) of that Act, are repealed.

(ll) LIMITATION ON PROJECT APPROVAL.—Section 1958 of SAFETEA–LU (119 Stat. 1515), and the item relating to that section in the table of contents contained in section 1(b) of that Act, are repealed.

# Subtitle G—Miscellaneous

**SEC. 1701. TRANSPORTATION ENHANCEMENT ACTIVITY DEFINED.**

Section 101(a)(35) is amended—

(1) by striking subparagraphs (C), (F), (G), (H), and (L); and

(2) by redesignating subparagraphs (D), (E), (I), (J), and (K) as subparagraphs (C), (D), (E), (F), and (G), respectively.

**SEC. 1702. PAVEMENT MARKINGS.**

Section 109 is amended by adding at the end the following:

''(r) PAVEMENT MARKINGS.—The Secretary may not approve any pavement markings project that includes the use of glass beads containing more than 200 parts per million of arsenic or lead.''.

**SEC. 1703. REST AREAS.**

(a) AGREEMENTS RELATING TO USE OF AND ACCESS TO RIGHTS-OF-WAY—INTERSTATE SYSTEM.—Section 111 is amended—

(1) in subsection (a) in the second sentence by striking the period and inserting ''and will not change the boundary of any right-of-way on the Interstate System to accommodate construction of, or afford access to, an automotive service station or other commercial establishment.'';

(2) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(3) by inserting after subsection (a) the following:

''(b) REST AREAS.—

''(1) IN GENERAL.—Notwithstanding subsection (a), the Secretary shall permit a State to acquire, construct, operate, and maintain a rest area along a highway on the Interstate System in such State.

''(2) ELIGIBLE ACTIVITIES.—The Secretary shall permit a rest area under paragraph (1) to include commercial activities that provide goods, services, and information serving the traveling public and the commercial motor carrier industry. Such commercial activities shall be limited to—

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

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

"(ii) not legible from the main traveled way;

"(B) State promotional or tourism items;

"(C) tourism-related merchandise and products, including electronics and clothing;

"(D) historical or tourism-related entertainment items, including event or attraction tickets;

"(E) travel-related information, including maps, travel booklets, and hotel coupon booklets;

"(F) automatic teller machines; and

"(G) lottery machines.

"(3) PRIVATE OPERATORS.—A State may permit a private party to operate such commercial activities.

"(4) LIMITATION ON USE OF REVENUES.—A State shall use any revenues received from the commercial activities in a rest area under this section to cover the costs of acquiring, constructing, operating, and maintaining rest areas in the State.".

(b) CONTROL OF OUTDOOR ADVERTISING.—Section 131(i) is amended by adding at the end the following: ''A State may permit the installation of signs that acknowledge the sponsorship of rest areas within such rest areas or along the main traveled way of the system, provided that such signs shall not affect the safe and efficient utilization of the Interstate System and the primary system. The Secretary shall establish criteria for the installation of such signs on the main traveled way, including criteria pertaining to the placement of rest area sponsorship acknowledgment signs in relation to the placement of advance guide signs for rest areas.''.

**SEC. 1704. JUSTIFICATION REPORTS FOR ACCESS POINTS ON THE INTERSTATE SYSTEM.**

Section 111 is amended by adding at the end the following:

''(e) JUSTIFICATION REPORTS.—If the Secretary requests or requires a justification report for a project that would add a point of access to, or exit from, the Interstate System, the Secretary may permit a State transportation department to approve such report.''.

**SEC. 1705. PATENTED OR PROPRIETARY ITEMS.**

Section 112 is amended by adding at the end the following:

"(h) USE OF PATENTED OR PROPRIETARY ITEMS.—The Secretary shall approve the use, by a State, of Federal funds made available to carry out this chapter to pay for patented or proprietary items if the State transportation department certifies, based on the documented analysis and professional judgment of qualified State transportation officials, that—

"(1) no equally suitable alternative item exists;

"(2) any specified patented or proprietary item will be clearly identified as a patented or proprietary item in bid documents; and

"(3) any specified patented or proprietary item will be available in sufficient quantity to complete any project identified in bid documents.".

**SEC. 1706. PREVENTIVE MAINTENANCE.**

Section 116 is amended by adding at the end the following:

"(e) DEFINITIONS.—In this section, the following definitions apply:

"(1) PREVENTIVE MAINTENANCE.—The term 'preventive maintenance' includes pavement preservation programs and activities.

"(2) PAVEMENT PRESERVATION PROGRAMS AND ACTIVITIES.—The term 'pavement preservation programs and activities' means programs and activities

employing a network level, long-term strategy that enhances pavement performance by using an integrated, cost-effective set of practices that extend pavement life, improve safety, and meet road user expectations.''.

**SEC. 1707. MAPPING.**

(a) IN GENERAL.—Section 306 is amended—

(1) in subsection (a) by striking ''may'' and inserting ''shall'';

(2) in subsection (b) by striking ''State and'' and inserting ''State government and''; and

(3) by adding at the end the following:

''(c) IMPLEMENTATION.—The Secretary shall develop a process for the oversight and monitoring, on an annual basis, of the compliance of each State with the guidance issued under subsection (b).''.

(b) SURVEY.—Not later than 2 years after the date of enactment of this Act, the Secretary shall conduct a survey of all States to determine what percentage of projects carried out under title 23, United States Code, in each State utilize private sector sources for surveying and mapping services.

**SEC. 1708. FUNDING FLEXIBILITY FOR TRANSPORTATION EMERGENCIES.**

(a) IN GENERAL.—Chapter 3 is amended by adding at the end the following:

**"§ 330. Funding flexibility for transportation emergencies**

''(a) IN GENERAL.—Notwithstanding any other provision of law, the chief executive of a State, after declaring an emergency with respect to a transportation facility under subsection (b), may use any covered funds of the State to repair or replace the transportation facility.

''(b) DECLARATION OF EMERGENCY.—To declare an emergency with respect to a transportation facility for purposes of subsection (a), the chief executive of a State shall provide to the Secretary written notice of the declaration, which shall specify—

''(1) the emergency;

''(2) the affected transportation facility; and

''(3) the repair or replacement activities to be carried out.

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

''(1) COVERED FUNDS.—The term 'covered funds' means any amounts apportioned to a State under this title, including any such amounts required to be set aside for a purpose other than the

repair or replacement of a transportation facility under this section.

"(2) EMERGENCY.—The term 'emergency' means any unexpected event or condition that—

"(A) may cause, or has caused, the catastrophic failure of a transportation facility; and

"(B) is determined to be an emergency by the chief executive of a State.

"(3) TRANSPORTATION FACILITY.—The term 'transportation facility' means any component of the National Highway System.

"(d) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section may be construed to allow a State to change the division of surface transportation program funding under section 133(d)(3).".

(b) CLERICAL AMENDMENT.—The analysis for such chapter is amended by adding at the end the following:

"330. Funding flexibility for transportation emergencies.".

**SEC. 1709. BUDGET JUSTIFICATION.**

(a) IN GENERAL.—Subchapter I of chapter 3 of title 49, United States Code, is amended by adding at the end the following:

**"§ 310. Budget justification**

"The Secretary of Transportation and the head of each modal administration of the Department of Transportation shall submit to the Committee on Transpor-

tation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works and the Committee on Banking, Housing, and Urban Affairs of the Senate a budget justification concurrently with the President's annual budget submission to Congress.''.

(b) CLERICAL AMENDMENT.—The analysis for chapter 3 is amended by inserting after the item relating to section 309 the following:

''310. Budget justification.''.

**SEC. 1710. EXTENSION OF OVER-THE-ROAD BUS AND 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) 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. 1711. REPEAL OF REQUIREMENT FOR INTERSTATE SYSTEM DESIGNATION.**

Section 1105(e)(5)(A) of the Intermodal Surface Transportation Efficiency Act of 1991 is amended by striking ''that the segment'' and all that follows through the period at the end 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.''.

**SEC. 1712. RETROREFLECTIVITY.**

Not later than 1 year after the date of enactment of this Act, the Secretary shall amend the Manual on Uniform Traffic Control Devices to remove compliance dates with respect to retroreflectivity standards for regulatory, warning, and other post-mounted guide signs and for street name and other overhead guide signs.

**SEC. 1713. ENGINEERING JUDGMENT.**

Not later than 90 days after the date of enactment of this Act, the Secretary shall issue guidance to State transportation departments clarifying that the standards, guidance, and options for design and application of traffic control devices provided in the Manual on Uniform Traffic Control Devices should not be considered a substitute for engineering judgment.

**SEC. 1714. EVACUATION ROUTES.**

Each State shall give adequate consideration to the needs of evacuation routes when allocating funds apportioned to the State under title 23, Unites States Code, for the construction of Federal-aid highways.

**SEC. 1715. TRUCK PARKING.**

(a) TRUCK PARKING SURVEY.—

(1) REQUIREMENT.—Not later than 18 months after the date of enactment of this Act, the Secretary, in consultation with appropriate State motor carrier safety personnel, shall conduct a survey of each State—

(A) to develop a system of metrics to measure the adequacy of commercial motor vehicle parking facilities in the State;

(B) to assess the volume of commercial motor vehicle traffic in the State; and

(C) to evaluate the capability of the State to provide adequate parking and rest facilities for commercial motor vehicles engaged in interstate transportation.

(2) PUBLICATION OF RESULTS.—The Secretary shall make available to the public on the Internet Web site of the Department the results of surveys conducted under paragraph (1).

(3) PERIODIC UPDATES.—The Secretary shall periodically update surveys conducted under paragraph (1).

(b) TRUCK PARKING PROJECTS.—A State may obligate funds apportioned to the State under paragraph (1), (2), (3), or (5) of section 104(b) of title 23, United States Code, for the following, if serving the National Highway System:

(1) Constructing a safety rest area (as defined in section 120(c) of such title) that includes parking for commercial motor vehicles.

(2) Constructing a commercial motor vehicle parking facility adjacent to a commercial truck stop or travel plaza.

(3) Making a facility available to commercial motor vehicle parking, including an inspection and weigh station or a park-and-ride facility.

(4) Promoting the availability of publicly or privately provided commercial motor vehicle parking using intelligent transportation systems and other means.

(5) Constructing a turnout for commercial motor vehicles.

(6) Making capital improvements to a seasonal public commercial motor vehicle parking facility to

allow the facility to remain open throughout the year.

(7) Improving the geometric design of an interchange to improve access to a commercial motor vehicle parking facility.

**SEC. 1716. USE OF CERTAIN ADMINISTRATIVE EXPENSES.**

(a) IN GENERAL.—Out of the funds made available under section 104(a) of title 23, United States Code, the Secretary may use not to exceed a total of $2,000,000 each fiscal year—

(1) 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);

(2) to operate a public road safety clearinghouse under section 1411(a) of SAFETEA–LU (23 U.S.C. 402 note; 119 Stat. 1234); and

(3) to provide work zone safety grants under subsections (a) and (b) of section 1409 of SAFETEA–LU (23 U.S.C. 401 note; 119 Stat. 1232).

(b) CONFORMING AMENDMENTS.—

(1) ROADWAY SAFETY.—Section 1411(a) of SAFETEA–LU (23 U.S.C. 402 note; 119 Stat.

1234) is amended by striking paragraph (2) and inserting the following:

"(2) FUNDING.—Funding for activities under this subsection may be made available as described in section 1716(a) of the American Energy and Infrastructure Jobs Act of 2012.".

(2) WORK ZONE SAFETY GRANTS.—Section 1409 of SAFETEA–LU (23 U.S.C. 401 note; 119 Stat. 1232) is amended by striking subsection (c)(1) and inserting the following:

"(1) IN GENERAL.—Funding for activities under this section may be made available as described in section 1716(a) of the American Energy and Infrastructure Jobs Act of 2012.".

**SEC. 1717. TRANSPORTATION TRAINING AND EMPLOYMENT PROGRAMS.**

To encourage the development of careers in the transportation field, the Secretary of Education and the Secretary of Labor are encouraged to use funds for training and employment education programs to develop such programs for transportation-related careers and trades, and to work with the Secretary of Transportation to carry out such programs.

**SEC. 1717A. ENGINEERING AND DESIGN SERVICES.**

(a) IN GENERAL.—For projects carried out under title 23, United States Code, a State transportation department shall utilize, to the maximum extent practicable, commercial enterprises for the delivery of engineering and design services.

(b) REPORTING REQUIREMENT.—Not later than 1 year after the date of enactment of this Act, each State transportation department shall submit to the Secretary a report documenting the extent to which the State utilizes commercial enterprises for the delivery of engineering and design services for projects carried out under title 23, United States Code, which shall include, at a minimum—

(1) the number and types of engineering and design activities for which commercial enterprises were utilized in the preceding year; and

(2) the policies or procedures utilized by the State transportation department to increase the amount of engineering and design services for which commercial enterprises were utilized.

(c) STATE TRANSPORTATION DEPARTMENT DEFINED.—In this section, the term ''State transportation department'' has the meaning given that term under section 101 of title 23, United States Code.

**SEC. 1718. NOTICE OF CERTAIN GRANT AWARDS.**

(a) IN GENERAL.—Except to the extent otherwise expressly provided in another provision of law, at least 3 business days before a covered grant award is announced, the Secretary shall provide to the Committee on Transportation and Infrastructure of the House of Representatives written notice of the covered grant award.

(b) COVERED GRANT AWARD DEFINED.—The term ''covered grant award'' means a grant award—

(1) made—

(A) by the Department; and

(B) with funds made available under this Act; and

(2) in an amount equal to or greater than $500,000.

# TITLE II—PUBLIC TRANSPORTATION

**SEC. 2001. SHORT TITLE; AMENDMENTS TO TITLE 49, UNITED STATES CODE.**

(a) SHORT TITLE.—This title may be cited as the ''Public Transportation Act of 2012''.

(b) AMENDMENTS 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.

**SEC. 2002. DEFINITIONS.**

Section 5302(a) is amended—

(1) in paragraph (1)(I) by striking ''10 percent'' and inserting ''15 percent'';

(2) by redesignating paragraphs (12) through (17) as paragraphs (13) through (18), respectively; and

(3) by inserting after paragraph (11) the following:

''(12) RURAL AREA.—The term 'rural area' means an area encompassing a population of less than 50,000 people that has not been designated in the most recent decennial census as an 'urbanized area' by the Secretary of Commerce.''.

**SEC. 2003. PLANNING PROGRAMS.**

Section 5305 is amended—

(1) in the heading for subsection (d) by inserting ''TRANSPORTATION'' before ''PLANNING'';

(2) in paragraph (d)(2), by striking ''designated under this section'' and inserting ''responsible for carrying out the provisions of section 5203 of this title''; and

(3) in subsection (e)—

(A) in the subsection heading by striking "STATE" and inserting "STATEWIDE TRANSPORTATION"; and

(B) in paragraph (1)(A) by striking "5315,".

**SEC. 2004. PRIVATE ENTERPRISE PARTICIPATION.**

Section 5306(a) is amended by striking ", as determined by local policies, criteria, and decisionmaking,".

**SEC. 2005. URBANIZED AREA FORMULA GRANTS.**

(a) GENERAL AUTHORITY.—Section 5307(b)(3) is amended—

(1) by inserting "TRANSPORTATION MANAGEMENT AREAS.—" before "In a"; and

(2) by moving the text 2 ems to the right.

(b) GRANT RECIPIENT REQUIREMENTS.—Section 5307(d)(1) is amended—

(1) in subparagraph (D)—

(A) by striking "elderly and handicapped individuals, or an" and inserting "elderly individuals, individuals with disabilities, and any"; and

(B) by striking the comma before "will be charged";

(2) in subparagraph (H) by striking ''section 5301(a), section 5301(d),'' and inserting ''section 5301'';

(3) in subparagraph (I) by adding ''and'' at the end;

(4) in subparagraph (J)(ii) by striking ''; and'' and inserting a period; and

(5) by striking subparagraph (K).

**SEC. 2006. CAPITAL INVESTMENT GRANTS.**

(a) IN GENERAL.—Section 5309 is amended to read as follows:

**''§ 5309. Capital investment grants**

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

''(1) NEW FIXED GUIDEWAY CAPITAL PROJECT.—The term 'new fixed guideway capital project' means an operable segment of a capital project for a new fixed guideway system or extension to an existing fixed guideway system.

''(2) NEW START PROJECT.—The term 'new start project' means a new fixed guideway capital project for which the Federal assistance provided or to be provided under this section is $75,000,000 or more.

"(3) SMALL START PROJECT.—The term 'small start project' means a new fixed guideway capital project for which—

"(A) the Federal assistance provided or to be provided under this section is less than $75,000,000; and

"(B) the total estimated net capital cost is less than $250,000,000.

"(b) GENERAL AUTHORITY.—The Secretary may make grants under this section to assist State and local governmental authorities in financing—

"(1) new fixed guideway capital projects under subsections (d) and (e), including the acquisition of real property, the initial acquisition of rolling stock for the systems, the acquisition of rights-of-way, and relocation assistance, for fixed guideway corridor development for projects in the advanced stages of planning or in project development; and

"(2) the development of corridors to support new fixed guideway capital projects under subsections (d) and (e), including protecting rights-of-way through acquisition, construction of dedicated bus and high occupancy vehicle lanes, park and ride lots, and other nonvehicular capital improvements

that the Secretary may determine would result in increased public transportation usage in the corridor.

"(c) GRANT REQUIREMENTS.—

"(1) IN GENERAL.—The Secretary may not approve a grant under this section unless the Secretary determines that—

"(A) the project is part of an approved long-range transportation plan and program of projects required under sections 5203, 5204, and 5306; and

"(B) the applicant has, or will have—

"(i) the legal, financial, and technical capacity to carry out the project, including safety and security aspects of 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) 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 information upon which the Secretary may make the determinations required under this subsection.

"(3) GRANTEE REQUIREMENTS.—The Secretary shall require that any grant awarded under this section to a recipient be subject to all terms, conditions, requirements, and provisions that the Secretary determines to be necessary or appropriate for the purposes of this section, including requirements for the disposition of net increases in the value of real property resulting from the project assisted under this section.

"(d) NEW START PROJECTS.—

"(1) FULL FUNDING GRANT AGREEMENT.—

"(A) IN GENERAL.—A new start 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 this subsection, with each grantee receiving assistance for a new start project that—

"(i) is authorized for project development; and

"(ii) has been rated as high, medium-high, or medium, in accordance with paragraph (5).

"(2) APPROVAL OF GRANTS.—The Secretary may approve a grant under this section for a new start project only if the Secretary, based upon evaluations and considerations set forth in paragraph (3) and subject to paragraph (6), determines that the project—

"(A) has been adopted as the locally preferred alternative as part of the long-range transportation plan required under section 5203;

"(B) is based on the results of an evaluation of the benefits of the project as set forth in paragraph (3); and

"(C) is supported by an acceptable degree of local financial commitment (including evidence of stable and dependable financing sources) to construct, maintain, and operate the system or extension, and maintain and operate the entire public transportation system without requiring a reduction in existing public transportation services or level of service to operate the project.

"(3) EVALUATION OF BENEFITS AND FEDERAL INVESTMENT.—In making a determination for a new start project under paragraph (2)(B), the Secretary

shall analyze, evaluate, and consider the following evaluation criteria for the project (as compared to a no-action alternative):

"(A) The cost effectiveness of the project.

"(B) The mobility and accessibility benefits of the project, including direct intermodal connectivity with other modes of transportation.

"(C) The degree of congestion relief anticipated as a result of the project.

"(D) The reductions in energy consumption and air pollution associated with the project.

"(E) The economic development effects associated with the project.

"(F) The private contributions to the project, including cost-effective project delivery, management or transfer of project risks, expedited project schedule, financial partnering, and other public-private strategies.

"(4) EVALUATION OF LOCAL FINANCIAL COMMITMENT.—In making a determination for a new start project under paragraph (2)(C), the Secretary shall—

"(A) require that the proposed project plan provide for the availability of contingency

amounts that the Secretary determines to be reasonable to cover unanticipated cost increases;

"(B) require that each proposed local source of capital and operating financing is stable, reliable, and available within the project timetable;

"(C) consider private contributions to the project, including cost-effective project delivery, management or transfer of project risks, expedited project schedule, financial partnering, and other public-private partnership strategies;

"(D) consider the extent to which the project has a local financial commitment that exceeds the required non-Federal share of the cost of the project; and

"(E) consider the elements of the overall proposed public transportation system advanced with 100 percent non-Federal funds.

"(5) RATINGS.—In carrying out paragraphs (3) and (4) for a new start project, the Secretary shall evaluate and rate the project on a 5-point scale (high, medium-high, medium, medium-low, or low) based on an evaluation of the benefits of the project as compared to the Federal assistance to be provided

and the degree of local financial commitment, as required under this subsection. In rating the projects, the Secretary shall provide, in addition to the overall project rating, individual ratings for each of the criteria established by this subsection and shall give comparable, but not necessarily equal, numerical weight to the benefits that the project will bring to the community in calculating the overall project rating.

''(e) SMALL START PROJECTS.—

''(1) IN GENERAL.—

''(A) APPLICABILITY OF REQUIREMENTS.—Except as provided by subparagraph (B), a small start project shall be subject to the requirements of this subsection.

''(B) PROJECTS RECEIVING LESS THAN $25,000,000 IN FEDERAL ASSISTANCE.—If the assistance provided under this section for a small start project is less than $25,000,000—

''(i) the requirements of this subsection shall not apply to the project if determined appropriate by the Secretary; and

''(ii) the Secretary shall utilize special warrants described in subsection (n) to ad-

vance the project and provide Federal assistance as appropriate.

"(2) SELECTION CRITERIA.—The Secretary may provide Federal assistance for a small start project under this subsection only if the Secretary determines that the project—

"(A) has been adopted as the locally preferred alternative as part of the long-range transportation plan required under section 5203;

"(B) is based on the results of an analysis of the benefits of the project as set forth in paragraph (3); and

"(C) is supported by an acceptable degree of local financial commitment.

"(3) EVALUATION OF BENEFITS AND FEDERAL INVESTMENT.—In making a determination for a small start project under paragraph (2)(B), the Secretary shall analyze, evaluate, and consider the following evaluation criteria for the project (as compared to a no-action alternative):

"(A) The cost effectiveness of the project.

"(B) The mobility and accessibility benefits of the project, including direct intermodal connectivity with other modes of transportation.

"(C) The degree of congestion relief anticipated as a result of the project.

"(D) The economic development effects associated with the project.

"(4) EVALUATION OF LOCAL FINANCIAL COMMITMENT.—For purposes of paragraph (2)(C), the Secretary shall require that each proposed local source of capital and operating financing is stable, reliable, and available within the proposed project timetable.

"(5) RATINGS.—In carrying out paragraphs (3) and (4) for a small start project, the Secretary shall evaluate and rate the project on a 5-point scale (high, medium-high, medium, medium-low, or low) based on an evaluation of the benefits of the project as compared to the Federal assistance to be provided and the degree of local financial commitment, as required under this subsection. In rating the projects, the Secretary shall provide, in addition to the overall project rating, individual ratings for each of the criteria established by this subsection and shall give comparable, but not necessarily equal, numerical weight to the benefits that the project will bring to the community in calculating the overall project rating.

"(6) GRANTS AND EXPEDITED GRANT AGREEMENTS.—

"(A) IN GENERAL.—The Secretary, to the maximum extent practicable, shall provide Federal assistance under this subsection in a single grant. If the Secretary cannot provide such a single grant, the Secretary may execute an expedited grant agreement in order to include a commitment on the part of the Secretary to provide funding for the project in future fiscal years.

"(B) TERMS OF EXPEDITED GRANT AGREEMENTS.—In executing an expedited grant agreement under this subsection, the Secretary may include in the agreement terms similar to those established under subsection (g)(2)(A).

"(C) NOTICE OF PROPOSED GRANTS AND EXPEDITED GRANT AGREEMENTS.—At least 10 days before making a grant award or entering into a grant agreement for a project under this subsection, the Secretary shall notify, in writing, the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives and the Committee on Banking, Housing, and Urban

Affairs and the Committee on Appropriations of the Senate of the proposed grant or expedited grant agreement, as well as the evaluations and ratings for the project.

"(7) INCLUSION OF CORRIDOR-BASED CAPITAL PROJECTS.—In this subsection, the term 'small start project' includes a corridor-based capital project if—

"(A) a majority of the project operates in a separate right-of-way dedicated for transit use during peak hour operations; or

"(B) the project represents a substantial investment in a defined corridor as demonstrated by investment in fixed transit facilities and equipment such as substantial transit stations, intelligent transportation systems technology, traffic signal priority, off-board fare collection, and other direct investments in the corridor.

"(f) PREVIOUSLY ISSUED LETTER OF INTENT OR GRANT AGREEMENT.—Subsections (d) and (e) do not apply to projects for which the Secretary has issued a letter of intent, entered into an early systems work agreement or a full funding grant agreement, or has been approved to enter final design before the date of enactment of the Public Transportation Act of 2012.

1 "(g) LETTERS OF INTENT, FULL FUNDING GRANT
2 AGREEMENTS, AND EARLY SYSTEMS WORK AGREE-
3 MENTS.—
4 "(1) LETTERS OF INTENT.—
5 "(A) AMOUNTS INTENDED TO BE OBLI-
6 GATED.—The Secretary may issue a letter of
7 intent to an applicant announcing an intention
8 to obligate, for a new start project, an amount
9 from future available budget authority specified
10 in law that is not more than the amount stipu-
11 lated as the financial participation of the Sec-
12 retary in the project.
13 "(B) TREATMENT.—The issuance of a let-
14 ter under subparagraph (A) is deemed not to be
15 an obligation under section 1108(c), 1108(d),
16 1501, or 1502(a) of title 31 or an administra-
17 tive commitment.
18 "(2) FULL FUNDING GRANT AGREEMENTS.—
19 "(A) TERMS.—The Secretary may enter
20 into a full funding grant agreement with an ap-
21 plicant for a grant under this section for a new
22 start project. The agreement shall—
23 "(i) establish the terms of participa-
24 tion by the Government in the project;

"(ii) establish the maximum amount of Government financial assistance for the project;

"(iii) cover the period of time for completing the project, including, if necessary, a period extending beyond the period of an authorization;

"(iv) make timely and efficient management of the project easier according to the laws of the United States; and

"(v) establish terms requiring the applicant to repay all Government payments made under the agreement (plus such reasonable interest and penalty charges as are established by the Secretary in the agreement) if the applicant does not carry out the project for reasons within the control of the applicant.

"(B) 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 full funding grant 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 a full funding grant agreement for a new

start project shall be sufficient to complete at least one operable segment.

"(C) 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 start project on transit services and transit ridership;

"(II) evaluates the consistency of predicted and actual project characteristics and performance; and

"(III) identifies sources of differences between predicted and actual outcomes.

"(ii) INFORMATION COLLECTION AND ANALYSIS PLAN.—

"(I) SUBMISSION OF PLAN.—An applicant seeking a full funding grant agreement under this paragraph shall submit to the Secretary a complete plan for the collection and analysis of information to identify the impacts of the new start project and the accuracy

of the forecasts prepared during the development of the project. Preparation of the plan shall be included in the agreement as an eligible activity.

"(II) CONTENTS OF PLAN.—The plan submitted under subclause (I) shall provide for—

"(aa) the collection of data on the current transit system of the applicant regarding transit 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 transit system of the applicant 2 years after the opening of the new start project, including analogous information on transit service levels and ridership patterns and information on the as-

built scope and capital costs of the project; and

"(dd) an analysis of the consistency of predicted project characteristics with the data collected under item (cc).

"(D) COLLECTION OF DATA ON CURRENT SYSTEM.—To be eligible to enter into a full funding grant agreement under this paragraph for a new start project, an applicant shall have collected data on the current transit system of the applicant, according to the plan required under subparagraph (C)(ii), before the beginning of construction of the project. Collection of the 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 for a new start project 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 a full

1 funding grant agreement for the project will be
2 made.
3 ''(B) CONTENTS.—
4 ''(i) IN GENERAL.—A work agreement
5 under this paragraph for a new start
6 project obligates an amount of available
7 budget authority specified in law and shall
8 provide for reimbursement of preliminary
9 costs of carrying out the project, including
10 land acquisition, timely procurement of
11 system elements for which specifications
12 are decided, and other activities the Sec-
13 retary decides are appropriate to make ef-
14 ficient, long-term project management
15 easier.
16 ''(ii) PERIOD COVERED.—A work
17 agreement under this paragraph shall
18 cover the period of time the Secretary con-
19 siders appropriate. The period may extend
20 beyond the period of current authorization.
21 ''(iii) INTEREST AND OTHER FINANC-
22 ING COSTS.—Interest and other financing
23 costs of efficiently carrying out the work
24 agreement within a reasonable time are a
25 cost of carrying out the agreement, except

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 manner satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.

"(iv) FAILURE TO CARRY OUT PROJECT.—If, after entering into a work agreement under this paragraph for a new start project, an applicant does not carry out the project for reasons within the control of the applicant, the applicant shall repay all Government payments made under the work agreement plus reasonable interest and penalty charges the Secretary establishes in the agreement.

"(4) LIMITATION ON AMOUNTS.—

"(A) NEW START GRANTS CONTINGENT COMMITMENT AUTHORITY.—The total estimated amount of future obligations of the Government and contingent commitments to incur obligations covered by all outstanding letters of intent, full funding grant agreements, and early

systems work agreements under this subsection for new start projects may be not more than the greater of the amount authorized under section 5338(b) for such projects or an amount equivalent to the last 3 fiscal years of funding allocated under subsections (m)(2)(B) for such projects, less an amount the Secretary reasonably estimates is necessary for grants under this section for the projects that are not covered by a letter or agreement. The total amount covered by new letters and contingent commitments included in full funding grant agreements and early systems work agreements for such projects may be not more than a limitation specified in law.

''(B) APPROPRIATION REQUIRED.—An obligation may be made under this subsection only when amounts are appropriated for the obligation.

''(5) NOTIFICATION OF CONGRESS.—At least 10 days before issuing a letter of intent or an early systems work agreement under this section, and at least 21 days before entering into a full funding grant agreement under this section, the Secretary shall notify, in writing, the Committee on Transpor-

tation and Infrastructure and the Committee on Appropriations of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs and the Committee on Appropriations of the Senate 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.

''(h) GOVERNMENT'S SHARE OF NET 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 of a new fixed guideway capital project. A grant under this section for the project shall be for 80 percent of the net capital project cost unless the grant recipient requests a lower grant percentage.

''(2) ADJUSTMENT FOR COMPLETION UNDER BUDGET.—The Secretary may adjust the final net project cost of a new fixed guideway capital project evaluated under subsections (d) and (e) 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 com-

pleted at a cost that is significantly below the original estimate.

"(3) REMAINDER OF NET PROJECT COST.—The remainder of net project costs shall be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital from public or private sources.

"(4) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as authorizing the Secretary to request or require a non-Federal financial commitment for a project that is more than 20 percent of the net capital project cost.

"(5) SPECIAL RULE FOR ROLLING STOCK COSTS.—In addition to amounts allowed pursuant to paragraph (1), a planned extension to a fixed guideway system may include the cost of rolling stock previously purchased if the applicant satisfies the Secretary that only amounts other than amounts of the Government were used and that the purchase was made for use on the extension. A refund or reduction of the remainder may be made only if a refund of a proportional amount of the grant of the Government is made at the same time.

"(i) UNDERTAKING PROJECTS IN ADVANCE.—

"(1) IN GENERAL.—The Secretary may pay the Government's 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 carrying out the part of the project, the Secretary approves the plans and specifications for the part in the same manner 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 financial terms.

"(j) AVAILABILITY OF AMOUNTS.—An amount made available or appropriated under section 5338(b) for new fixed guideway capital projects shall remain available for a period of 3 fiscal years after the fiscal year in which the amount is made available or appropriated. Any of such amount that is unobligated at the end of such period shall be rescinded and deposited in the general fund of the Treasury, where such amounts shall be dedicated for the sole purpose of deficit reduction and prohibited from use as an offset for other spending increases or revenue reductions.

"(k) REPORTS ON NEW START 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 Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives and the Committee on

Banking, Housing, and Urban Affairs and the Committee on Appropriations of the Senate a report that includes—

"(A) a proposal of allocations of amounts to be available to finance grants for new fixed guideway capital projects among applicants for these amounts;

"(B) evaluations and ratings, as required under subsections (d) and (e), for each such project that is authorized by the Public Transportation Act of 2012; 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) BIENNIAL GAO REVIEW.—Beginning 2 years after the date of enactment of the Public Transportation Act of 2012, the Comptroller General shall—

"(A) conduct a biennial review of—

"(i) the processes and procedures for evaluating, rating, and recommending new fixed guideway capital projects; and

"(ii) the Secretary's implementation of such processes and procedures; and

"(B) on a biennial basis, report to Congress on the results of such review by May 31.

"(l) BEFORE AND AFTER STUDY REPORT.—Not later than the first Monday of August of each year, the Secretary shall submit to the committees referred to in subsection (k)(1) a report containing a summary of the results of the studies conducted under subsection (g)(2)(C).

"(m) LIMITATIONS.—

"(1) LIMITATION ON GRANTS.—The Secretary may make a grant or enter into a grant agreement for a new fixed guideway capital project under this section only if the project has been rated as high, medium-high, or medium or the Secretary has issued a special warrant described in subsection (n) in lieu of such ratings.

"(2) FISCAL YEARS 2013 THROUGH 2016.—Of the amounts made available or appropriated for fiscal years 2013 through 2016 under section 5338(b)—

"(A) $150,000,000 for each fiscal year shall be allocated for small start projects in accordance with subsection (e); and

"(B) the remainder shall be allocated for new start projects in accordance with subsection (d).

"(3) LIMITATION ON EXPENDITURES.—None of the amounts made available or appropriated under section 5338(b) may be expended on a project that has not been adopted as the locally preferred alternative as part of a long-range transportation plan.

"(n) EXPEDITED PROJECT ADVANCEMENT.—

"(1) WARRANTS.—The Secretary, to the maximum extent practicable, shall develop and utilize special warrants to advance projects and provide Federal assistance under this section. Special warrants may be utilized to advance new fixed guideway projects under this section without requiring evaluations and ratings described under subsections (d)(5) and (e)(5). Such warrants shall be—

"(A) based on current transit ridership, corridor characteristics, and service on existing alignments;

"(B) designed to assess distinct categories of projects, such as proposed new service enhancements on existing alignments, new line haul service, and new urban circulator service; and

"(C) based on the benefits for proposed projects as set forth in subsections (d)(3) and (e)(3) for the Federal assistance provided or to be provided under this subsection.

"(2) NEW PROJECT DEVELOPMENT.—

"(A) IN GENERAL.—A project sponsor who requests Federal funding under this section shall apply to the Secretary to begin new project development after a proposed new fixed guideway capital project has been adopted as the locally preferred alternative as part of the metropolitan long-range transportation plan required under section 5303, and funding options for the non-Federal funding share have been identified. The application for new project development shall specify whether the project sponsor is seeking Federal assistance under subsection (d) or (e).

"(B) APPLICATIONS.—

"(i) NOTICE TO CONGRESS.—Not later than 10 days after the date of receipt of an application for new project development under subparagraph (A), the Secretary shall provide written notice of the application to the Committee on Transpor-

tation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

"(ii) APPROVAL OR DISAPPROVAL.—On the 11th day following the date on which the Secretary provides written notice of an application for new project development under clause (i), the Secretary shall approve or disapprove the application.

"(C) PROJECT AUTHORIZATION.—Upon approval of an application to begin new project development, the proposed new fixed guideway capital project shall be authorized and eligible for Federal funding under this section.

"(3) LETTERS OF INTENT AND EARLY SYSTEMS WORK AGREEMENTS.—The Secretary, to the maximum extent practicable, shall issue letters of intent and make early systems work agreements upon issuance of a record of decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(4) FUNDING AGREEMENTS.—The Secretary shall enter into a full funding grant agreement, expedited grant agreement, or grant, as appropriate,

between the Government and the project sponsor as soon as the Secretary determines that the project meets the requirements of subsection (d) or (e).

''(5) RECORDS RETENTION.—The Secretary shall adhere to a uniform records retention policy regarding all documentation related to new fixed guideway capital projects.

''(o) REGULATIONS.—Not later than 240 days after the date of enactment of the Public Transportation Act of 2012, the Secretary shall issue regulations establishing new program requirements for the programs created under this section, including new evaluation and rating processes for proposed projects under this section.''.

(b) CLERICAL AMENDMENT.—The analysis for chapter 53 is amended by striking the item relating to section 5309 and inserting the following:

''5309. Capital investment grants.''.

**SEC. 2007. BUS AND BUS FACILITIES FORMULA GRANTS.**

(a) IN GENERAL.—Section 5310 is amended to read as follows:

**''§ 5310. Bus and bus facilities formula grants**

''(a) GENERAL AUTHORITY.—The Secretary may make grants under this section to assist States and local governmental authorities in financing capital projects—

''(1) to replace, rehabilitate, and purchase buses and related equipment; and

"(2) to construct bus-related facilities.

"(b) GRANT REQUIREMENTS.—The requirements of subsections (c) and (d) of section 5307 apply to recipients of grants made under this section.

"(c) ELIGIBLE RECIPIENTS AND SUBRECIPIENTS.—

"(1) RECIPIENTS.—Eligible recipients under this section are providers of public transportation in urbanized areas that operate fixed route bus services and that do not operate heavy rail, commuter rail, or light rail services.

"(2) SUBRECIPIENTS.—A recipient that receives a grant under this section may allocate the amounts provided to subrecipients that are public agencies, private companies engaged in public transportation, or private nonprofit organizations.

"(d) DISTRIBUTION OF GRANT FUNDS.—Grants under this section shall be distributed pursuant to the formula set forth in section 5336 other than subsection (b).

"(e) GOVERNMENT'S SHARE OF COSTS.—

"(1) CAPITAL PROJECTS.—A grant for a capital project, as defined in section 5302(a)(1), shall be for 80 percent of the net project cost of the project. The recipient may provide additional local matching amounts.

"(2) REMAINING COSTS.—The remainder of the net project cost shall be provided—

"(A) in cash from non-Government sources other than revenues from providing public transportation services;

"(B) from revenues derived from the sale of advertising and concessions;

"(C) from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital; and

"(D) from amounts received under a service agreement with a State or local social service agency or private social service organization.

"(f) PERIOD OF AVAILABILITY TO RECIPIENTS.—A grant made available under this section may be obligated by the recipient for 3 years after the fiscal year in which the amount is apportioned. Not later than 30 days after the end of the 3-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.

"(g) TRANSFERS OF APPORTIONMENTS.—

"(1) TRANSFER TO CERTAIN AREAS.—The chief executive officer of a State may transfer any part of the State's funds made available under this section

to urbanized areas of less than 200,000 in population or to rural areas in the State, after consulting with responsible local officials and publicly owned operators of public transportation in each area for which the amount originally was provided under this section.

"(2) TRANSFER TO STATE.—A designated recipient for an urbanized area with a population of at least 200,000 may transfer a part of its grant funds provided under this section to the chief executive officer of a State. The chief executive officer shall distribute the transferred amounts to urbanized areas of less than 200,000 in population or to rural areas in the State.

"(h) APPLICATION OF OTHER SECTIONS.—Sections 5302, 5318, 5323(a)(1), 5323(d), 5323(f), 5332, and 5333 apply to this section and to a grant made with funds apportioned under this section. Except as provided in this section, no other provision of this chapter applies to this section or to a grant under this section.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 53 is amended by striking the item relating to section 5310 and inserting the following:

"5310. Bus and bus facilities formula grants.".

**SEC. 2008. RURAL AREA FORMULA GRANTS.**

(a) AMENDMENT TO SECTION HEADING.—Section 5311 is amended by striking the section designation and heading and inserting the following:

**"§ 5311. Rural area formula grants".**

(b) PROGRAM GOALS.—Section 5311(b) is amended by adding at the end the following:

"(5) PROGRAM GOALS.—The goals of this section are—

"(A) to enhance the mobility and access of people in rural areas by assisting in the development, construction, operation, improvement, maintenance, and use of public transportation systems and services in rural areas;

"(B) to increase the intermodalism of and connectivity among public transportation systems and services within rural areas and to urban areas by providing for maximum coordination of programs and services;

"(C) to increase the state of good repair of rural public transportation assets; and

"(D) to enhance the mobility and access of people in rural areas by assisting in the development and support of intercity bus transportation.".

(c) PROJECTS OF NATIONAL SCOPE.—Section 5311(b)(3)(C) is amended by adding at the end the following: ''In carrying out such projects, the Secretary shall enter into a competitively selected contract to provide on-site technical assistance to local and regional governments, public transit agencies, and public transportation-related nonprofit and for-profit organizations in rural areas for the purpose of developing training materials and providing necessary training assistance to local officials and agencies in rural areas.''.

(d) APPORTIONMENTS.—Section 5311(c)(2) is amended—

(1) by striking ''and'' at the end of subparagraph (A);

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

''(B) 70 percent shall be apportioned to the States in accordance with paragraph (4); and''; and

(3) by adding at the end the following:

''(C) 10 percent shall be apportioned to the States in accordance with paragraph (5).''.

(e) APPORTIONMENTS BASED ON PUBLIC TRANSPORTATION SERVICES PROVIDED IN RURAL AREAS.—Section 5311(c) is amended by adding at the end the following:

"(5) APPORTIONMENTS BASED ON PUBLIC TRANSPORTATION SERVICES PROVIDED IN RURAL AREAS.—The Secretary shall apportion to each State an amount equal to the amount apportioned under paragraph (2)(C) as follows:

"(A) ½ of such amount multiplied by the ratio that—

"(i) the number of public transportation revenue vehicle-miles operated in or attributable to rural areas in that State, as determined by the Secretary; bears to

"(ii) the total number of all public transportation revenue vehicle-miles operated in or attributable to rural areas in all States;

"(B) ½ of such amount multiplied by the ratio that—

"(i) the number of public transportation unlinked passenger trips operated in or attributable to rural areas in that State, as determined by the Secretary; bears to

"(ii) the total number of all public transportation unlinked passenger trips operated in or attributable to rural areas in all States.".

(f) USE FOR ADMINISTRATIVE, PLANNING, AND TECHNICAL ASSISTANCE.—Section 5311(e) is amended by striking ''15 percent'' and inserting ''10 percent''.

(g) INTERCITY BUS TRANSPORTATION.—Section 5311(f)(1) is amended—

(1) in subparagraph (B) by striking ''shelters'' and inserting ''facilities''; and

(2) in subparagraph (C) by striking ''stops and depots'' and inserting ''facilities''.

(h) NON-FEDERAL SHARE.—Section 5311(g)(3) is amended—

(1) in subparagraph (B) by striking ''and'' at the end;

(2) in subparagraph (C) by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(D) may be derived from the costs of a private operator's intercity bus service as an in-kind match for the operating costs of connecting rural intercity bus feeder service funded under subsection (f), except that this subparagraph shall apply only if the project includes both feeder service and a connecting unsubsidized intercity route segment and if the pri-

vate operator agrees in writing to the use of its unsubsidized costs as an in-kind match.''.

(i) CLERICAL AMENDMENT.—The analysis for chapter 53 is amended by striking the item relating to section 5311 and inserting the following:

''5311. Rural area formula grants.''.

**SEC. 2009. TRANSIT RESEARCH.**

(a) AMENDMENT TO SECTION HEADING.—Section 5312 is amended by striking the section designation and heading and inserting the following:

**''§ 5312. Transit research''.**

(b) RESEARCH PROJECTS.—Section 5312(a) is amended by adding at the end the following:

''(4) FUNDING.—The amounts made available under section 5338(c) are available to the Secretary for grants, contracts, cooperative agreements, or other agreements for the purposes of this section and sections 5305 and 5322, as the Secretary considers appropriate.''.

(c) JOINT PARTNERSHIP PROGRAM.—Section 5312(b)(5) is amended by striking ''Mass Transit Account'' and inserting ''Alternative Transportation Account''.

(d) TRANSIT COOPERATIVE RESEARCH PROGRAM.—Section 5312(c) is amended to read as follows:

''(c) TRANSIT COOPERATIVE RESEARCH PROGRAM.—

"(1) IN GENERAL.—The Secretary shall carry out a public transportation cooperative research program using amounts made available under section 5338(c).

"(2) INDEPENDENT GOVERNING BOARD.—The Secretary shall establish an independent governing board for the program. The board shall recommend public transportation research, development, and technology transfer activities to be carried out under the program.

"(3) GRANTS AND COOPERATIVE AGREEMENTS.—The Secretary may make grants to, and enter into cooperative agreements with, the National Academy of Sciences to carry out activities under this subsection that the Secretary determines appropriate.".

(e) GOVERNMENT SHARE.—Section 5312 is amended by adding at the end the following:

"(d) GOVERNMENT SHARE.—If there would be a clear and direct financial benefit to an entity under a grant or contract financed under this section, the Secretary shall establish a Government share consistent with that benefit.".

(f) CLERICAL AMENDMENT.—The analysis for chapter 53 is amended by striking the item relating to section 5312 and inserting the following:

"5312. Transit research.".

**SEC. 2010. COORDINATED ACCESS AND MOBILITY PROGRAM FORMULA GRANTS.**

(a) IN GENERAL.—Section 5317 is amended to read as follows:

**"§ 5317. Coordinated access and mobility program formula grants**

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

"(1) ELDERLY INDIVIDUAL.—The term 'elderly individual' means an individual who is age 65 or older.

"(2) ELIGIBLE LOW-INCOME INDIVIDUAL.—The term 'eligible 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 of the Community Services Block Grant Act (42 U.S.C. 9902), including any revision required by that section) for a family of the size involved.

"(3) JOB ACCESS AND REVERSE COMMUTE PROJECT.—The term 'job access and reverse commute project' means a transportation project to fi-

nance planning, capital, and operating costs that support the development and maintenance of transportation services designed to transport welfare recipients and eligible low-income individuals to and from jobs and activities related to their employment, including transportation projects that facilitate the provision of public transportation services from urbanized areas and rural areas to suburban employment locations.

"(4) RECIPIENT.—The term 'recipient' means a designated recipient (as defined in section 5307(a)) and a State that directly receives a grant under this section.

"(5) SUBRECIPIENT.—The term 'subrecipient' means a State or local governmental authority, nonprofit organization, or private operator of public transportation services that receives a grant under this section indirectly through a recipient.

"(6) WELFARE RECIPIENT.—The term 'welfare recipient' means an individual who has received assistance under a State or tribal program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) at any time during the 3-year period before the date on which the applicant applies for a grant under this section.

"(b) GOALS.—The goals of the program established under this section are to—

"(1) improve the accessibility of the Nation's public transportation systems and services;

"(2) improve the mobility of or otherwise meet the special needs of elderly individuals, eligible low-income individuals, and individuals with disabilities; and

"(3) improve the coordination among all providers of public transportation and human services transportation.

"(c) GENERAL AUTHORITY.—

"(1) GRANTS.—The Secretary may make grants under this section to recipients for the following purposes:

"(A) For public transportation projects planned, designed, and carried out to meet the special needs of elderly individuals and individuals with disabilities.

"(B) For job access and reverse commute projects carried out by the recipient or a sub-recipient.

"(C) For new public transportation services, and for public transportation alternatives beyond those required by the Americans with

Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), that assist individuals with disabilities with transportation, including transportation to and from jobs and employment support services.

''(2) ACQUIRING PUBLIC TRANSPORTATION SERVICES.—A public transportation capital project under this section may include acquisition of public transportation services as an eligible capital expense.

''(3) ADMINISTRATIVE EXPENSES.—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.

''(d) APPORTIONMENTS.—

''(1) FORMULA.—The Secretary, using the most recent decennial census data, shall apportion amounts made available for a fiscal year to carry out this section as follows:

''(A) 50 percent of the funds shall be apportioned among designated recipients (as defined in section 5307(a)) for urbanized areas with a population of 200,000 or more in the ratio that—

1 ''(i) the number of elderly individuals,
2 individuals with disabilities, eligible low-in-
3 come individuals, and welfare recipients in
4 each such urbanized area; bears to
5 ''(ii) the number of elderly individuals,
6 individuals with disabilities, eligible low-in-
7 come individuals, and welfare recipients in
8 all such urbanized areas.
9 ''(B) 25 percent of the funds shall be ap-
10 portioned among the States in the ratio that—
11 ''(i) the number of elderly individuals,
12 individuals with disabilities, eligible low-in-
13 come individuals, and welfare recipients in
14 urbanized areas with a population of less
15 than 200,000 in each State; bears to
16 ''(ii) the number of elderly individuals,
17 individuals with disabilities, eligible low-in-
18 come individuals, and welfare recipients in
19 urbanized areas with a population of less
20 than 200,000 in all States.
21 ''(C) 25 percent of the funds shall be ap-
22 portioned among the States in the ratio that—
23 ''(i) the number of elderly individuals,
24 individuals with disabilities, eligible low-in-
25 come individuals, and welfare recipients in

rural areas with a population of less than 50,000 in each State; bears to

"(ii) the number of elderly individuals, individuals with disabilities, eligible low-income individuals, and welfare recipients in rural areas with a population of less than 50,000 in all States.

"(2) USE OF APPORTIONED FUNDS.—Except as provided in paragraph (3)—

"(A) funds apportioned under paragraph (1)(A) shall be used for projects serving urbanized areas with a population of 200,000 or more;

"(B) funds apportioned under paragraph (1)(B) shall be used for projects serving urbanized areas with a population of less than 200,000; and

"(C) funds apportioned under paragraph (1)(C) shall be used for projects serving rural areas.

"(3) EXCEPTIONS.—A State may use funds apportioned under paragraph (1)(B) or (1)(C)—

"(A) for projects serving areas other than the area specified in paragraph (2)(B) or (2)(C), 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 specified area; or

"(B) for projects anywhere in the State if the State has established a statewide program for meeting the objectives of this section.

"(4) MINIMUM APPORTIONMENT.—

"(A) IN GENERAL.—The Secretary may establish a minimum apportionment for States and territories under paragraph (1).

"(B) LIMITATION.—A minimum apportionment received by a State or territory under this paragraph for a fiscal year may not exceed the total of the fiscal year 2012 apportionments received by the State or territory under sections 5310, 5316, and 5317 (as in effect on the day before the date of enactment of the Public Transportation Act of 2012).

"(e) COMPETITIVE PROCESS FOR GRANTS TO SUBRECIPIENTS.—

"(1) AREAWIDE SOLICITATIONS.—A recipient of funds apportioned under subsection (d)(1)(A) shall conduct, in cooperation with the appropriate metropolitan planning organization, an areawide solicita-

tion for applications for grants to the recipient and subrecipients under this section.

"(2) STATEWIDE SOLICITATION.—A recipient of funds apportioned under subsection (d)(1)(B) or (d)(1)(C) shall conduct a statewide solicitation for applications for grants to the recipient and subrecipients under this section.

"(3) SPECIAL RULE.—A recipient of a grant under this section may allocate the amounts provided under the grant to—

"(A) a nonprofit organization or private operator of public transportation, if the public transportation service provided under subsection (c)(1) is unavailable, insufficient, or inappropriate; or

"(B) in the case of a grant to provide the services described in subsection (c)(1)(A), a governmental authority that—

"(i) is approved by the recipient to coordinate services for elderly individuals and individuals with disabilities; or

"(ii) certifies that there are not any nonprofit organizations or private operators of public transportation services read-

ily available in the area to provide the services described in subsection (c)(1)(A).

"(4) APPLICATION.—Recipients and subrecipients seeking to receive a grant from funds apportioned under subsection (d) shall submit to the recipient an application in such form and in accordance with such requirements as the recipient shall establish.

"(5) GRANT AWARDS.—The recipient shall award grants under paragraphs (1) and (2) on a competitive basis.

"(6) FAIR AND EQUITABLE DISTRIBUTION.—A recipient of a grant under this section shall certify to the Secretary that allocations of the grant to subrecipients will be distributed on a fair, equitable, and competitive basis.

"(f) GRANT REQUIREMENTS.—

"(1) IN GENERAL.—Subject to paragraph (2), a grant under this section shall be subject to—

"(A) for a project in an urbanized area, the requirements of section 5307; and

"(B) for a project in a rural area, the requirements of section 5311.

"(2) WAIVERS.—With respect to a grant made to provide services described in subsection (c), the

Secretary shall waive application of the requirements of section 5307 or 5311 to the extent the Secretary determines appropriate.

''(g) COORDINATION.—

''(1) IN GENERAL.—The Secretary shall coordinate activities under this section with related activities under programs of other Federal departments and agencies.

''(2) PROJECT SELECTION AND PLANNING.—A recipient of funds under this section shall certify to the Secretary that—

''(A) the projects selected to receive funding under this section were derived from a locally developed, coordinated public transportation-human services transportation plan;

''(B) the plan was developed through a process that included participation by representatives of public, private, and nonprofit transportation and human services providers and participation by the public and appropriate advocacy organizations; and

''(C) the planning process provided for consideration of projects and strategies to create or improve regional transportation services that connect multiple jurisdictions.

1 ''(h) GOVERNMENT'S SHARE OF COSTS.—
2 ''(1) CAPITAL PROJECTS.—
3 ''(A) IN GENERAL.—Except as provided in
4 subparagraph (B), a grant for a capital project
5 under this section shall be for 80 percent of the
6 net capital costs of the project, as determined
7 by the Secretary. The recipient may provide ad-
8 ditional local matching amounts.
9 ''(B) EXCEPTION.—A State described in
10 section 120(b) of title 23 shall receive an in-
11 creased Government share in accordance with
12 the formula under such section.
13 ''(2) OPERATING ASSISTANCE.—
14 ''(A) IN GENERAL.—Except as provided in
15 subparagraph (B), a grant made under this sec-
16 tion for operating assistance may not exceed 50
17 percent of the net operating costs of the
18 project, as determined by the Secretary.
19 ''(B) EXCEPTION.—A State described in
20 section 120(b) of title 23 shall receive a Gov-
21 ernment share of the net operating costs that
22 equals 62.5 percent of the Government share
23 provided for under paragraph (1)(B).
24 ''(3) REMAINDER.—The remainder of the net
25 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 to or 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

"(C) notwithstanding subparagraph (B), may be derived from amounts made available to carry out the Federal lands transportation program established by section 203 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 recipient 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) LEASING VEHICLES.—Vehicles and equipment acquired under this section may be leased to a recipient or subrecipient to improve transportation services designed to meet the special needs of elderly individuals, eligible low-income individuals, and individuals with disabilities.

"(j) MEAL DELIVERY FOR HOMEBOUND INDIVIDUALS.—Public transportation service providers receiving 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.

"(k) TRANSFERS OF FACILITIES AND EQUIPMENT.—With the consent of the recipient in possession of a facility or equipment acquired with a grant 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.

"(l) PROGRAM EVALUATION.—Not later than 2 years after the date of enactment of the Public Transportation

Act of 2012, and not later than 2 years thereafter, the Comptroller General shall—

"(1) conduct a study to evaluate the grant program authorized by this section; and

"(2) transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report describing the results of the study under subparagraph (A).".

(b) CLERICAL AMENDMENT.—The analysis for chapter 53 is amended by striking the item relating to section 5317 and inserting the following:

"5317. Coordinated access and mobility program formula grants.".

**SEC. 2011. TRAINING AND TECHNICAL ASSISTANCE PROGRAMS.**

(a) AMENDMENT TO SECTION HEADING.—Section 5322 is amended by striking the section designation and heading and inserting the following:

**"§ 5322. Training and technical assistance programs".**

(b) TRAINING AND OUTREACH.—Section 5322(a) is amended—

(1) by striking "programs that address" and all that follows before the period at the end of the first sentence and inserting "programs that address training and outreach needs as they apply to public transportation activities, and programs that provide

public transportation-related technical assistance to providers of public transportation services'';

(2) by striking ''and'' at the end of paragraph (3);

(3) by striking the period at the end of paragraph (4) and inserting ''; and''; and

(4) by adding at the end the following:

''(5) technical assistance provided through national nonprofit organizations with demonstrated capacity and expertise in a particular area of public transportation policy.''.

(c) NATIONAL TRANSIT INSTITUTE, TECHNICAL ASSISTANCE, AND FUNDING.—Section 5322 is amended by adding at the end the following:

''(c) NATIONAL TRANSIT INSTITUTE.—

''(1) GRANTS AND CONTRACTS.—The Secretary may award grants or enter into contracts with a public university to establish a National Transit Institute to support training and educational programs for Federal, State, and local transportation employees engaged or to be engaged in Government-aid public transportation work.

''(2) EDUCATION AND TRAINING.—The National Transit Institute shall provide education and training to employees of State and local governments

at no cost when the education and training is related to a responsibility under a Government program.

"(d) TECHNICAL ASSISTANCE.—The Secretary may provide public transportation-related technical assistance under this section as follows:

"(1) To help public transportation providers comply with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) through a competitively selected contract with a national nonprofit organization serving individuals with disabilities that has a demonstrated capacity to carry out technical assistance, demonstration programs, research, public education, and other activities related to complying with such Act.

"(2) To help public transportation providers comply with human services transportation coordination requirements and to enhance the coordination of Federal resources for human services transportation with those of the Department of Transportation through a competitively selected contract with a national nonprofit organization that has a demonstrated capacity to carry out technical assistance, training, and support services related to complying with such requirements.

"(3) To help public transportation providers meet the transportation needs of elderly individuals through a competitively selected contract with a national nonprofit organization serving elderly individuals that has a demonstrated capacity to carry out such activities.

"(4) To provide additional technical assistance, mobility management services, volunteer support services, training, and research that the Secretary determines will assist public transportation providers meet the goals of this section.

"(e) FUNDING.—Training and outreach programs and technical assistance activities performed under this section shall be paid for with administrative funds made available under section 5338(c).".

(d) CLERICAL AMENDMENT.—The analysis for chapter 53 is amended by striking the item relating to section 5322 and inserting the following:

"5322. Training and technical assistance programs.".

**SEC. 2012. GENERAL PROVISIONS.**

(a) GOVERNMENT'S SHARE OF COSTS FOR CERTAIN PROJECTS.—Section 5323(i) is amended by adding at the end the following:

"(3) COSTS INCURRED BY PROVIDERS OF PUBLIC TRANSPORTATION BY VANPOOL.—

"(A) LOCAL MATCHING SHARE.—The local matching share provided by a recipient of assistance for a capital project under this chapter may include any amounts expended by a provider of public transportation by vanpool for the acquisition of rolling stock to be used by such provider in the recipient's service area, excluding any amounts the provider may have received in Federal, State, or local government assistance for such acquisition.

"(B) USE OF REVENUES.—A private provider of public transportation by vanpool may use revenues it receives in the provision of public transportation service in the service area of a recipient of assistance under this chapter that are in excess of the provider's operating costs for the purpose of acquiring rolling stock, if the private provider enters into a legally binding agreement with the recipient that requires the provider to use the rolling stock in the recipient's service area.

"(C) DEFINITIONS.—In this paragraph, the following definitions apply:

"(i) PRIVATE PROVIDER OF PUBLIC TRANSPORTATION BY VANPOOL.—The term

'private provider of public transportation by vanpool' means a private entity providing vanpool services in the service area of a recipient of assistance under this chapter using a commuter highway vehicle or vanpool vehicle.

''(ii) COMMUTER HIGHWAY VEHICLE; VANPOOL VEHICLE.—The term 'commuter highway vehicle' or 'vanpool vehicle' means any vehicle—

''(I) the seating capacity of which is at least 6 adults (not including the driver); and

''(II) at least 80 percent of the mileage use of which can be reasonably expected to be for the purposes of transporting commuters in connection with travel between their residences and their place of employment.

''(4) INCENTIVES FOR COMPETITIVELY CONTRACTED SERVICE.—

''(A) ELIGIBILITY.—Subject to subparagraph (C), a recipient of assistance under this chapter that meets the targets under subparagraph (B) for competitively contracted service

shall be eligible, at the request of the recipient, for a Federal share of 90 percent for the capital cost of buses and bus-related facilities and equipment purchased with financial assistance made available under this chapter.

''(B) TARGET.—To qualify for the competitively contracted service incentive program under this paragraph, a public transit agency or governmental unit shall competitively contract for at least 20 percent of its fixed route bus service. The percentage of competitively contracted service shall be calculated by determining the ratio of competitively contracted service vehicles operated in annual maximum service to total vehicles operated in annual maximum service.

''(C) MAINTENANCE OF EFFORT.—A public transit agency or governmental unit shall be eligible for an increased Federal share under this paragraph only if the amount of State and local funding provided to the affected public transit agency or governmental unit for the capital cost of buses and bus-related facilities and equipment will not be less than the average amount of funding for such purposes provided

during the 3 fiscal years preceding the date of enactment of this paragraph.

"(D) DEFINITIONS.—In this paragraph, the following definitions apply:

"(i) COMPETITIVELY CONTRACTED SERVICE.—The term 'competitively contracted service' means fixed route bus transportation service purchased by a public transit agency or governmental unit from a private transportation provider based on a written contract.

"(ii) VEHICLES OPERATED IN ANNUAL MAXIMUM SERVICE.—The term 'vehicles operated in annual maximum service' means the number of transit vehicles operated to meet the annual maximum service requirement during the peak season of the year, on the week and day that maximum service is provided.".

(b) REASONABLE ACCESS TO PUBLIC TRANSPORTATION FACILITIES.—Section 5323 is amended by adding at the end the following:

"(q) REASONABLE ACCESS TO PUBLIC TRANSPORTATION FACILITIES.—A recipient of assistance under this chapter may not deny reasonable access for a private

intercity or charter transportation operator to federally funded public transportation facilities, including intermodal facilities, park and ride lots, and bus-only highway lanes.''.

(c) SPECIAL CONDITION ON CHARTER BUS TRANSPORTATION SERVICE.—If, in any fiscal year, the Secretary is prohibited by law from enforcing regulations related to charter bus service under part 604 of title 49, Code of Federal Regulations, for any transit agency that during fiscal year 2008 was both initially granted a 60-day period to come into compliance with part 604, and then was subsequently granted an exception from such part—

(1) the transit agency shall be precluded from receiving its allocation of urbanized area formula grant funds for that fiscal year; and

(2) any amounts withheld pursuant to paragraph (1) shall be added to the amount that the Secretary may apportion under section 5336 of title 49, United States Code, in the following fiscal year.

**SEC. 2013. CONTRACT REQUIREMENTS.**

Section 5325(h) is amended by striking ''Federal Public Transportation Act of 2005'' and inserting ''Public Transportation Act of 2012''.

**SEC. 2014. PRIVATE SECTOR PARTICIPATION.**

(a) IN GENERAL.—Chapter 53 is amended by inserting after section 5325 the following:

**"§ 5326. Private sector participation**

''(a) GENERAL PURPOSES.—In the interest of fulfilling the general purposes of this chapter under section 5301(f), the Secretary shall—

''(1) better coordinate public and private sector-provided public transportation services; and

''(2) promote more effective utilization of private sector expertise, financing, and operational capacity to deliver costly and complex new fixed guideway capital projects.

''(b) ACTIONS TO PROMOTE BETTER COORDINATION BETWEEN PUBLIC AND PRIVATE SECTOR PROVIDERS OF PUBLIC TRANSPORTATION.—The Secretary shall—

''(1) provide technical assistance to recipients of Federal transit grant assistance on practices and methods to best utilize private providers of public transportation; and

''(2) educate recipients of Federal transit grant assistance on laws and regulations under this chapter that impact private providers of public transportation.

''(c) ACTIONS TO PROVIDE TECHNICAL ASSISTANCE FOR ALTERNATIVE PROJECT DELIVERY METHODS.—

Upon request by a sponsor of a new fixed guideway capital project, the Secretary shall—

"(1) identify best practices for public-private partnerships models in the United States and in other countries;

"(2) develop standard public-private partnership transaction model contracts; and

"(3) perform financial assessments that include the calculation of public and private benefits of a proposed public-private partnership transaction.".

(b) CLERICAL AMENDMENT.—The analysis for such chapter is amended by inserting after the item relating to section 5325 the following:

"5326. Private sector participation.".

(c) PUBLIC-PRIVATE PARTNERSHIP PROCEDURES AND APPROACHES.—

(1) IDENTIFY IMPEDIMENTS.—The Secretary shall—

(A) except as provided in paragraph (4), identify any provisions of chapter 53 of title 49, United States Code, and any regulations or practices thereunder, that impede greater use of public-private partnerships and private investment in public transportation capital projects;

(B) develop and implement on a project basis procedures and approaches that—

(i) address such impediments in a manner similar to the Special Experimental Project Number 15 of the Federal Highway Administration (commonly referred to as "SEP–15"); and

(ii) protect the public interest and any public investment in covered projects.

(2) REPORT.—Not later than 4 years after the date of enactment of this Act, the Secretary shall submit to Congress a report on the status of the procedures and approaches developed and implemented under paragraph (1).

(3) RULEMAKING.—Not later than 1 year after the date of enactment of this Act, the Secretary shall issue rules to carry out the procedures and approaches developed under paragraph (1).

(4) RULE OF CONSTRUCTION.—Nothing in this subsection may be construed to allow the Secretary to waive any requirement under—

(A) section 5333 of title 49, United States Code;

(B) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); or

(C) any other provision of Federal law not described in paragraph (2)(A).

(d) CONTRACTING OUT STUDY.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a comprehensive report on the effect of contracting out public transportation operations and administrative functions on cost, availability and level of service, efficiency, and quality of service.

(2) CONSIDERATIONS.—In developing the report, the Comptroller General shall consider—

(A) the number of grant recipients that have contracted out services and the types of public transportation services that are performed under contract, including paratransit service, fixed route bus service, commuter rail operations, and administrative functions;

(B) the size of the populations served by such grant recipients;

(C) the basis for decisions regarding contracting out such services;

(D) comparative costs of providing service under contract to providing the same service

through public transit agency employees, using to the greatest extent possible a standard cost allocation model;

(E) the extent of unionization among privately contracted employees; and

(F) barriers to contracting out public transportation operations and administrative functions.

(e) GUIDANCE ON DOCUMENTING COMPLIANCE.—Not later than 1 year after the date of enactment of this Act, the Secretary shall publish in the Federal Register policy guidance regarding how to best document compliance by recipients of Federal assistance under chapter 53 of title 49, United States Code, with the requirements regarding private enterprise participation in public transportation planning and transportation improvement programs under sections 5203(g)(6) (as added by title IV of this Act), and sections 5306(a) and 5307(c) of this title.

**SEC. 2015. PROJECT MANAGEMENT OVERSIGHT.**

Section 5327(c)(1) is amended—

(1) by striking ''to make contracts''; and

(2) by adding at the end the following:

''(F) 1 percent of amounts made available to carry out section 5337.

"(G) 0.75 percent of amounts made available to carry out section 5317.".

**SEC. 2016. STATE SAFETY OVERSIGHT.**

(a) GENERAL AUTHORITY.—Section 5330(b) is amended to read as follows:

"(b) GENERAL AUTHORITY.—The Secretary may require that up to 100 percent of the amount required to be appropriated for use in a State or urbanized area in the State under section 5307 for a fiscal year beginning after September 30, 2013, be utilized on capital safety improvement and state of good repair projects for the benefit of fixed guideway transportation systems in such State or urbanized area in the State before any other transit capital project is undertaken, if—

"(1) the State in the prior fiscal year has not met the requirements of subsection (c); or

"(2) the Secretary has certified that the State safety oversight agency (as defined in section 5336(k)(1)(B)) does not have adequate technical capacity, personnel resources, and authority under relevant State law to perform the agency's responsibilities described in that section.".

**SEC. 2017. APPORTIONMENT OF APPROPRIATIONS FOR FORMULA GRANTS.**

(a) APPORTIONMENTS.—Section 5336(i) is amended to read as follows:

"(i) APPORTIONMENTS.—Of the amounts made available for each fiscal year under section 5338(a)(2)(B)—

"(1) 2 percent shall be apportioned to certain urbanized areas with populations of less than 200,000 in accordance with subsection (j);

"(2) 1 percent shall be apportioned to applicable States for operational support and training costs of State safety oversight agencies and personnel employed by or under contract to such agencies in accordance with subsection (k); and

"(3) any amount not apportioned under paragraphs (1) and (2) shall be apportioned to urbanized areas in accordance with subsections (a) through (c).".

(b) STATE SAFETY OVERSIGHT AGENCIES.—Section 5336(k) is amended to read as follows:

"(k) STATE SAFETY OVERSIGHT AGENCIES FORMULA.—

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

"(A) APPLICABLE STATES.—The term 'applicable States' means States that—

"(i) have rail fixed guideway public transportation systems that are not subject to regulation by the Federal Railroad Administration; or

"(ii) are designing or constructing rail fixed guideway public transportation systems that will not be subject to regulation by the Federal Railroad Administration.

"(B) STATE SAFETY OVERSIGHT AGENCIES.—The term 'State safety oversight agency' means a designated State authority that has responsibility—

"(i) for requiring, reviewing, approving, and monitoring safety program plans under section 5330(c)(1);

"(ii) for investigating hazardous conditions and accidents on fixed guideway public transportation systems that are not subject to regulation by the Federal Railroad Administration; and

"(iii) for requiring action to correct or eliminate those conditions.

"(2) APPORTIONMENT.—

"(A) APPORTIONMENT FORMULA.—The amount to be apportioned under subsection

(i)(2) shall be apportioned among applicable States under a formula to be established by the Secretary. Such formula shall take into account factors of fixed guideway revenue vehicle miles, fixed guideway route miles, and fixed guideway vehicle passenger miles attributable to all rail fixed guideway systems not subject to regulation by the Federal Railroad Administration within each applicable State.

"(B) RECIPIENTS OF APPORTIONED AMOUNTS.—Amounts apportioned under the formula established pursuant to subparagraph (A) shall be made available as grants to State safety oversight agencies. Such grants are subject to uniform administrative requirements for grants and cooperative agreements to State and local governments under part 18 of title 49, Code of Federal Regulations, and are subject to the requirements of this chapter as the Secretary determines appropriate.

"(C) USE OF FUNDS.—A State safety oversight agency may use funds apportioned under subparagraph (A) for program operational and administrative expenses, including employee training activities, that assist the

agency in carrying out its responsibilities described in paragraph (1)(B).

"(D) CERTIFICATION PROCESS.—

"(i) DETERMINATIONS.—The Secretary shall determine whether or not each State safety oversight agency has adequate technical capacity, personnel resources, and authority under relevant State law to perform the agency's defined responsibilities described in paragraph (1)(B).

"(ii) ISSUANCE OF CERTIFICATIONS AND DENIALS.—The Secretary shall—

"(I) issue a certification to each State safety oversight agency that the Secretary determines under clause (i) has adequate technical capacity, personnel resources, and authority; and

"(II) issue a denial of certification to each State safety oversight agency that the Secretary determines under clause (i) does not have adequate technical capacity, personnel resources, and authority, and provide the agency with a written explanation of the reasons for the denial.

"(E) ANNUAL REPORT.—On or before July 1 of each year, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report on—

"(i) the amount of funds apportioned to each applicable State; and

"(ii) the certification status of each State safety oversight agency, including what steps an agency that has been denied certification must take in order to be so certified.".

**SEC. 2018. FIXED GUIDEWAY MODERNIZATION FORMULA GRANTS.**

(a) AMENDMENT TO SECTION HEADING.—Section 5337 is amended—

(1) by striking the section designation and heading and inserting the following:

**"§ 5337. Fixed guideway modernization program".**

(b) PROGRAM GOALS.—Section 5337 is amended—

(1) by redesignating subsections (a) through (f) as subsections (c) through (h), respectively; and

(2) by inserting before subsection (c) (as so redesignated) the following:

"(a) PROGRAM GOALS.—The goals of the fixed guideway modernization program are—

"(1) to rehabilitate, maintain, and preserve the Nation's fixed guideway public transportation systems;

"(2) to reduce the maintenance backlog and increase the state of good repair of the Nation's fixed guideway public transportation systems; and

"(3) to increase the overall ridership on fixed guideway public transportation systems.

"(b) GENERAL AUTHORITY.—The Secretary may make grants to eligible recipients under this section to assist State and local government authorities in financing capital projects to modernize eligible fixed guideway systems.".

(c) DISTRIBUTION.—Section 5337(c) (as redesignated by subsection (b)(1) of this section) is amended by striking "under section 5309" and all that follows before paragraph (1) and inserting "for a fiscal year as follows:".

(d) AVAILABILITY OF AMOUNTS.—Section 5337(f) (as redesignated by subsection (b)(1) of this section) is amended to read as follows:

"(f) AVAILABILITY OF AMOUNTS.—An amount appropriated under this section shall remain available for a period of 3 fiscal years after the fiscal year in which the

amount is appropriated. Any of such amount that is unobligated at the end of such period shall be reapportioned for the next fiscal year among eligible recipients in accordance with subsection (c).''.

(e) GRANT REQUIREMENTS.—Section 5337 is amended by adding at the end the following:

''(i) UNDERTAKING PROJECTS IN ADVANCE.—

''(1) IN GENERAL.—When a recipient obligates all amounts apportioned to it under this section and then carries out a part of a project described in this section without amounts of the Government and according to all applicable procedures and requirements (except to the extent the procedures and requirements limit a State to carrying out a project with amounts of the Government previously apportioned to it), the Secretary may pay to the recipient the Government's share of the cost of carrying out that part when additional amounts are apportioned to the recipient under this section if—

''(A) the recipient applies for the payment;

''(B) the Secretary approves the payment; and

''(C) before carrying out that part, the Secretary approves the plans and specifications

for the part in the same way as for other projects under this section.

''(2) REQUIREMENT FOR APPROVAL OF APPLICATIONS.—The Secretary may approve an application under paragraph (1) only if an authorization for this section is in effect for the fiscal year to which the application applies.

''(3) INTEREST PAYMENTS.—The cost of carrying out that 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 this part. However, 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. 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.

''(j) GRANT REQUIREMENTS.—A grant under this section shall be subject to the requirements of subsections (c), (d), (e), (h), (i), and (m) of section 5307.''.

(f) CLERICAL AMENDMENT.—The analysis for chapter 53 is amended by striking the item relating to section 5337 and inserting the following:

''5337. Fixed guideway modernization program.''.

**SEC. 2019. AUTHORIZATIONS.**

(a) IN GENERAL.—Section 5338 is amended to read as follows:

**"§ 5338. Authorizations**

"(a) FORMULA AND BUS GRANTS.—

"(1) IN GENERAL.—There shall be available from the Alternative Transportation Account of the Highway Trust Fund to carry out sections 5305, 5307, 5310, 5311, 5317, 5330, 5335, and 5337 $8,400,000,000 for each of fiscal years 2013 through 2016.

"(2) ALLOCATION OF FUNDS.—Amounts made available under paragraph (1) shall be allocated as follows:

"(A) $126,000,000 for each of fiscal years 2013 through 2016 shall be available to carry out section 5305.

"(B) $4,578,000,000 for each of fiscal years 2013 through 2016 shall be allocated in accordance with section 5336 to provide financial assistance for urbanized areas and State safety oversight agencies under sections 5307 and 5336(k).

"(C) $840,000,000 for each of fiscal years 2013 through 2016 shall be available to provide financial assistance for States and local govern-

mental authorities to replace, rehabilitate, and purchase buses and related equipment and to construct bus-related facilities under section 5310. Of such amount, $3,000,000 shall be available for each fiscal year for bus testing under section 5318.

''(D) $672,000,000 for each of fiscal years 2013 through 2016 shall be available to provide financial assistance for rural areas under section 5311.

''(E) $504,000,000 for each of fiscal years 2013 through 2016 shall be available to provide financial assistance for recipients and subrecipients to provide coordinated access and mobility public transportation projects and services under section 5317.

''(F) $3,500,000 for each of fiscal years 2013 through 2016 shall be available to carry out section 5335. Such amount shall be made available from funds allocated in accordance with section 5336 before the apportionments under subsection 5336(i) are carried out.

''(G) $1,680,000,000 for each of fiscal years 2013 through 2016 shall be made available and allocated in accordance with section

5337 to provide financial assistance for State and local government authorities to finance capital projects to modernize eligible fixed guideway systems.

"(b) CAPITAL INVESTMENT GRANTS.—There is authorized to be appropriated to carry out section 5309(m)(2) $1,955,000,000 for each of fiscal years 2013 through 2016.

"(c) RESEARCH, TRAINING AND OUTREACH, AND TECHNICAL ASSISTANCE.—There is authorized to be appropriated to carry out the transit research program under section 5312 and the training and outreach, National Transit Institute, and technical assistance activities authorized by section 5322, $45,000,000 for each of fiscal years 2013 through 2016. Such amounts shall remain available until expended.

"(d) ADMINISTRATION.—There is authorized to be appropriated to carry out sections 5326 and 5334 $98,000,000 for each of fiscal years 2013 through 2016.

"(e) 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 Alternative Transportation Account of the Highway Trust Fund pursuant to this section is a

contractual obligation of the Government to pay the Federal 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 Federal share of the cost of the project only to the extent that amounts are appropriated for such purpose by an Act of Congress.".

**SEC. 2020. OBLIGATION LIMITS.**

The total of all obligations from amounts made available from the Alternative Transportation Account of the Highway Trust Fund by, and amounts appropriated under, subsections (a) through (d) of section 5338 of title 49, United States Code, shall not exceed $10,498,000,000 in each of fiscal years 2013 through 2016, of which not more than $8,400,000,000 shall be from the Alternative Transportation Account.

**SEC. 2021. PROGRAM ELIMINATION AND CONSOLIDATION.**

(a) GENERAL PROVISION.—A repeal or amendment made by this section shall not affect funds apportioned or allocated before the effective date of the repeal.

(b) CLEAN FUELS DISCRETIONARY GRANT PROGRAM.—Section 5308, and the item relating to that section in the analysis for chapter 53, are repealed.

(c) CONFORMING AMENDMENTS REGARDING FORMULA GRANTS FOR SPECIAL NEEDS OF ELDERLY INDIVIDUALS AND INDIVIDUALS WITH DISABILITIES.—

(1) Section 5327(c) is amended by striking ''5310'' each place it appears and inserting ''5317''.

(2) Section 31138(e)(4) is amended by striking ''section 5307, 5310, or 5311'' and inserting ''section 5307, 5311, or 5317''.

(d) PUBLIC TRANSPORTATION ON INDIAN RESERVATIONS.—Section 5311(c)(1) is repealed.

(e) TRANSIT COOPERATIVE RESEARCH PROGRAM.—Section 5313, and the item relating to that section in the analysis for chapter 53, are repealed.

(f) NATIONAL RESEARCH PROGRAMS.—Section 5314, and the item relating to that section in the analysis for chapter 53, are repealed.

(g) NATIONAL TRANSIT INSTITUTE.—

(1) REPEAL.—Section 5315, and the item relating to that section in the analysis for chapter 53, are repealed.

(2) CONFORMING AMENDMENTS.—Chapter 53 is amended—

(A) in section 5305(e)(1)(A) by striking "5315,"; and

(B) in section 5307(k)(1) by striking "5315(c)".

(h) BICYCLE FACILITIES.—Section 3519 is amended by striking the last sentence.

(i) JOB ACCESS AND REVERSE COMMUTE FORMULA GRANTS.—

(1) REPEAL.—Section 5316, and the item relating to that section in the analysis for chapter 53, are repealed.

(2) CONFORMING AMENDMENT.—Chapter 53 is amended in section 5333(b)(1) by striking "5316," each place it appears.

(j) PAUL S. SARBANES TRANSIT IN THE PARKS PROGRAM.—

(1) REPEAL.—Section 5320, and the item relating to that section in the analysis for chapter 53, are repealed.

(2) CONFORMING AMENDMENTS.—Section 5327(c) is amended—

(A) in paragraph (1) by striking subparagraph (F); and

(B) in paragraph (2)(B) by striking "5311, and 5320" and inserting "and 5311"

(k) REPEAL OF DEBT SERVICE RESERVE PILOT PROGRAM.—Section 5323(e) is amended by striking paragraph (4).

(l) PROGRAM OF INTERRELATED PROJECTS.—Section 5328 is amended by striking subsection (c).

(m) ALTERNATIVES ANALYSIS.—Section 5339, and the item relating to that section in the analysis for chapter 53, are repealed.

(n) APPORTIONMENTS BASED ON GROWING STATES AND HIGH DENSITY STATES FORMULA FACTORS.—Section 5340, and the item relating to that section in the analysis for chapter 53, are repealed.

(o) CONTRACTED PARATRANSIT PILOT.—Section 3009 of SAFETEA–LU (119 Stat. 1572) is amended by striking subsection (i).

(p) ELDERLY INDIVIDUALS AND INDIVIDUALS WITH DISABILITIES PILOT PROGRAM.—Section 3012(b) of SAFETEA–LU (49 U.S.C. 5310 note; 119 Stat. 1591) is repealed.

(q) NATIONAL FUEL CELL BUS TECHNOLOGY DEVELOPMENT PROGRAM.—Section 3045 of SAFETEA–LU (49 U.S.C. 5308 note; 119 Stat. 1705), and the item relating to that section in the table of contents contained in section 1(b) of that Act, are repealed.

(r) ALLOCATIONS FOR NATIONAL RESEARCH AND TECHNOLOGY PROGRAMS.—Section 3046 of SAFETEA–LU (49 U.S.C. 5338 note; 119 Stat. 1706), and the item relating to that section in the table of contents contained in section 1(b) of that Act, are repealed.

(s) OVER-THE-ROAD BUS ACCESSIBILITY PROGRAM.—Section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note; 112 Stat. 392), and the item relating to that section in the table of contents contained in section 1(b) of that Act, are repealed.

# TITLE III—ENVIRONMENTAL STREAMLINING

## SEC. 3001. AMENDMENTS TO TITLE 23, 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 23, United States Code.

## SEC. 3002. DECLARATION OF POLICY.

(a) EXPEDITED PROJECT DELIVERY.—Section 101(b) is amended by adding at the end the following:

"(4) EXPEDITED PROJECT DELIVERY.—Congress declares that it is in the national interest to expedite the delivery of surface transportation projects by substantially reducing the average length of the environmental review process. Accordingly, it is the policy of the United States that—

"(A) the Secretary shall have the lead role among Federal agencies in carrying out the environmental review process for surface transportation projects;

"(B) each Federal agency shall cooperate with the Secretary to expedite the environmental review process for surface transportation projects;

"(C) there shall be a presumption that the mode, facility type, and corridor location for a surface transportation project will be determined in the transportation planning process, as established in sections 5203 and 5204 of title 49;

"(D) project sponsors shall not be prohibited from carrying out pre-construction project development activities concurrently with the environmental review process;

"(E) programmatic approaches shall be used, to the maximum extent possible, to reduce the need for project-by-project reviews and decisions by Federal agencies; and

"(F) the Secretary shall actively support increased opportunities for project sponsors to assume responsibilities of the Secretary in carrying out the environmental review process.".

**SEC. 3003. EXPEDITED PERMITS.**

(a) IN GENERAL.—Notwithstanding any other provision of law, the President may issue, during the 2-year period beginning on the date of enactment of this Act, an expedited permit for any transportation infrastructure project determined by the President to enhance the economic competitiveness of the United States.

(b) APPLICATION.—

(1) IN GENERAL.—For a transportation infrastructure project to be eligible for a permit under subsection (a), the Secretary of Transportation shall submit to the President an application in the manner and containing the information required by the President.

(2) OTHER ELIGIBLE APPLICANTS.—A State, local government, or public transportation agency carrying out a transportation infrastructure project

may submit an application for a permit under subsection (a) to the Secretary of Transportation, and the Secretary shall submit the application to the President.

(3) RULE OF CONSTRUCTION.—The submission of an application to the President pursuant to paragraphs (1) and (2) is not subject to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(c) DETERMINATIONS.—

(1) IN GENERAL.—Not later than 30 days after the date on which the President receives the application under this subsection, the President shall—

(A) approve the application if the President determines the transportation infrastructure project is imperative to improving the economic competitiveness of the United States; or

(B) deny the application.

(2) FAILURE TO MAKE A DETERMINATION.—If the President fails to approve or deny an application in accordance with paragraph (1), the application shall be treated as approved.

(d) EFFECT OF PERMIT.—

(1) RULE OF CONSTRUCTION.—A transportation infrastructure project with respect to which a

permit is issued under subsection (a) shall be deemed as in compliance with all applicable Federal laws, including applicable regulations.

(2) JUDICIAL REVIEW.—The submission of an application for a permit, and any permit issued or approved under this section (including compliance with all Federal laws and regulations applicable to such permit) shall not be subject to judicial review.

(e) NOTICE.—Not later than 5 days after the date on which a permit is issued under subsection (a), the Secretary of Transportation shall provide notice of the permit to the head of each Federal agency that administers a law, including a regulation, applicable to the project for which the permit is issued.

(f) RESPONSIBILITY OF FEDERAL AGENCIES.—The head of each Federal agency shall establish, maintain, and periodically publish in the Federal Register a record of any notice received under subsection (e), including a description of the basis on which the applicable permit was issued.

**SEC. 3004. EXEMPTION IN EMERGENCIES.**

Any road, highway, or bridge that is in operation or under construction when damaged by an emergency declared by the Governor of the State and concurred in by the Secretary, or declared by the President pursuant to

the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121), may be reconstructed in the same location with the same capacity, dimensions, and design as before the emergency and shall be exempt from any environmental reviews, approvals, licensing, and permit requirements under—

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

(2) sections 402 and 404 of the Federal Water Pollution Control Act (33 U.S.C. 1342, 1344);

(3) the National Historic Preservation Act (16 U.S.C. 470 et seq.);

(4) the Migratory Bird Treaty Act (16 U.S.C. 703 et seq.);

(5) the Wild and Scenic Rivers Act (16 U.S.C. 1271 et seq.);

(6) the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.);

(7) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), except when the reconstruction occurs in designated critical habitat for threatened and endangered species;

(8) Executive Order 11990 (42 U.S.C. 4321 note; relating to the protection of wetlands); and

(9) any Federal law (including regulations) requiring no net loss of wetlands.

**SEC. 3005. ADVANCE ACQUISITION OF REAL PROPERTY INTERESTS.**

(a) REAL PROPERTY INTERESTS.—Section 108 is amended—

(1) by striking ''real property'' each place it appears and inserting ''real property interests'';

(2) by striking ''right-of-way'' each place it appears and inserting ''real property interest''; and

(3) by striking ''rights-of-way'' each place it appears and inserting ''real property interests''.

(b) STATE-FUNDED EARLY ACQUISITION OF REAL PROPERTY INTERESTS.—Section 108(c) is amended—

(1) in the subsection heading by striking ''EARLY ACQUISITION OF RIGHTS-OF-WAY'' and inserting ''STATE-FUNDED EARLY ACQUISITION OF REAL PROPERTY INTERESTS'';

(2) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively;

(3) in paragraph (2), as redesignated—

(A) in the heading by striking ''GENERAL RULE'' and inserting ''ELIGIBILITY FOR REIMBURSEMENT''; and

(B) by striking ''Subject to paragraph (2)'' and inserting ''Subject to paragraph (3)'';

(4) by inserting before paragraph (2), as redesignated, the following:

''(1) IN GENERAL.—A State may carry out, at the expense of the State, acquisitions of interests in real property for a project before completion of the review process required for the project under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) without affecting subsequent approvals required for the project by the State or any Federal agency.''; and

(5) in paragraph (3), as redesignated—

(A) in the matter preceding subparagraph (A) by striking ''in paragraph (1)'' and inserting ''in paragraph (2)''; and

(B) in subparagraph (G) by striking ''both the Secretary and the Administrator of the Environmental Protection Agency have concurred'' and inserting ''the Secretary has determined''.

(c) FEDERALLY FUNDED ACQUISITION OF REAL PROPERTY INTERESTS.—Section 108 is further amended by adding at the end the following:

''(d) FEDERALLY FUNDED EARLY ACQUISITION OF REAL PROPERTY INTERESTS.—

1 "(1) IN GENERAL.—The Secretary may author-
2 ize the use of Federal funds for the acquisition of
3 a real property interest by a State. For purposes of
4 this subsection, an acquisition of a real property in-
5 terest includes the acquisition of any interest in
6 land, including the acquisition of a contractual right
7 to acquire any interest in land, or any other similar
8 action to acquire or preserve rights-of-way for a
9 transportation facility.
10 "(2) STATE CERTIFICATION.—A State request-
11 ing Federal funding for an acquisition of a real
12 property interest shall certify in writing that—
13 "(A) the State has authority to acquire the
14 real property interest under State law;
15 "(B) the acquisition of the real property
16 interest is for a transportation purpose; and
17 "(C) the State acknowledges that early ac-
18 quisition will not be considered by the Secretary
19 in the environmental assessment of a project,
20 the decision relative to the need to construct a
21 project, or the selection of a project design or
22 location.
23 "(3) ENVIRONMENTAL COMPLIANCE.—Before
24 authorizing Federal funding for an acquisition of a
25 real property interest, the Secretary shall complete

for the acquisition the review process under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). For purposes of the review process, the acquisition of a real property interest shall be treated as having independent utility and does not limit consideration of alternatives for future transportation improvements with respect to the real property interest.

"(4) PROGRAMMING.—The acquisition of a real property interest for which Federal funding is requested shall be included as a project in an applicable transportation improvement program under sections 5203 and 5204 of title 49, United States Code. The acquisition project may be included in the transportation improvement program on its own, without including the future construction project for which the real property interest is being acquired. The acquisition project may consist of the acquisition of a specific parcel, a portion of a transportation corridor, or an entire transportation corridor.

"(5) OTHER REQUIREMENTS.—The acquisition of a real property interest shall be carried out in compliance with all requirements applicable to the acquisition of real property interests for federally funded transportation projects.

"(e) CONSIDERATION OF LONG-RANGE TRANSPORTATION NEEDS.—The Secretary shall encourage States and other public authorities, if practicable, to acquire transportation real property interests that are sufficient to accommodate long-range transportation needs and, if possible, to do so through the acquisition of broad real property interests that have the capacity for expansion over a 50- to 100-year period and the potential to accommodate one or more transportation modes.".

**SEC. 3006. STANDARDS.**

Section 109 (as amended by title I of this Act) is further amended by adding at the end the following:

"(s) UNDERTAKING DESIGN ACTIVITIES BEFORE COMPLETION OF ENVIRONMENTAL REVIEW PROCESS.—

"(1) IN GENERAL.—A State may carry out, at the expense of the State, design activities at any level of detail for a project before completion of the review process required for the project under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) without affecting subsequent approvals of the project.

"(2) ELIGIBILITY FOR REIMBURSEMENT.—Subject to paragraph (3), funds apportioned to a State under this title may be used to participate in the payment of costs incurred by the State for design

activities, if the results of the activities are subsequently incorporated (in whole or in substantial part) into a project eligible for surface transportation program funds.

"(3) TERMS AND CONDITIONS.—The Federal share payable of the costs described in paragraph (2) shall be eligible for reimbursement out of funds apportioned to a State under this title when the design activities are incorporated (in whole or in substantial part) into a project eligible for surface transportation program funds, if the State demonstrates to the Secretary and the Secretary finds that—

"(A) before the time that the cost incurred by a State is approved for Federal participation, environmental compliance pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) has been completed for the project for which the design activities were conducted by the State; and

"(B) the design activities conducted pursuant to this subsection did not preclude the consideration of alternatives to the project.".

**SEC. 3007. LETTING OF CONTRACTS.**

(a) BIDDING REQUIREMENTS.—Section 112(b)(1) is amended to read as follows:

"(1) IN GENERAL.—

"(A) COMPETITIVE BIDDING REQUIREMENT.—Subject to paragraphs (2), (3), and (4), construction of each project, subject to the provisions of subsection (a), shall be performed by contract awarded by competitive bidding, unless the State transportation department demonstrates, to the satisfaction of the Secretary, that some other method is more cost effective or that an emergency exists.

"(B) BASIS OF AWARD.—

"(i) IN GENERAL.—Contracts for the construction of each project shall be awarded only on the basis of the lowest responsive bid submitted by a bidder meeting established criteria of responsibility.

"(ii) PROHIBITION.—No requirement or obligation shall be imposed as a condition precedent to the award of a contract to such bidder for a project, or to the Secretary's concurrence in the award of a contract to such bidder, unless such requirement or obligation is otherwise lawful and

is specifically set forth in the advertised specifications.''.

(b) DESIGN-BUILD CONTRACTING.—Section 112(b)(3) is amended—

(1) in subparagraph (A) by striking ''subparagraph (C)'' and inserting ''subparagraph (B)'';

(2) by striking subparagraph (B);

(3) by redesignating subparagraphs (C) through (E) as subparagraphs (B) through (D), respectively; and

(4) in subparagraph (C), as redesignated—

(A) in the matter preceding clause (i) by striking ''of the SAFETEA-LU'' and inserting ''of the American Energy and Infrastructure Jobs Act of 2012'';

(B) in clause (ii) by striking ''and'' at the end;

(C) in clause (iii)—

(i) by striking ''final design or''; and

(ii) by striking the period at the end and inserting ''; and''; and

(D) by adding at the end the following:

''(iv) permit the State transportation department, the local transportation agency, and the design-build contractor to pro-

ceed, at the expense of one or more of those entities, with design activities at any level of detail for a project before completion of the review process required for the project under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) without affecting subsequent approvals required for the project. Design activities carried out under this clause shall be eligible for Federal reimbursement as a project expense in accordance with the requirements under section 109(s).''.

(c) EFFICIENCIES IN CONTRACTING.—Section 112(b) is amended by adding at the end the following:

''(4) METHOD OF CONTRACTING.—

''(A) IN GENERAL.—

''(i) TWO-PHASE CONTRACT.—A contracting agency may award a two-phase contract for preconstruction and construction services.

''(ii) PRE-CONSTRUCTION SERVICES PHASE.—In the pre-construction services phase, the contractor shall provide the contracting agency with advice for scheduling, work sequencing, cost engineering,

1 constructability, cost estimating, and risk
2 identification.
3 ''(iii) AGREEMENT.—Prior to the
4 start of the construction services phase,
5 the contracting agency and the contractor
6 may agree to a price and other factors
7 specified in regulation for the construction
8 of the project or a portion of the project.
9 ''(iv) CONSTRUCTION PHASE.—If an
10 agreement is reached under clause (iii), the
11 contractor shall be responsible for the con-
12 struction of the project or portion of the
13 project at the negotiated price and other
14 factors specified in regulation.
15 ''(B) SELECTION.—A contract shall be
16 awarded to a contractor using a competitive se-
17 lection process based on qualifications, experi-
18 ence, best value, or any other combination of
19 factors considered appropriate by the con-
20 tracting agency.
21 ''(C) TIMING.—
22 ''(i) RELATIONSHIP TO NEPA PROC-
23 ESS.—Prior to the completion of the proc-
24 ess required under section 102 of the Na-
25 tional Environmental Policy Act of 1969

(42 U.S.C. 4332), a contracting agency may—

"(I) issue requests for proposals;

"(II) proceed with the award of a contract for preconstruction services under subparagraph (A); and

"(III) issue notices to proceed with a preliminary design and any work related to preliminary design.

"(ii) PRECONSTRUCTION SERVICES PHASE.—If the preconstruction services phase of a contract under subparagraph (A)(ii) focuses primarily on one alternative, the Secretary shall require that the contract include appropriate provisions to achieve the objectives of section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) and comply with other applicable Federal laws and regulations.

"(iii) CONSTRUCTION SERVICES PHASE.—A contracting agency may not proceed with the award of the construction services phase of a contract under subparagraph (A)(iv) and may not proceed, or per-

mit any consultant or contractor to proceed, with construction until completion of the process required under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

''(iv) APPROVAL REQUIREMENT.—Prior to authorizing construction activities, the Secretary shall approve the contracting agency's price estimate for the entire project, as well as any price agreement with the general contractor for the project or a portion of the project.

''(v) DESIGN ACTIVITIES.—A contracting agency may proceed, at its expense, with design activities at any level of detail for a project before completion of the review process required for the project under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) without affecting subsequent approvals required for the project. Design activities carried out under this clause shall be eligible for Federal reimbursement as a project expense in accordance with the requirements under section 109(s).''.

**SEC. 3008. ELIMINATION OF DUPLICATION IN HISTORIC PRESERVATION REQUIREMENTS.**

(a) PRESERVATION OF PARKLANDS.—Section 138 is amended by adding at the end the following:

''(c) ELIMINATION OF DUPLICATION FOR HISTORIC SITES AND PROPERTIES.—The requirements of this section shall be considered to be satisfied for an historic site or property where its treatment has been agreed upon in a memorandum of agreement by invited and mandatory signatories, including the Advisory Council on Historic Preservation, if participating, in accordance with section 106 of the National Historic Preservation Act (16 U.S.C. 470f).''.

(b) POLICY ON LANDS, WILDLIFE AND WATERFOWL REFUGES, AND HISTORIC SITES.—Section 303 of title 49, United States Code, is amended by adding at the end the following:

''(e) ELIMINATION OF DUPLICATION FOR HISTORIC SITES AND PROPERTIES.—The requirements of this section shall be considered to be satisfied for an historic site or property where its treatment has been agreed upon in a memorandum of agreement by invited and mandatory signatories, including the Advisory Council on Historic Preservation, if participating, in accordance with Section 106 of the National Historic Preservation Act (16 U.S.C. 470f).''.

**SEC. 3009. FUNDING THRESHOLD.**

Section 139(b) is amended by adding at the end the following:

"(3) FUNDING THRESHOLD.—The Secretary's approval of a project receiving funds under this title or under chapter 53 of title 49 shall not be considered a Federal action for the purposes of the National Environmental Policy Act of 1969 if such funds—

"(A) constitute 15 percent or less of the total estimated project costs; or

"(B) are less than $10,000,000.".

**SEC. 3010. EFFICIENT ENVIRONMENTAL REVIEWS FOR PROJECT DECISIONMAKING.**

(a) FLEXIBILITY.—Section 139(b) is further amended—

(1) in paragraph (2) by inserting ", and any requirements established in this section may be satisfied," after "exercised"; and

(2) by adding after paragraph (3), as added by section 3009 of this Act, the following:

"(4) PROGRAMMATIC COMPLIANCE.—At the request of a State, the Secretary may modify the procedures developed under this section to encourage programmatic approaches and strategies with re-

spect to environmental programs and permits (in lieu of project-by-project reviews).''.

(b) FEDERAL LEAD AGENCY.—Section 139(c) is amended—

(1) in paragraph (1) by adding at the end the following: ''If the project requires approval from more than one modal administration within the Department, the Secretary shall designate a single modal administration to serve as the Federal lead agency for the Department in the environmental review process for the project.'';

(2) in paragraph (3) by inserting ''or other approvals by the Secretary'' after ''chapter 53 of title 49''; and

(3) by striking paragraph (5) and inserting the following:

''(5) ADOPTION AND USE OF DOCUMENTS.—Any environmental document prepared in accordance with this subsection shall be adopted and used by any Federal agency in making any approval of a project subject to this section as the document required to be completed under the National Environmental Policy Act of 1969.''.

(c) PARTICIPATING AGENCIES.—

(1) EFFECT OF DESIGNATION.—Section 139(d)(4) is amended to read as follows:

"(4) EFFECT OF DESIGNATION.—

"(A) REQUIREMENT.—A participating agency shall comply with the requirements of this section and any schedule established under this section.

"(B) IMPLICATION.—Designation as a participating agency under this subsection shall not imply that the participating agency—

"(i) supports a proposed project; or

"(ii) has any jurisdiction over, or special expertise with respect to evaluation of, the project.".

(2) CONCURRENT REVIEWS.—Section 139(d)(7) is amended to read as follows:

"(7) CONCURRENT REVIEWS.—Each participating agency and cooperating agency shall—

"(A) carry out obligations of that agency under other applicable law concurrently, and in conjunction, with the review required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

"(B) formulate and implement administrative, policy, and procedural mechanisms to en-

able the agency to ensure completion of the environmental review process in a timely, coordinated, and environmentally responsible manner.''.

(d) PROJECT INITIATION.—Section 139(e) is amended by adding at the end the following: ''The project sponsor may satisfy this requirement by submitting to the Secretary a draft notice for publication in the Federal Register announcing the preparation of an environmental impact statement for the project.''.

(e) ALTERNATIVES ANALYSIS.—Section 139(f) is amended—

(1) in paragraph (4)—

(A) by amending subparagraph (B) to read as follows

''(B) RANGE OF ALTERNATIVES.—

''(i) IN GENERAL.—Following participation under paragraph (1), the lead agency shall determine the range of alternatives for consideration in any document which the lead agency is responsible for preparing for the project.

''(ii) LIMITATION.—The range of alternatives shall be limited to alternatives that are—

"(I) consistent with the transportation mode and general design of the project described in the long-range transportation plan or transportation improvement program prepared pursuant to sections 5203 or 5204 of title 49; and

"(II) consistent with the funding identified for the project under the fiscal constraint requirements of sections 5203 or 5204 of title 49.

"(iii) RESTRICTION.—A Federal agency may not require the evaluation of any alternative that was evaluated, but not adopted—

"(I) in any prior State or Federal environmental document with regard to the applicable long-range transportation plan or transportation improvement program; or

"(II) after the preparation of a programmatic or tiered environmental document that evaluated alternatives to the project.

"(iv) LEGAL SUFFICIENCY.—The evaluation of the range of alternatives shall be deemed legally sufficient if the environmental document complies with the requirements of this paragraph.";

(B) in subparagraph (C)—

(i) by striking "(C) METHODOLOGIES.—The lead agency" and inserting the following:

"(C) METHODOLOGIES.—

"(i) IN GENERAL.—The lead agency";

(ii) by striking "in collaboration with participating agencies at appropriate times during the study process" and inserting "after consultation with participating agencies as part of the scoping process"; and

(iii) by adding at the end the following:

"(ii) COMMENTS.—Each participating agency shall limit comments on such methodologies to those issues that are within the authority and expertise of such participating agency.

"(iii) STUDIES.—The lead agency may not conduct studies proposed by any participating agency that are not within the authority or expertise of such participating agency."; and

(C) by adding at the end the following:

"(E) LIMITATIONS ON THE EVALUATION OF IMPACTS EVALUATED IN PRIOR ENVIRONMENTAL DOCUMENTS.—

"(i) IN GENERAL.—The lead agency may not reevaluate, and a Federal agency may not require the reevaluation of, cumulative impacts or growth-inducing impacts where such impacts were previously evaluated in—

"(I) a long-range transportation plan or transportation improvement program developed pursuant to section 5203 or 5204 of title 49;

"(II) a prior environmental document approved by the Secretary; or

"(III) a prior State environmental document approved pursuant to a State law that is substantially equivalent to section 102(2)(C) of the

National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

''(ii) LEGAL SUFFICIENCY.—The evaluation of cumulative impacts and growth inducing impacts shall be deemed legally sufficient if the environmental document complies with the requirements of this paragraph.''; and

(2) by adding at the end the following:

''(5) EFFECTIVE DECISIONMAKING.—

''(A) CONCURRENCE.—At the discretion of the lead agency, a participating agency shall be presumed to concur in the determinations made by the lead agency under this subsection unless the participating agency submits an objection to the lead agency in writing within 30 days after receiving notice of the lead agency's determination and specifies the statutory basis for the objection.

''(B) ADOPTION OF DETERMINATION.—If the participating agency concurs or does not object within the 30-day period, the participating agency shall adopt the lead agency's determination for purposes of any reviews, approvals, or other actions taken by the participating agency

as part of the environmental review process for the project.''.

(f) COORDINATION PLAN.—Section 139(g) is amended—

(1) in paragraph (1)(A) by striking ''project or category of projects'' and inserting ''project, category of projects, or program of projects'';

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

''(3) DEADLINES FOR DECISIONS UNDER OTHER LAWS.—

''(A) PRIOR APPROVAL DEADLINE.—If a participating agency is required to make a determination regarding or otherwise approve or disapprove the project prior to the record of decision or finding of no significant impact of the lead agency, such participating agency shall make such determination or approval not later than 30 days after the lead agency publishes notice of the availability of a final environmental impact statement or other final environmental document, or not later than such other date that is otherwise required by law, whichever occurs first.

"(B) OTHER DEADLINES.—With regard to any determination or approval of a participating agency that is not subject to subparagraph (A), each participating agency shall make any required determination regarding or otherwise approve or disapprove the project not later than 90 days after the date that the lead agency approves the record of decision or finding of no significant impact for the project, or not later than such other date that is otherwise required by law, whichever occurs first.

"(C) DEEMED APPROVED.—In the event that any participating agency fails to make a determination or approve or disapprove the project within the applicable deadline described in subparagraphs (A) and (B), the project shall be deemed approved by such participating agency, and such approval shall be deemed to comply with the applicable requirements of Federal law.

"(D) JUDICIAL REVIEW.—

"(i) IN GENERAL.—An approval of a project under subparagraph (C) shall not be subject to judicial review.

"(ii) WRITTEN FINDING.—The Secretary may issue a written finding verifying the approval made in accordance with this paragraph."; and

(3) by striking paragraph (4).

(g) ISSUE IDENTIFICATION AND RESOLUTION.—Section 139(h)(4) is amended by adding at the end the following:

"(C) RESOLUTION FINAL.—

"(i) IN GENERAL.—The lead agency and participating agencies may not reconsider the resolution of any issue agreed to by the relevant agencies in a meeting under subparagraph (A).

"(ii) COMPLIANCE WITH APPLICABLE LAW.—Any such resolution shall be deemed to comply with applicable law notwithstanding that the agencies agreed to such resolution prior to the approval of the environmental document.".

(h) STREAMLINED DOCUMENTATION AND DECISIONMAKING.—Section 139 (as amended by title I of this Act) is further amended—

(1) by redesignating subsections (i) through (l) as subsections (k) through (n), respectively; and

(2) by inserting after subsection (h) the following:

"(i) STREAMLINED DOCUMENTATION AND DECISIONMAKING.—

"(1) IN GENERAL.—The lead agency in the environmental review process for a project, in order to reduce paperwork and expedite decisionmaking, shall prepare a condensed final environmental impact statement.

"(2) CONDENSED FORMAT.—A condensed final environmental impact statement for a project in the environmental review process shall consist only of—

"(A) an incorporation by reference of the draft environmental impact statement;

"(B) any updates to specific pages or sections of the draft environmental impact statement as appropriate; and

"(C) responses to comments on the draft environmental impact statement and copies of the comments.

"(3) TIMING OF DECISION.—Notwithstanding any other provision of law, in conducting the environmental review process for a project, the lead agency shall combine a final environmental impact

statement and a record of decision for the project into a single document if—

"(A) the alternative approved in the record of decision is either a preferred alternative that was identified in the draft environmental impact statement or is a modification of such preferred alternative that was developed in response to comments on the draft environmental impact statement;

"(B) the Secretary has received a certification from a State under section 128, if such a certification is required for the project; and

"(C) the Secretary determines that the lead agency, participating agency, or the project sponsor has committed to implement the measures applicable to the approved alternative that are identified in the final environmental impact statement.

"(j) SUPPLEMENTAL ENVIRONMENTAL REVIEW AND RE-EVALUATION.—

"(1) SUPPLEMENTAL ENVIRONMENTAL REVIEW.—After the approval of a record of decision or finding of no significant impact with regard to a project, an agency may not require the preparation

of a subsequent environmental document for such project unless the lead agency determines that—

"(A) changes to the project will result in new significant impacts that were not evaluated in the environmental document; or

"(B) new information has become available or changes in circumstances have occurred after the lead agency approval of the project that will result in new significant impacts that were not evaluated in the environmental document.

"(2) RE-EVALUATIONS.—The Secretary may only require the re-evaluation of a document prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) if—

"(A) the Secretary determines that the events in paragraph (1)(A) or (1)(B) apply; and

"(B) more than 5 years has elapsed since the Secretary's prior approval of the project or authorization of project funding.

"(3) CHANGE TO RECORD OF DECISION.—After the approval of a record of decision, the Secretary may not require the record of decision to be changed solely because of a change in the fiscal circumstances surrounding the project.".

(i) REGULATIONS.—Section 139(m) (as redesignated by subsection (h)(1) of this section) is further amended to read as follows:

"(m) REGULATIONS.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of the American Energy and Infrastructure Jobs Act of 2012, the Secretary, by regulation, shall—

"(A) implement this section; and

"(B) establish methodologies and procedures for evaluating the environmental impacts, including cumulative impacts and growth-inducing impacts, of transportation projects subject to this section.

"(2) COMPLIANCE WITH APPLICABLE LAW.—Any environmental document that utilizes the methodologies and procedures established under this subsection shall be deemed to comply with the applicable requirements of—

"(A) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) or its implementing regulations; or

"(B) any other Federal environmental statute applicable to transportation projects.".

(j) LIMITATIONS ON CLAIMS.—Section 139(n) (as redesignated by subsection (h)(1) of this section) is further amended—

(1) in paragraph (1) by striking ''180 days'' and inserting ''90 days''; and

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

''(2) NEW INFORMATION.—The preparation of a supplemental environmental impact statement or other environmental document when required by this section shall be considered a separate final agency action and the deadline for filing a claim for judicial review of such action shall be 90 days after the date of publication of a notice in the Federal Register announcing such action.''.

(k) LIMITATIONS ON JUDICIAL RELIEF.—Section 139 is further amended by adding at the end the following:

''(o) LIMITATIONS ON JUDICIAL RELIEF.—Notwithstanding any other provision of law, the following limitations shall apply to actions brought before a court in connection with a project under this section:

''(1) Venue for any action shall be where the project is located.

"(2) A specific property interest impacted by the transportation project in question must exist in order to have standing to bring an action.

"(3) No action may be commenced by any person alleging a violation of—

"(A) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), chapters 5 and 7 of title 5, United States Code, or any other Federal law applicable to the evaluation, avoidance, or mitigation of environmental impacts of the project if such Federal law is identified in the draft environmental impact statement, unless such person provided written notice to the lead agency of the alleged violation of law, and the facts supporting such claim, during the public comment period on the draft environmental impact statement; or

"(B) any other law with regard to the project unless such person provided written notice to the applicable approving agency of the alleged violation of law, and the facts supporting such claim, during the public comment period on such agency approval.

"(4) Elected or appointed officials working for the Government or a State government may not be

named in their individual capacities in an action if they are acting within the scope of their official duties.''.

**SEC. 3011. DISPOSAL OF HISTORIC PROPERTIES.**

(a) DISPOSAL OF HISTORIC PROPERTIES.—Section 156 is amended—

(1) by striking the section heading and inserting ''**Sale or lease of real property**''; and

(2) by adding at the end the following:

''(d) ASSESSMENT OF ADVERSE EFFECTS.—Notwithstanding part 800 of title 36, Code of Federal Regulations, the sale or lease by a State of any historic property that is not listed in the National Register of Historic Places shall not be considered an adverse effect to the property within any consultation process carried out under section 106 of the National Historic Preservation Act (16 U.S.C. 470f).''.

(b) CLERICAL AMENDMENT.—The analysis for chapter 1 is amended by striking the item relating to section 156 and inserting the following:

''156. Sale or lease of real property.' '''.

**SEC. 3012. INTEGRATION OF PLANNING AND ENVIRONMENTAL REVIEW.**

(a) IN GENERAL.—Chapter 1 is amended by adding at the end the following:

**"§ 167. Integration of planning and environmental review**

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

''(1) ENVIRONMENTAL REVIEW PROCESS.—

''(A) IN GENERAL.—The term 'environmental review process' means the process for preparing for a project an environmental impact statement, environmental assessment, categorical exclusion, or other document prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

''(B) INCLUSIONS.—The term 'environmental review process' includes the process for and completion of any environmental permit, approval, review, or study required for a project under any Federal law other than the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

''(2) PLANNING PRODUCT.—The term 'planning product' means any decision, analysis, study, or other documented result of an evaluation or decisionmaking process carried out during transportation planning.

''(3) PROJECT.—The term 'project' means any highway project or program of projects, public trans-

1 portation capital project or program of projects, or
2 multimodal project or program of projects that re-
3 quires the approval of the Secretary.
4 ''(4) PROJECT SPONSOR.—The term 'project
5 sponsor' means the agency or other entity, including
6 any private or public-private entity, that seeks ap-
7 proval of the Secretary for a project.
8 ''(b) PURPOSE AND FINDINGS.—
9 ''(1) PURPOSE.—The purpose of this section is
10 to establish the authority and provide procedures for
11 achieving integrated planning and environmental re-
12 view processes to—
13 ''(A) enable statewide and metropolitan
14 planning processes to more effectively serve as
15 the foundation for project decisions;
16 ''(B) foster better decisionmaking;
17 ''(C) reduce duplication in work;
18 ''(D) avoid delays in transportation im-
19 provements; and
20 ''(E) better transportation and environ-
21 mental results for communities and the United
22 States.
23 ''(2) FINDINGS.—Congress finds the following:
24 ''(A) This section is consistent with and is
25 adopted in furtherance of sections 101 and 102

of the National Environmental Policy Act of 1969 (42 U.S.C. 4331 and 4332) and section 109 of this title.

"(B) This section should be broadly construed and may be applied to any project, class of projects, or program of projects carried out under this title or chapter 53 of title 49.

"(c) ADOPTION OF PLANNING PRODUCTS FOR USE IN NEPA PROCEEDINGS.—

"(1) IN GENERAL.—Notwithstanding any other provision of law and subject to the conditions set forth in subsection (e), the Federal lead agency for a project, at the request of the project sponsors, may adopt and use a planning product in proceedings relating to any class of action in the environmental review process of the project.

"(2) PARTIAL ADOPTION OF PLANNING PRODUCTS.—The Federal lead agency may adopt a planning product under paragraph (1) in its entirety or may select portions for adoption.

"(3) TIMING.—A determination under paragraph (1) with respect to the adoption of a planning product shall be made at the time the lead agencies decide the appropriate scope of environmental review for the project.

"(d) APPLICABILITY.—

"(1) PLANNING DECISIONS.—Planning decisions that may be adopted pursuant to this section include—

"(A) a purpose and need or goals and objectives statement for the project, including with respect to whether tolling, private financial assistance, or other special financial measures are necessary to implement the project;

"(B) a decision with respect to travel corridor location, including project termini;

"(C) a decision with respect to modal choice, including a decision to implement corridor or subarea study recommendations to advance different modal solutions as separate projects with independent utility;

"(D) a decision with respect to the elimination of unreasonable alternatives and the selection of the range of reasonable alternatives for detailed study during the environmental review process;

"(E) a basic description of the environmental setting;

"(F) a decision with respect to methodologies for analysis; and

"(G) identifications of programmatic level mitigation for potential impacts that the Federal lead agency, in consultation with Federal, State, local, and tribal resource agencies, determines are most effectively addressed at a regional or national program level, including—

"(i) system-level measures to avoid, minimize, or mitigate impacts of proposed transportation investments on environmental resources, including regional ecosystem and water resources; and

"(ii) potential mitigation activities, locations, and investments.

"(2) PLANNING ANALYSES.—Planning analyses that may be adopted pursuant to this section include studies with respect to—

"(A) travel demands;

"(B) regional development and growth;

"(C) local land use, growth management, and development;

"(D) population and employment;

"(E) natural and built environmental conditions;

"(F) environmental resources and environmentally sensitive areas;

"(G) potential environmental effects, including the identification of resources of concern and potential cumulative effects on those resources, identified as a result of a statewide or regional cumulative effects assessment; and

"(H) mitigation needs for a proposed action, or for programmatic level mitigation, for potential effects that the Federal lead agency determines are most effectively addressed at a regional or national program level.

"(e) CONDITIONS.—Adoption and use of a planning product under this section is subject to a determination by the Federal lead agency, in consultation with joint lead agencies and project sponsors as appropriate, that the following conditions have been met:

"(1) The planning product was developed through a planning process conducted pursuant to applicable Federal law.

"(2) The planning process included broad multidisciplinary consideration of systems-level or corridor-wide transportation needs and potential effects.

"(3) During the planning process, notice was provided through publication or other means to Federal, State, and local government agencies and tribal governments that might have an interest in the pro-

posed project, and to members of the general public, of the planning products that the planning process might produce and that might be relied on during the environmental review process, and such entities have been provided an appropriate opportunity to participate in the planning process leading to such planning product.

''(4) Prior to determining the scope of environmental review for the project, the joint lead agencies have made documentation relating to the planning product available to Federal, State, and local governmental agencies and tribal governments that may have an interest in the proposed action, and to members of the general public.

''(5) There is no significant new information or new circumstance that has a reasonable likelihood of affecting the continued validity or appropriateness of the planning product.

''(6) The planning product is based on reliable and reasonably current data and reasonable and scientifically acceptable methodologies.

''(7) The planning product is documented in sufficient detail to support the decision or the results of the analysis and to meet requirements for

use of the information in the environmental review process.

"(8) The planning product is appropriate for adoption and use in the environmental review process for the project.

"(f) EFFECT OF ADOPTION.—Notwithstanding any other provision of law, any planning product adopted by the Federal lead agency in accordance with this section shall not be reconsidered or made the subject of additional interagency consultation during the environmental review process of the project unless the Federal lead agency, in consultation with joint lead agencies and project sponsors as appropriate, determines that there is significant new information or new circumstances that affect the continued validity or appropriateness of the adopted planning product. Any planning product adopted by the Federal lead agency in accordance with this section may be relied upon and used by other Federal agencies in carrying out reviews of the project.

"(g) RULE OF CONSTRUCTION.—This section may not be construed to make the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) process applicable to the transportation planning process conducted under chapter 52 of title 49. Initiation of the National Environmental Policy Act of 1969 process as a part of,

or concurrently with, transportation planning activities does not subject transportation plans and programs to the National Environmental Policy Act of 1969 process. This section may not be construed to affect the use of planning products in the National Environmental Policy Act of 1969 process pursuant to other authorities under law or to restrict the initiation of the National Environmental Policy Act of 1969 process during planning.''.

(b) CLERICAL AMENDMENT.—The analysis for such chapter is amended by adding at end the following:

''167. Integration of planning and environmental review.''.

**SEC. 3013. DEVELOPMENT OF PROGRAMMATIC MITIGATION PLANS.**

(a) IN GENERAL.—Chapter 1 (as amended by this title) is further amended by adding at the end the following:

**''§ 168. Development of programmatic mitigation plans**

''(a) IN GENERAL.—As part of the statewide or metropolitan transportation planning process, a State or metropolitan planning organization may develop one or more programmatic mitigation plans to address the potential environmental impacts of future transportation projects.

''(b) SCOPE.—

"(1) SCALE.—A programmatic mitigation plan may be developed on a regional, ecosystem, watershed, or statewide scale.

"(2) RESOURCES.—The plan may encompass multiple environmental resources within a defined geographic area or may focus on a specific resource, such as aquatic resources, parklands, or wildlife habitat.

"(3) PROJECT IMPACTS.—The plan may address impacts from all projects in a defined geographic area or may focus on a specific type of project, such as bridge replacements.

"(4) CONSULTATION.—The scope of the plan shall be determined by the State or metropolitan planning organization, as appropriate, in consultation with the agency or agencies with jurisdiction over the resources being addressed in the mitigation plan.

"(c) CONTENTS.—A programmatic mitigation plan may include—

"(1) an assessment of the condition of environmental resources in the geographic area covered by the plan, including an assessment of recent trends and any potential threats to those resources;

"(2) an assessment of potential opportunities to improve the overall quality of environmental resources in the geographic area covered by the plan, through strategic mitigation for impacts of transportation projects;

"(3) standard measures for mitigating certain types of impacts;

"(4) parameters for determining appropriate mitigation for certain types of impacts, such as mitigation ratios or criteria for determining appropriate mitigation sites;

"(5) adaptive management procedures, such as protocols that involve monitoring predicted impacts over time and adjusting mitigation measures in response to information gathered through the monitoring; and

"(6) acknowledgment of specific statutory or regulatory requirements that must be satisfied when determining appropriate mitigation for certain types of resources.

"(d) PROCESS.—Before adopting a programmatic mitigation plan, a State or metropolitan planning organization shall—

"(1) consult with the agency or agencies with jurisdiction over the environmental resources considered in the programmatic mitigation plan;

"(2) make a draft of the plan available for review and comment by applicable environmental resource agencies and the public;

"(3) consider any comments received from such agencies and the public on the draft plan; and

"(4) address such comments in the final plan.

"(e) INTEGRATION WITH OTHER PLANS.—A programmatic mitigation plan may be integrated with other plans, including watershed plans, ecosystem plans, species recovery plans, growth management plans, and land use plans.

"(f) CONSIDERATION IN PROJECT DEVELOPMENT AND PERMITTING.—If a programmatic mitigation plan has been developed pursuant to this section, any Federal agency responsible for environmental reviews, permits, or approvals for a transportation project shall give substantial weight to the recommendations in a programmatic mitigation plan when carrying out their responsibilities under applicable laws.

"(g) PRESERVATION OF EXISTING AUTHORITIES.—Nothing in this section limits the use of programmatic ap-

proaches to reviews under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).''.

(b) CLERICAL AMENDMENT.—The analysis for such chapter (as amended by this title) is further amended by adding at the end the following:

''168. Development of programmatic mitigation plans.''.

**SEC. 3014. STATE ASSUMPTION OF RESPONSIBILITY FOR CATEGORICAL EXCLUSIONS.**

Section 326(a) is amended—

(1) in paragraph (2) by striking ''and only for types of activities specifically designated by the Secretary'' and inserting ''and for any type of activity for which a categorical exclusion classification is appropriate''; and

(2) by adding at the end the following:

''(4) PRESERVATION OF FLEXIBILITY.—The Secretary shall not require a State, as a condition of assuming responsibility under this section, to forego project delivery methods that are otherwise permissible for highway projects.''.

**SEC. 3015. SURFACE TRANSPORTATION PROJECT DELIVERY PROGRAM.**

(a) PROGRAM NAME.—Section 327 is amended—

(1) in the section heading by striking ''**pilot**''; and

(2) in subsection (a)(1) by striking ''pilot''.

(b) ASSUMPTION OF RESPONSIBILITY.—Section 327(a)(2) is amended—

(1) in subparagraph (A) by striking ''highway'';

(2) in subparagraph (B) by striking clause (ii) and inserting the following:

''(ii) the Secretary may not assign any responsibility imposed on the Secretary by section 5203 or 5204 of title 49.''; and

(3) by adding at the end the following:

''(F) PRESERVATION OF FLEXIBILITY.—The Secretary may not require a State, as a condition of participation in the program, to forego project delivery methods that are otherwise permissible for projects.''.

(c) STATE PARTICIPATION.—Section 327(b) is amended—

(1) by amending paragraph (1) to read as follows:

''(1) PARTICIPATING STATES.—All States are eligible to participate in the program.''; and

(2) in paragraph (2) by striking ''this section, the Secretary shall promulgate'' and inserting ''amendments to this section by the American Energy and Infrastructure Jobs Act of 2012, the Secretary shall amend, as appropriate,''.

(d) WRITTEN AGREEMENT.—Section 327(c) is amended—

(1) in paragraph (3)(D) by striking the period at the end and inserting a semicolon; and

(2) by adding at the end the following:

''(4) have a term of not more than 5 years; and

''(5) be renewable.''.

(e) CONFORMING AMENDMENT.—Section 327(e) is amended by striking ''subsection (i)'' and inserting ''subsection (j)''.

(f) AUDITS.—Section 327(g)(1)(B) is amended by striking ''subsequent year'' and inserting ''of the third and fourth years''.

(g) MONITORING.—Section 327 is further amended—

(1) by redesignating subsections (h) and (i) as subsections (i) and (j), respectively; and

(2) by inserting after subsection (g) the following:

''(h) MONITORING.—After the fourth year of the participation of a State in the program, the Secretary shall monitor compliance by the State with the written agreement, including the provision by the State of financial resources to carry out the written agreement.''.

(h) TERMINATION.—Section 327(j) (as redesignated by subsection (g)(1) of this section) is amended to read as follows:

"(j) TERMINATION.—The Secretary may terminate the participation of any State in the program if—

"(1) the Secretary determines that the State is not adequately carrying out the responsibilities assigned to the State;

"(2) the Secretary provides to the State—

"(A) notification of the determination of noncompliance; and

"(B) a period of at least 30 days during which to take such corrective action as the Secretary determines is necessary to comply with the applicable agreement; and

"(3) the State, after the notification and period provided under paragraph (2), fails to take satisfactory corrective action, as determined by the Secretary.".

(i) DEFINITIONS.—Section 327 is amended by adding at the end the following:

"(k) DEFINITIONS.—In this section, the following definitions apply:

"(1) MULTIMODAL PROJECT.—The term 'multimodal project' means a project funded, in

whole or in part, under this title or chapter 53 of title 49 and involving the participation of more than one Department of Transportation administration or agency.

''(2) PROJECT.—The term 'project' means any highway project, public transportation capital project, or multimodal project that requires the approval of the Secretary.''.

(j) CLERICAL AMENDMENT.—The analysis for chapter 3 is amended by striking the item relating to section 327 and inserting the following:

''327. Surface transportation project delivery program.''.

**SEC. 3016. PROGRAM FOR ELIMINATING DUPLICATION OF ENVIRONMENTAL REVIEWS.**

(a) IN GENERAL.—Chapter 3 (as amended by title I of this Act) is further amended by adding at the end the following:

**''§ 331. Program for eliminating duplication of environmental reviews**

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—The Secretary shall establish a program to eliminate duplicative environmental reviews and approvals under State and Federal law of projects. Under this program, a State may use State laws and procedures to conduct reviews and make approvals in lieu of Federal environ-

mental laws and regulations, consistent with the provisions of this section.

"(2) PARTICIPATING STATES.—All States are eligible to participate in the program.

"(3) SCOPE OF ALTERNATIVE REVIEW AND APPROVAL PROCEDURES.—For purposes of this section, alternative environmental review and approval procedures may include one or more of the following:

"(A) Substitution of one or more State environmental laws for one or more Federal environmental laws, if the Secretary determines in accordance with this section that the State environmental laws provide environmental protection and opportunities for public involvement that are substantially equivalent to the applicable Federal environmental laws.

"(B) Substitution of one or more State regulations for Federal regulations implementing one or more Federal environmental laws, if the Secretary determines in accordance with this section that the State regulations provide environmental protection and opportunities for public involvement that are substantially equivalent to the Federal regulations.

1 ''(b) APPLICATION.—To participate in the program,
2 a State shall submit to the Secretary an application con-
3 taining such information as the Secretary may require, in-
4 cluding—
5 ''(1) a full and complete description of the pro-
6 posed alternative environmental review and approval
7 procedures of the State;
8 ''(2) for each State law or regulation included
9 in the proposed alternative environmental review and
10 approval procedures of the State, an explanation of
11 the basis for concluding that the law or regulation
12 meets the requirements under subsection (a)(3); and
13 ''(3) evidence of having sought, received, and
14 addressed comments on the proposed application
15 from the public and appropriate Federal environ-
16 mental resource agencies.
17 ''(c) REVIEW OF APPLICATION.—The Secretary
18 shall—
19 ''(1) review an application submitted under sub-
20 section (b);
21 ''(2) approve or disapprove the application in
22 accordance with subsection (d) not later than 90
23 days after the date of the receipt of the application;
24 and

1 "(3) transmit to the State notice of the ap-
2 proval or disapproval, together with a statement of
3 the reasons for the approval or disapproval.
4 "(d) APPROVAL OF STATE PROGRAMS.—
5 "(1) IN GENERAL.—The Secretary shall ap-
6 prove each such application if the Secretary finds
7 that the proposed alternative environmental review
8 and approval procedures of the State are substan-
9 tially equivalent to the applicable Federal environ-
10 mental laws and Federal regulations.
11 "(2) EXCLUSION.—The National Environ-
12 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.)
13 and the Endangered Species Act of 1973 (16 U.S.C.
14 1531 et seq.) shall not apply to any decision by the
15 Secretary to approve or disapprove any application
16 submitted pursuant to this section.
17 "(e) COMPLIANCE WITH PERMITS.—Compliance with
18 a permit or other approval of a project issued pursuant
19 to a program approved by the Secretary under this section
20 shall be deemed compliance with the Federal laws and reg-
21 ulations identified in the program approved by the Sec-
22 retary pursuant to this section.
23 "(f) REVIEW AND TERMINATION.—
24 "(1) REVIEW.—All State alternative environ-
25 mental review and approval procedures approved

1 under this section shall be reviewed by the Secretary
2 not less than once every 5 years.
3 ''(2) PUBLIC NOTICE AND COMMENT.—In con-
4 ducting the review process under paragraph (1), the
5 Secretary shall provide notice and an opportunity for
6 public comment.
7 ''(3) EXTENSIONS AND TERMINATIONS.—At the
8 conclusion of the review process, the Secretary may
9 extend the State alternative environmental review
10 and approval procedures for an additional 5-year pe-
11 riod or terminate the State program.
12 ''(g) REPORT TO CONGRESS.—Not later than 2 years
13 after the date of enactment of this section and annually
14 thereafter, the Secretary shall submit to Congress a report
15 that describes the administration of the program.
16 ''(h) DEFINITIONS.—For purposes of this section:
17 ''(1) ENVIRONMENTAL LAW.—The term 'envi-
18 ronmental law' includes any law that provides proce-
19 dural or substantive protection, as applicable, for the
20 natural or built environment with regard to the con-
21 struction and operation of projects.
22 ''(2) FEDERAL ENVIRONMENTAL LAWS.—The
23 term 'Federal environmental laws' means laws gov-
24 erning the review of environmental impacts of, and
25 issuance of permits and other approvals for, the con-

1 struction and operation of projects, including section
2 102(2)(C) of the National Environmental Policy Act
3 of 1969 (42 U.S.C. 4332(2)(C)), section 404 of the
4 Federal Water Pollution Control Act (33 U.S.C.
5 1344), section 106 of the National Historic Preser-
6 vation Act (16 U.S.C. 470f), and sections 7(a)(2),
7 9(a)(1)(B), and 10(a)(1)(B) of the Endangered Spe-
8 cies Act of 1973 (16 U.S.C. 1536(a)(2),
9 1538(a)(1)(B), 1539(a)(1)(B)).

10 ''(3) MULTIMODAL PROJECT.—The term
11 'multimodal project' means a project funded, in
12 whole or in part, under this title or chapter 53 of
13 title 49 and involving the participation of more than
14 one Department of Transportation administration or
15 agency.

16 ''(4) PROJECT.—The term 'project' means any
17 highway project, public transportation capital
18 project, or multimodal project that requires the ap-
19 proval of the Secretary.''.

20 (b) CLERICAL AMENDMENT.—The analysis for such
21 chapter (as amended by title I of this Act) is further
22 amended by adding at the end the following:

''331. Program for eliminating duplication of environmental reviews.''.

**SEC. 3017. STATE PERFORMANCE OF LEGAL SUFFICIENCY REVIEWS.**

(a) IN GENERAL.—Chapter 3 (as amended by this title) is further amended by adding at the end the following:

**"SEC. 332. STATE PERFORMANCE OF LEGAL SUFFICIENCY REVIEWS.**

"(a) IN GENERAL.—At the request of any State transportation department, the Federal Highway Administration shall enter into an agreement with the State transportation department to authorize the State to carry out the legal sufficiency reviews for environmental impact statements and environmental assessments under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) in accordance with this section.

"(b) TERMS OF AGREEMENT.—An agreement authorizing a State to carry out legal sufficiency reviews for Federal-aid highway projects shall contain the following provisions:

"(1) A finding by the Federal Highway Administration that the State has the capacity to carry out legal sufficiency reviews that are equivalent in quality and consistency to the reviews that would otherwise be conducted by attorneys employed by such Administration.

"(2) An oversight process, including periodic reviews conducted by attorneys employed by such Administration, to evaluate the quality of the legal sufficiency reviews carried out by the State transportation department under the agreement.

"(3) A requirement for the State transportation department to submit a written finding of legal sufficiency to the Federal Highway Administration concurrently with the request by the State for Federal approval of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) document.

"(4) An opportunity for the Federal Highway Administration to conduct an additional legal sufficiency review for any project, for not more than 30 days, if considered necessary by the Federal Highway Administration.

"(5) Procedures allowing either party to the agreement to terminate the agreement for any reason with 30 days notice to the other party.

"(c) EFFECT OF AGREEMENT.—A legal sufficiency review carried out by a State transportation department under this section shall be deemed by the Federal Highway Administration to satisfy the requirement for a legal sufficiency review in sections 771.125(b) and 774.7(d) of title 23, Code of Federal Regulations, or other applicable

regulations issued by the Federal Highway Administration.''.

(b) CLERICAL AMENDMENT.—The analysis for such chapter (as amended by this title) is further amended by adding at the end the following:

''332. State performance of legal sufficiency reviews.''.

**SEC. 3018. CATEGORICAL EXCLUSIONS.**

(a) IN GENERAL.—The Secretary shall treat an activity carried out under title 23, United States Code, or project within a right-of-way as a class of action categorically excluded from the requirements relating to environmental assessments or environmental impact statements under section 771.117(c) of title 23, Code of Federal Regulations.

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

(1) MULTIMODAL PROJECT.—The term ''multimodal project'' means a project funded, in whole or in part, under title 23, United States Code, or chapter 53 of title 49 of such Code and involving the participation of more than one Department of Transportation administration or agency.

(2) PROJECT.—The term ''project'' means any highway project, public transportation capital project, or multimodal project that requires the approval of the Secretary.

**SEC. 3019. ENVIRONMENTAL REVIEW PROCESS DEADLINE.**

(a) IN GENERAL.—

(1) DEADLINE.—Notwithstanding any other provision of law, the environmental review process for a project shall be completed not later than 270 days after the date on which the notice of project initiation under section 139(e) of title 23, United States Code, is published in the Federal Register.

(2) CONSEQUENCES OF MISSED DEADLINE.—If the environmental review process for a project is not completed in accordance with paragraph (1)—

(A) the project shall be considered to have no significant impact to the human environment for purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(B) that classification shall be considered to be a final agency action.

(b) APPEAL.—In this section, the following rules shall apply:

(1) There shall be a single administrative appeal for the environmental review process carried out pursuant to this section.

(2) Upon resolution of the administrative appeal, judicial review of the final agency decision after exhaustion of administrative remedies shall lie with

the United States Court of Appeals for the District of Columbia Circuit.

(3) An appeal to the court specified in paragraph (2) shall be based only on the administrative record.

(4) After an agency has made a final decision with respect to the environmental review process carried out under this section, that decision shall be effective during the course of any subsequent appeal to a court specified in paragraph (2).

(5) All civil actions arising under this section shall be considered to arise under the laws of the United States.

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

(1) ENVIRONMENTAL REVIEW PROCESS.—

(A) IN GENERAL.—The term ''environmental review process'' means the process for preparing for a project an environmental impact statement, environmental assessment, categorical exclusion, or other document prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(B) INCLUSIONS.—The term ''environmental review process'' includes the process for

and completion of any environmental permit, approval, review, or study required for a project under any Federal law other than the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(2) LEAD AGENCY.—The term ''lead agency'' means the Department of Transportation and, if applicable, any State or local governmental entity serving as a joint lead agency pursuant to this section.

(3) MULTIMODAL PROJECT.—The term ''multimodal project'' means a project funded, in whole or in part, under title 23, United States Code, or chapter 53 of title 49 of such Code and involving the participation of more than one Department of Transportation administration or agency.

(4) PROJECT.—The term ''project'' means any highway project, public transportation capital project, or multimodal project that requires the approval of the Secretary.

**SEC. 3020. RELOCATION ASSISTANCE.**

(a) ALTERNATIVE RELOCATION PAYMENT PROCESS.—

(1) ESTABLISHMENT.—For the purpose of identifying improvements in the timeliness of providing relocation assistance to persons displaced as

a result of Federal or federally-assisted programs and projects, the Secretary shall establish an alternative relocation payment process 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.), are calculated based on reasonable estimates and paid in advance of the physical displacement of the displaced person.

(2) PAYMENTS.—

(A) TIMING OF PAYMENTS.—Relocation assistance payments may be provided to the displaced person at the same time as payments of just compensation for real property acquired for a program or project of the State.

(B) COMBINED PAYMENT.—Payments for relocation and just compensation may be combined into a single unallocated amount.

(3) CONDITIONS FOR STATE USE OF ALTERNATIVE PROCESS.—

(A) IN GENERAL.—After public notice and an opportunity to comment, the Secretary shall adopt criteria for States to use the alternative relocation payment process established by the Secretary.

(B) MEMORANDUM OF AGREEMENT.—In order to use the alternative relocation payment process, a State shall 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 requirements; and

(v) the circumstances under which the Secretary may terminate or suspend the authority of the State to use the alternative relocation payment process.

(C) REQUIRED INFORMATION.—A State may use the alternative relocation payment process only after the displaced persons affected by a program or project—

(i) are informed in writing—

(I) that the relocation payments the displaced persons receive under the alternative relocation payment

process may be higher or lower than the amount that the displaced persons would have received under the standard relocation assistance process; and

(II) of their right not to participate in the alternative relocation payment process; and

(ii) agree in writing to the alternative relocation payment process.

(D) ELECTION NOT TO PARTICIPATE.—The displacing agency shall provide any displaced person who elects not to participate in the alternative relocation payment process 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.).

(4) PROTECTIONS AGAINST INCONSISTENT TREATMENT.—If other Federal agencies plan displacements in or adjacent to an area of a project using the alternative relocation payment process within the same time period as a project acquisition and relocation action of the project, the Secretary shall adopt measures to protect against inconsistent treatment of displaced persons. Such measures may

include a determination that the alternative relocation payment process authority may not be used on a specific project.

(5) REPORT.—

(A) IN GENERAL.—The Secretary shall submit to Congress an annual report on the implementation of the alternative relocation payment process.

(B) CONTENTS.—The report shall include an evaluation of the merits of the alternative relocation payment process, including the effects of the alternative relocation payment process on—

(i) displaced persons and the protections afforded to such persons by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.);

(ii) the efficiency of the delivery of Federal-aid highway projects and overall effects on the Federal-aid highway program; and

(iii) 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.).

(6) LIMITATION.—The alternative relocation payment process under 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.

(7) NEPA APPLICABILITY.—Notwithstanding any other provision of law, the use of the alternative relocation payment process established under this section on a project funded under title 23, United States Code, and administered by the Federal Highway Administration is not a major Federal action requiring analysis or approval under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(b) UNIFORM RELOCATION ASSISTANCE ACT AMENDMENTS.—

(1) 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—

(A) in subsection (a)(4) by striking ''$10,000'' and inserting ''$25,000, as adjusted

by regulation, in accordance with section 213(d)''; and

(B) 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)''.

(2) 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 by—

(A) striking ''$22,500'' and inserting ''$31,000, as adjusted by regulation, in accordance with 213(d),''; and

(B) striking ''one hundred and eighty days prior to'' and inserting ''90 days before''.

(3) 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—

(A) 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

(B) in the second sentence of subsection (b) by striking ", except" and all that follows through the end of the subsection and inserting a period.

(4) 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—

(A) in subsection (b)—

(i) in paragraph (2) by striking "and";

(ii) in paragraph (3) by striking the period and inserting "; and"; and

(iii) 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 property subject to the provisions of this Act shall provide to the lead agency an annual summary report that describes the activities conducted by the Federal agency."; and

(B) by adding at the end the following:

"(d) ADJUSTMENT OF PAYMENTS.—The head of the lead agency may adjust, by regulation, the amounts of re-

1 location payments provided under sections 202(a)(4),
2 202(c), 203(a), and 204(a) if the head of the lead agency
3 determines that cost of living, inflation, or other factors
4 indicate that the payments should be adjusted to meet the
5 policy objectives of this Act.''.

6 (5) AGENCY COORDINATION.—Title II of the
7 Uniform Relocation Assistance and Real Property
8 Acquisition Policies Act of 1970 (42 U.S.C. 4601 et
9 seq.) is amended by inserting after section 213 (42
10 U.S.C. 4633) the following:

11 **''§ 214. Agency coordination**

12 ''(a) AGENCY CAPACITY.—Each Federal agency re-
13 sponsible for funding or carrying out relocation and acqui-
14 sition activities shall have adequately trained personnel
15 and such other resources as are necessary to manage and
16 oversee the relocation and acquisition program of the Fed-
17 eral agency in accordance with this Act.

18 ''(b) INTERAGENCY AGREEMENTS.—Not later than 1
19 year after the date of the enactment of this section, each
20 Federal agency responsible for funding relocation and ac-
21 quisition activities (other than the agency serving as the
22 lead agency) shall enter into a memorandum of under-
23 standing with the lead agency that—

24 ''(1) provides for periodic training of the per-
25 sonnel 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 this 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 the 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.''.

(c) COOPERATION WITH FEDERAL AGENCIES.—Section 308(a) is amended to read as follows:

''(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 (42 U.S.C. 4601 et seq.).

''(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.''.

# TITLE IV—TRANSPORTATION PLANNING

**SEC. 4001. TRANSPORTATION PLANNING.**

(a) IN GENERAL.—Subtitle III of title 49, United States Code, is amended by inserting after chapter 51 the following:

## "CHAPTER 52—TRANSPORTATION PLANNING

"Sec.
"5201. Policy.
"5202. Definitions.
"5203. Metropolitan transportation planning.
"5204. Statewide transportation planning.
"5205. National strategic transportation plan.
"5206. National performance management system.

### "§ 5201. Policy

"(a) IN GENERAL.—It is in the national interest to—

"(1) encourage and promote the safe and efficient management, operation, and development of surface transportation systems that will serve the mobility needs of people and freight and foster economic growth and development within and between States and urbanized areas, while minimizing transportation-related fuel consumption and air pollution through metropolitan and statewide transportation planning processes identified in this chapter; and

"(2) encourage the continued improvement and evolution of the metropolitan and statewide transportation planning processes by metropolitan plan-

ning organizations, State departments of transportation, and public transportation operators as guided by the planning factors identified in sections 5203(f) and 5204(d).

''(b) COMMON TRANSPORTATION PLANNING PROGRAM.—This chapter provides a common transportation planning program to be administered by the Federal Highway Administration and the Federal Transit Administration.

**"§ 5202. Definitions**

''In this chapter, the following definitions apply:

''(1) METROPOLITAN PLANNING AREA.—The term 'metropolitan planning area' means the geographic area determined by agreement between the metropolitan planning organization for the area and the Governor under section 5203(c).

''(2) METROPOLITAN LONG-RANGE TRANSPORTATION PLAN.—The term 'metropolitan long-range transportation plan' means a long-range transportation plan developed by an MPO under section 5203 for a metropolitan planning area.

''(3) METROPOLITAN PLANNING ORGANIZATION; MPO.—The term 'metropolitan planning organization' or 'MPO' means the policy board of an organi-

zation created as a result of the designation process in section 5203(b).

"(4) METROPOLITAN TRANSPORTATION IMPROVEMENT PROGRAM; METROPOLITAN TIP.—The term 'metropolitan transportation improvement program' or 'metropolitan TIP' means a transportation improvement program developed by an MPO under section 5203 for a metropolitan planning area.

"(5) NONMETROPOLITAN AREA.—The term 'nonmetropolitan area' means a geographic area outside designated metropolitan planning areas.

"(6) NONMETROPOLITAN LOCAL OFFICIAL.—The term 'nonmetropolitan local official' means elected and appointed officials of general purpose local government in a nonmetropolitan area with responsibility for transportation.

"(7) REGIONAL TRANSPORTATION PLANNING ORGANIZATION.—The term 'regional transportation planning organization' means a policy board of an organization created as the result of a designation under section 5204(k).

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

"(9) STATE.—The term 'State' means any of the 50 States, the District of Columbia, or Puerto Rico.

"(10) STATEWIDE STRATEGIC LONG-RANGE TRANSPORTATION PLAN.—The term 'statewide strategic long-range transportation plan' means a strategic long-range transportation plan developed by a State under section 5204 for all areas of the State.

"(11) STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM; STATEWIDE TIP.—The term 'statewide transportation improvement program' or 'statewide TIP' means a transportation improvement program developed by a State under section 5204 for all areas of the State.

"(12) URBANIZED AREA.—The term 'urbanized area' means a geographic area with a population of 50,000 or more, as designated by the Bureau of the Census.

**"§ 5203. Metropolitan transportation planning**

"(a) GENERAL REQUIREMENTS.—

"(1) DEVELOPMENT OF METROPOLITAN LONG-RANGE PLANS AND TIPS.—To accomplish the objectives set forth in section 5201, metropolitan planning organizations designated under subsection (b), in cooperation with the State and public transpor-

tation operators, shall develop metropolitan long-range transportation plans and transportation improvement programs for metropolitan planning areas of the State.

"(2) CONTENTS.—Metropolitan long-range transportation plans and TIPs 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, including intercity buses and intercity bus facilities) that will function as an intermodal transportation system for the metropolitan planning area and as an integral part of an intermodal transportation system for the State and the United States.

"(3) PROCESS OF DEVELOPMENT.—The process for developing metropolitan long-range transportation plans and TIPs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

"(b) DESIGNATION OF MPOS.—

1 "(1) IN GENERAL.—To carry out the transpor-
2 tation planning process required by this section, an
3 MPO shall be designated for an urbanized area with
4 a population of more than 100,000 individuals—
5 "(A) by agreement between the Governor
6 and units of general purpose local government
7 that together represent at least 75 percent of
8 the affected population (including the largest
9 incorporated city (based on population) as
10 named by the Bureau of the Census); or
11 "(B) in accordance with procedures estab-
12 lished by applicable State or local law.
13 "(2) STRUCTURE.—An MPO that serves an
14 area designated as a transportation management
15 area, when designated or redesignated under this
16 subsection, shall consist of—
17 "(A) local elected officials;
18 "(B) officials of public agencies that ad-
19 minister or operate major modes of transpor-
20 tation in the metropolitan area; and
21 "(C) appropriate State officials.
22 "(3) LIMITATION ON STATUTORY CONSTRUC-
23 TION.—Nothing in this subsection may be construed
24 to interfere with the authority, under any State law

in effect on December 18, 1991, of a public agency with multimodal transportation responsibilities to—

"(A) develop metropolitan long-range transportation plans or TIPs for adoption by an MPO; and

"(B) develop long-range capital plans, coordinate public transportation services or projects, or carry out other activities pursuant to State law.

"(4) CONTINUING DESIGNATION.—A designation of an MPO under this subsection or any other provision of law shall remain in effect until the MPO is redesignated under paragraph (5) or revoked by agreement among the Governor and units of general purpose local government that together represent at least 75 percent of the affected population or as otherwise provided under State or local procedures.

"(5) REDESIGNATION PROCEDURES.—An MPO may be redesignated by agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the existing planning area population (including the largest incorporated city (based on population) as named by the Bureau of the Census) as appropriate to carry out this section.

"(6) DESIGNATION OF MULTIPLE MPOS.—More than 1 MPO may be designated within an existing metropolitan planning area only if the Governor and the existing MPO determine that the size and complexity of the existing metropolitan planning area make designation of more than 1 MPO for the area appropriate.

"(c) METROPOLITAN PLANNING AREA BOUNDARIES.—

"(1) IN GENERAL.—For the purposes of this section, the boundaries of a metropolitan planning area shall be determined by agreement between the MPO and the Governor.

"(2) INCLUDED AREA.—A metropolitan planning area—

"(A) shall encompass at least the existing urbanized area and the contiguous area expected to become urbanized within a 20-year forecast period for the metropolitan long-range transportation plan; and

"(B) may encompass the entire metropolitan statistical area or consolidated metropolitan statistical area, as defined by the Bureau of the Census.

"(3) IDENTIFICATION OF NEW URBANIZED AREAS WITHIN EXISTING PLANNING AREA BOUNDARIES.—The designation by the Bureau of the Census of new urbanized areas within an existing metropolitan planning area shall not require the redesignation of the existing MPO.

"(4) EXISTING METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—Notwithstanding paragraph (2), in the case of an urbanized area designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.) as of August 10, 2005, the boundaries of the metropolitan planning area in existence as of such date shall be retained, except that the boundaries may be adjusted by agreement of the Governor and affected MPOs in the manner described in subsection (b)(5).

"(5) NEW METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—In the case of an urbanized area designated after August 10, 2005, as a nonattainment area for ozone or carbon monoxide, the boundaries of the metropolitan planning area—

"(A) shall be established in the manner described in subsection (b)(1);

"(B) shall encompass the areas described in subsection (c)(2)(A);

"(C) may encompass the areas described in subsection (c)(2)(B); and

"(D) may address any nonattainment area identified under the Clean Air Act for ozone or carbon monoxide.

"(d) COORDINATION IN MULTISTATE AREAS.—

"(1) IN GENERAL.—The Secretary shall encourage a Governor with responsibility for a portion of a multistate metropolitan area and the appropriate MPOs to provide coordinated transportation planning for the entire metropolitan area.

"(2) INTERSTATE COMPACTS.—The consent of Congress is granted to any 2 or more States—

"(A) to enter into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section as the activities pertain to interstate areas and localities within the States; and

"(B) to establish such agencies, joint or otherwise, as the States may determine desir-

able for making the agreements and compacts effective.

"(3) RESERVATION OF RIGHTS.—The right to alter, amend, or repeal interstate compacts entered into under this subsection is expressly reserved.

"(e) MPO CONSULTATION IN PLAN AND TIP COORDINATION.—

"(1) NONATTAINMENT AREAS.—If more than 1 MPO has authority within a metropolitan area or an area that is designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act, each MPO shall consult with the other MPOs designated for such area and the State in the coordination of metropolitan long-range transportation plans and TIPs.

"(2) TRANSPORTATION IMPROVEMENTS LOCATED IN AREAS REPRESENTED BY MULTIPLE MPOS.—If a transportation improvement, funded from the Highway Trust Fund or authorized under chapter 53 of this title, is located within the boundaries of more than 1 metropolitan planning area, the MPOs shall coordinate metropolitan long-range transportation plans and TIPs regarding the transportation improvement.

"(3) RELATIONSHIP WITH OTHER PLANNING OFFICIALS.—The Secretary shall encourage an MPO to consult with officials responsible for other types of planning activities that are affected by transportation in the area (including State and local planned growth, economic development, environmental protection, airport operations, and freight movements) or to coordinate its planning process, to the maximum extent practicable, with such planning activities. Under the metropolitan planning process, metropolitan long-range transportation plans and TIPs shall be developed with due consideration of other related planning activities within the metropolitan area, and the process shall provide for the design and delivery of transportation services within the metropolitan area that are provided by—

"(A) recipients of assistance under chapter 53;

"(B) governmental 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

"(C) recipients of assistance under sections 202 and 203 of title 23.

"(f) SCOPE OF PLANNING PROCESS.—

"(1) IN GENERAL.—The metropolitan 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, 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 people and for 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 people and freight;

"(G) promote efficient system management and operation, including through the use of intelligent transportation systems;

"(H) emphasize the preservation of the existing transportation system; and

"(I) support intermodal facilities or facilitate regional growth.

"(2) FAILURE TO CONSIDER FACTORS.—The failure to consider any factor specified in paragraph (1) shall not be reviewable by any court under title 23, chapter 53 of this title, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a metropolitan long-range transportation plan or TIP, a project or strategy, or the certification of a planning process.

"(g) DEVELOPMENT OF LONG-RANGE TRANSPORTATION PLAN.—

"(1) IN GENERAL.—

"(A) EXISTING AND FORMER NONATTAINMENT AREAS.—An MPO shall prepare and update a metropolitan long-range transportation

plan for its metropolitan planning area in accordance with the requirements of this subsection. The MPO shall prepare and update the plan every 4 years (or more frequently, if the MPO elects to update more frequently) in the case of each of the following:

"(i) Any area designated as nonattainment, as defined in section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)).

"(ii) Any area that was nonattainment and subsequently designated to attainment in accordance with section 107(d)(3) of that Act (42 U.S.C. 7407(d)(3)) and that is subject to a maintenance plan under section 175A of that Act (42 U.S.C. 7505a).

"(B) OTHER AREAS.—In the case of any other area required to have a metropolitan long-range transportation plan, the MPO shall prepare and update the plan every 5 years unless the MPO elects to update more frequently.

"(2) LONG-RANGE TRANSPORTATION PLAN.—A metropolitan long-range transportation plan shall be in a form that the Secretary determines to be appro-

priate and shall contain, at a minimum, the following:

"(A) IDENTIFICATION OF TRANSPORTATION FACILITIES.—An identification of transportation facilities (including major roadways, public transportation facilities, intercity bus facilities, multimodal and intermodal facilities, and intermodal connectors) that should function as an integrated metropolitan transportation system, giving emphasis to those facilities that serve important national and regional transportation functions. In formulating the plan, the MPO shall consider factors described in subsection (f) and other relevant data and factors disseminated by the Secretary pursuant to section 5205(b) as such factors relate to a 20-year forecast period.

"(B) MITIGATION ACTIVITIES.—

"(i) IN GENERAL.—A metropolitan long-range transportation plan shall include a discussion of types of potential environmental mitigation activities and potential areas to carry out these activities, including activities that may have the greatest potential to restore and maintain

the environmental functions affected by the plan.

"(ii) CONSULTATION.—The discussion shall be developed in consultation with Federal, State, and tribal wildlife, land management, and regulatory agencies.

"(C) FINANCIAL PLAN.—

"(i) IN GENERAL.—A financial plan that—

"(I) demonstrates how the adopted metropolitan long-range transportation plan can be implemented;

"(II) indicates resources from public and private sources that are reasonably expected to be made available to carry out the metropolitan long-range transportation plan;

"(III) recommends any additional financing strategies for needed projects and programs; and

"(IV) may include, for illustrative purposes, additional projects that would be included in the adopted metropolitan long-range transportation plan if reasonable additional resources

beyond those identified in the financial plan were available.

"(ii) ESTIMATES OF FUNDS.—For the purpose of developing the metropolitan long-range transportation plan, the MPO, public transportation operator, and State shall cooperatively develop estimates of funds that will be available to support plan implementation.

"(D) OPERATIONAL AND MANAGEMENT STRATEGIES.—Operational and management strategies to improve the performance of existing transportation facilities to relieve vehicular congestion and maximize the safety and mobility of people and goods.

"(E) CAPITAL INVESTMENT AND OTHER STRATEGIES.—Capital investment and other strategies to preserve the existing and projected future metropolitan transportation infrastructure and provide for multimodal capacity increases based on regional priorities and needs.

"(3) INTERCITY BUS.—A metropolitan long-range transportation plan shall consider the role intercity buses may play in reducing congestion, pollution, and energy consumption in a cost-effective

manner and strategies and investments that preserve and enhance intercity bus systems, including systems that are privately owned and operated.

"(4) COORDINATION WITH CLEAN AIR ACT AGENCIES.—In metropolitan areas that are in nonattainment for ozone or carbon monoxide under the Clean Air Act, the MPO shall coordinate the development of a metropolitan long-range transportation plan with the process for development of the transportation control measures of the State implementation plan required by that Act.

"(5) CONSULTATION; COMPARISONS.—

"(A) CONSULTATION.—A metropolitan long-range transportation plan shall be developed, as appropriate, in consultation with State and local agencies responsible for land use management, natural resources, environmental protection, conservation, and historic preservation.

"(B) COMPARISONS.—Consultation under subparagraph (A) shall involve, as appropriate, a comparison of the metropolitan long-range transportation plan—

"(i) to State conservation plans and maps, if available; and

"(ii) to inventories of natural and historic resources, if available.

"(6) PARTICIPATION BY INTERESTED PARTIES.—

"(A) IN GENERAL.—An MPO shall provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, providers of freight transportation services, private providers of transportation, including intercity bus services, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, and other interested parties with a reasonable opportunity to comment on its metropolitan long-range transportation plan.

"(B) CONTENTS OF PARTICIPATION PLAN.—A participation plan shall—

"(i) be developed in consultation with all interested parties; and

"(ii) provide that all interested parties have reasonable opportunities to comment on the contents of the metropolitan long-range transportation plan.

"(C) METHODS.—In carrying out subparagraph (A), the MPO shall, to the maximum extent practicable—

"(i) hold any public meetings at convenient and accessible locations and times;

"(ii) employ visualization techniques to describe plans; and

"(iii) make public information available in electronically accessible format and means, such as the Internet, as appropriate to afford a reasonable opportunity for consideration of public information under subparagraph (A).

"(7) PUBLICATION.—A metropolitan long-range transportation plan involving Federal participation shall be published or otherwise made readily available by the MPO for public review (including to the maximum extent practicable in electronically accessible formats and means, such as the Internet) approved by the MPO, and submitted for information purposes to the Governor, at such times and in such manner as the Secretary shall establish.

"(8) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—Notwithstanding paragraph (2)(C), a State or MPO shall not be required to select any

project from the illustrative list of additional projects included in the financial plan under such paragraph.

"(h) METROPOLITAN TIP.—

"(1) DEVELOPMENT.—

"(A) IN GENERAL.—In cooperation with the State and any affected public transportation operator, the MPO designated for a metropolitan area shall develop a metropolitan TIP for the area for which the organization is designated.

"(B) OPPORTUNITY FOR COMMENT.—In developing the metropolitan TIP, the MPO, 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 program, in accordance with subsection (g)(6).

"(C) FUNDING ESTIMATES.—For the purpose of developing the metropolitan TIP, the MPO, public transportation agency, and State shall cooperatively develop estimates of funds that are reasonably expected to be available to support program implementation.

"(D) UPDATING AND APPROVAL.—The metropolitan TIP shall be updated at least once every 4 years and shall be approved by the MPO and the Governor.

"(2) CONTENTS.—

"(A) PRIORITY LIST.—The metropolitan TIP shall include a priority list of proposed federally supported projects and strategies to be carried out within each 4-year period after the initial adoption of the metropolitan TIP.

"(B) FINANCIAL PLAN.—The metropolitan TIP shall include a financial plan that—

"(i) demonstrates how the metropolitan TIP can be implemented;

"(ii) indicates resources from public and private sources that are reasonably expected to be available to carry out the metropolitan TIP;

"(iii) identifies innovative financing techniques to finance projects, programs, and strategies; and

"(iv) may include, for illustrative purposes, additional projects that would be included in the approved metropolitan TIP if reasonable additional resources beyond

those identified in the financial plan were available.

"(C) DESCRIPTIONS.—A project in the metropolitan TIP 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.

"(3) INCLUDED PROJECTS.—

"(A) PROJECTS UNDER TITLE 23 AND CHAPTER 53 OF THIS TITLE.—A metropolitan TIP for an area shall include the projects within the area that are proposed for funding under chapter 1 of title 23 and chapter 53 of this title.

"(B) PROJECTS UNDER CHAPTER 2 OF TITLE 23.—

"(i) REGIONALLY SIGNIFICANT PROJECTS.—Regionally significant projects proposed for funding under chapter 2 of title 23 shall be identified individually in the metropolitan TIP.

"(ii) OTHER PROJECTS.—Projects proposed for funding under such chapter that are not determined to be regionally significant shall be grouped in one line

item or identified individually in the metropolitan TIP.

"(C) CONSISTENCY WITH LONG-RANGE TRANSPORTATION PLAN.—A project shall be consistent with the metropolitan long-range transportation plan for the area.

"(D) REQUIREMENT OF ANTICIPATED FULL FUNDING.—The program shall include a project, or the identified phase of a project, only if full funding can reasonably be anticipated to be available for the project or the identified phase within the time period contemplated for completion of the project or the identified phase.

"(E) TIP MODIFICATIONS BY GOVERNOR.—

"(i) IN GENERAL.—Notwithstanding any other provisions of this section or section 5204, if a State and an MPO fail to agree on programming a project of statewide significance on the Interstate System (as defined in section 101(a) of title 23) into a metropolitan TIP, the Governor may modify the metropolitan TIP to add the

project without approval or endorsement by the MPO.

"(ii) CONFORMING AMENDMENTS TO METROPOLITAN LONG-RANGE TRANSPORTATION PLAN.—If the Governor modifies a metropolitan TIP under clause (i), the MPO shall amend its metropolitan long-range transportation plan to be consistent with the modified metropolitan TIP.

"(4) NOTICE AND COMMENT.—Before approving a metropolitan TIP, an MPO, 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 program, in accordance with subsection (g)(5).

"(5) SELECTION OF PROJECTS.—

"(A) IN GENERAL.—Except as otherwise provided in subsection (i)(4) and in addition to the metropolitan TIP development required under paragraph (1), the selection of federally funded projects in metropolitan areas shall be carried out from the approved metropolitan TIP—

"(i) by—

"(I) in the case of projects under title 23, the State; and

"(II) in the case of projects under chapter 53, the designated recipients of public transportation funding; and

"(ii) in cooperation with the MPO.

"(B) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, action by the Secretary shall not be required to advance a project included in the approved metropolitan TIP in place of another project in the program.

"(6) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—

"(A) NO REQUIRED SELECTION.—Notwithstanding paragraph (2)(B)(iv), a State or MPO shall not be required to select any project from the illustrative list of additional projects included in the financial plan under paragraph (2)(B)(iv).

"(B) REQUIRED ACTION BY THE SECRETARY.—Action by the Secretary shall be required for a State or MPO to select any project from the illustrative list of additional projects

included in the financial plan under paragraph (2)(B)(iv) for inclusion in an approved metropolitan TIP.

"(7) PUBLICATION.—

"(A) PUBLICATION OF TIPS.—A metropolitan TIP involving Federal participation shall be published or otherwise made readily available, including on the Internet, by the MPO for public review.

"(B) PUBLICATION OF ANNUAL LISTINGS OF PROJECTS.—An annual listing of projects (including investments in pedestrian walkways, bicycle transportation facilities, and intermodal facilities that support intercity transportation) for which Federal funds have been obligated in the preceding year shall be published or otherwise made available, including on the Internet, by the cooperative effort of the State, public transportation operator, and MPO for public review. The listing shall be consistent with the categories identified in the metropolitan TIP.

"(i) TRANSPORTATION MANAGEMENT AREAS.—

"(1) IDENTIFICATION AND DESIGNATION.—

"(A) REQUIRED IDENTIFICATION.—The Secretary shall identify as a transportation

management area each urbanized area (as defined by the Bureau of the Census) with a population of over 200,000 individuals.

"(B) DESIGNATIONS ON REQUEST.—The Secretary shall designate any additional area as a transportation management area on the request of the Governor and the MPO designated for the area.

"(2) LONG-RANGE TRANSPORTATION PLANS.—In a transportation management area, metropolitan long-range transportation plans shall be based on a continuing and comprehensive transportation planning process carried out by the MPO in cooperation with the State and public transportation operators.

"(3) CONGESTION MANAGEMENT PROCESS.—Within a metropolitan planning area serving a transportation management area, the transportation planning process under this section shall address congestion management through a process that provides for effective management and operation, based on a cooperatively developed and implemented metropolitan-wide strategy, of new and existing transportation facilities eligible for funding under title 23 and chapter 53 of this title through the use of travel demand reduction and operational management strategies.

The Secretary shall establish an appropriate phase-in schedule for compliance with the requirements of this section but not sooner than 1 year after the identification of a transportation management area.

''(4) SELECTION OF PROJECTS.—

''(A) IN GENERAL.—All federally funded projects carried out within the boundaries of a metropolitan planning area serving a transportation management area under title 23 (excluding projects carried out on the National Highway System under such title) or under chapter 53 of this title shall be selected for implementation from the approved metropolitan TIP by the MPO designated for the area in consultation with the State and any affected public transportation operator.

''(B) NATIONAL HIGHWAY SYSTEM PROJECTS.—Projects carried out within the boundaries of a metropolitan planning area serving a transportation management area on the National Highway System under title 23 shall be selected for implementation from the approved metropolitan TIP by the State in cooperation with the MPO designated for the area.

"(5) CERTIFICATION.—

"(A) IN GENERAL.—The Secretary shall—

"(i) ensure that the metropolitan planning process of an MPO serving a transportation management area is being carried out in accordance with applicable provisions of Federal law; and

"(ii) subject to subparagraph (B), certify, not less often than once every 4 years, that the requirements of this paragraph are met with respect to the metropolitan planning process.

"(B) REQUIREMENTS FOR CERTIFICATION.—The Secretary may make the certification under subparagraph (A) if—

"(i) the transportation planning process complies with the requirements of this section and other applicable requirements of Federal law; and

"(ii) there is a metropolitan TIP for the metropolitan planning area that has been approved by the MPO and the Governor.

"(C) EFFECT OF FAILURE TO CERTIFY.—

"(i) WITHHOLDING OF PROJECT FUNDS.—If the metropolitan planning process of an MPO serving a transportation management area is not certified, the Secretary may withhold up to 20 percent of the funds attributable to the metropolitan planning area of the MPO for projects funded under title 23 and chapter 53 of this title.

"(ii) RESTORATION OF WITHHELD FUNDS.—The withheld funds shall be restored to the metropolitan planning area at such time as the metropolitan planning process is certified by the Secretary.

"(D) REVIEW OF CERTIFICATION.—In making certification determinations under this paragraph, the Secretary shall provide for public involvement appropriate to the metropolitan area under review.

"(j) ABBREVIATED PLANS FOR CERTAIN AREAS.—

"(1) IN GENERAL.—Subject to paragraph (2), in the case of a metropolitan area not designated as a transportation management area under this section, the Secretary may provide for the development of an abbreviated metropolitan long-range transpor-

tation plan and TIP for the metropolitan planning area that the Secretary determines is appropriate to achieve the purposes of this section, taking into account the complexity of transportation problems in the area.

"(2) NONATTAINMENT AREAS.—The Secretary may not permit abbreviated plans or TIPs for a metropolitan area that is in nonattainment for ozone or carbon monoxide under the Clean Air Act.

"(k) ADDITIONAL REQUIREMENTS FOR CERTAIN NONATTAINMENT AREAS.—

"(1) IN GENERAL.—Notwithstanding any other provision of title 23, this chapter, or chapter 53 of this title, for transportation management areas classified as nonattainment for ozone or carbon monoxide pursuant to the Clean Air Act, Federal funds may not be advanced in such area for any highway project that will result in a significant increase in the carrying capacity for single-occupant vehicles unless the project is addressed through a congestion management process.

"(2) APPLICABILITY.—This subsection applies to a nonattainment area within the metropolitan planning area boundaries determined under subsection (c).

1 "(l) LIMITATION ON STATUTORY CONSTRUCTION.—
2 Nothing in this section may be construed to confer on an
3 MPO the authority to impose legal requirements on any
4 transportation facility, provider, or project not eligible
5 under title 23 or chapter 53 of this title.

6 "(m) FUNDING.—Funds set aside under section
7 104(f) of title 23 or section 5305(g) of this title shall be
8 available to carry out this section.

9 "(n) CONTINUATION OF CURRENT REVIEW PRAC-
10 TICE.—Since metropolitan long-range transportation
11 plans and TIPs are subject to a reasonable opportunity
12 for public comment, since individual projects included in
13 such plans and TIPs are subject to review under the Na-
14 tional Environmental Policy Act of 1969 (42 U.S.C. 4321
15 et seq.), and since decisions by the Secretary concerning
16 such plans and TIPs have not been reviewed under that
17 Act as of January 1, 1997, any decision by the Secretary
18 concerning such plans and TIPs shall not be considered
19 to be a Federal action subject to review under that Act.

20 **"§ 5204. Statewide transportation planning**

21 "(a) GENERAL REQUIREMENTS.—

22 "(1) DEVELOPMENT OF PLANS AND PRO-
23 GRAMS.—To accomplish the objectives stated in sec-
24 tion 5201, a State shall develop a statewide strategic
25 long-range transportation plan and a statewide

1 transportation improvement program for all areas of
2 the State, subject to section 5203.
3 ''(2) CONTENTS.—Statewide strategic long-
4 range transportation plans and TIPs shall provide
5 for the development and integrated management and
6 operation of transportation systems and facilities
7 (including accessible pedestrian walkways, bicycle
8 transportation facilities, and intermodal facilities
9 that support intercity transportation, including
10 intercity buses and intercity bus facilities) that will
11 function as an intermodal transportation system for
12 the State and an integral part of an intermodal
13 transportation system for the United States.
14 ''(3) PROCESS OF DEVELOPMENT.—The process
15 for developing statewide strategic long-range trans-
16 portation plans and TIPs shall provide for consider-
17 ation of all modes of transportation and the policies
18 stated in section 5201, and shall be continuing, co-
19 operative, and comprehensive to the degree appro-
20 priate, based on the complexity of the transportation
21 problems to be addressed.
22 ''(b) COORDINATION WITH METROPOLITAN PLAN-
23 NING; STATE IMPLEMENTATION PLAN.—A State shall—
24 ''(1) coordinate planning carried out under this
25 section with the transportation planning activities

carried out under section 5203 for metropolitan areas of the State and with statewide trade and economic development planning activities and related multistate planning efforts; and

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

''(c) INTERSTATE AGREEMENTS.—

''(1) IN GENERAL.—The consent of Congress is granted to 2 or more States entering into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section related to interstate areas and localities in the States and establishing authorities the States consider desirable for making the agreements and compacts effective.

''(2) RESERVATION OF RIGHTS.—The right to alter, amend, or repeal interstate compacts entered into under this subsection is expressly reserved.

''(d) SCOPE OF PLANNING PROCESS.—

''(1) IN GENERAL.—A State shall carry out a statewide transportation planning process that provides for consideration and implementation of projects, strategies, and services that will—

"(A) support the economic vitality of the United States, the States, nonmetropolitan areas, and metropolitan areas, especially by enabling global competitiveness, 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 people 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 throughout the State, for people and freight;

"(G) promote efficient system management and operation; and

"(H) emphasize the preservation of the existing transportation system.

"(2) FAILURE TO CONSIDER FACTORS.—The failure to consider any factor specified in paragraph (1) shall not be reviewable by any court under title 23, chapter 53 of this title, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a statewide strategic long-range transportation plan or TIP, a project or strategy, or the certification of a planning process.

"(e) ADDITIONAL REQUIREMENTS.—In carrying out planning under this section, a State shall, at a minimum—

"(1) with respect to nonmetropolitan areas, cooperate with affected nonmetropolitan local officials or, if applicable, through regional transportation planning organizations described in subsection (k);

"(2) consider the concerns of Indian tribal governments and Federal land management agencies that have jurisdiction over land within the boundaries of the State; and

"(3) coordinate statewide long-range transportation plans and TIPs and planning activities with related planning activities being carried out outside of metropolitan planning areas and between States.

1 "(f) STATEWIDE STRATEGIC LONG-RANGE TRANS-
2 PORTATION PLAN.—
3 "(1) DEVELOPMENT.—
4 "(A) IN GENERAL.—A State shall develop
5 a statewide strategic long-range transportation
6 plan, with a minimum 20-year forecast period
7 for all areas of the State, that provides for the
8 development and implementation of the inter-
9 modal interconnected transportation system of
10 the State.
11 "(B) STATEWIDE STRATEGIC LONG-RANGE
12 TRANSPORTATION PLAN REQUIREMENTS.—
13 "(i) NATIONAL TRANSPORTATION STA-
14 TISTICS.—In developing a statewide stra-
15 tegic long-range transportation plan, the
16 State shall consider the data and factors
17 disseminated by the Secretary pursuant to
18 section 5205(b) for that particular State.
19 "(ii) TRANSPORTATION PROJECTS
20 THAT ARE OF STATEWIDE, REGIONAL, AND
21 NATIONAL IMPORTANCE.—The State shall
22 identify transportation projects across all
23 modes of transportation in the State that
24 have statewide, regional, and national sig-
25 nificance. In identifying these projects, the

State shall consider the factors described in section 5205(b).

''(iii) STATES WITH CONGESTED AIRPORTS.—If a State has an airport in its jurisdiction that had at least 1 percent of all delayed aircraft operations in the United States, as identified by the Federal Aviation Administration's Airport Capacity Benchmark Report, the statewide strategic long-range transportation plan shall include measures to alleviate congestion at that airport either through expansion or the development of additional facilities.

''(iv) STATES WITH CONGESTED FREIGHT RAIL CORRIDORS.—If data from the Department of Transportation and the freight railroad industry project that a State has freight railroad corridors that operate at levels of service that are at or exceed capacity, the statewide strategic long-range transportation plan shall include measures by which the State department of transportation and the freight railroads provide relief for the congested corridors.

"(v) STATES WITH DEEP DRAFT PORTS.—If a State has a deep draft port, the statewide strategic long-range transportation plan shall take into account any plan for expansion at that port and any projected increase in shipping traffic at that port.

"(vi) STATES WITH NAVIGABLE INLAND WATERWAYS.—A State that has navigable inland waterways shall include in its statewide strategic long-range transportation plan any plans to use those waterways to facilitate the efficient and reliable transportation of freight and people.

"(vii) PROJECT INTERCONNECTIVITY.—In developing a statewide strategic long-range transportation plan, the State shall ensure interconnectivity for freight and passengers between different facilities and between different modes of transportation.

"(viii) COST ESTIMATES FOR PROJECTS THAT ARE OF STATEWIDE, REGIONAL, AND NATIONAL IMPORTANCE.—In developing the statewide strategic long-

range transportation plan, the State shall include estimates of the costs of each of the projects identified in clause (ii).

''(2) CONSULTATION WITH GOVERNMENTS.—

''(A) METROPOLITAN AREAS.—The statewide strategic long-range transportation plan shall be developed for each metropolitan area in the State in cooperation with the metropolitan planning organization designated for the metropolitan area under section 5203.

''(B) NONMETROPOLITAN AREAS.—With respect to nonmetropolitan areas, the statewide strategic long-range transportation plan shall be developed in cooperation with affected nonmetropolitan local officials or, if applicable, through regional transportation planning organizations described in subsection (k).

''(C) INDIAN TRIBAL AREAS.—With respect to an area of the State under the jurisdiction of an Indian tribal government, the statewide strategic long-range transportation plan shall be developed in consultation with the tribal government and the Secretary of the Interior.

''(D) CONSULTATION; COMPARISONS.—

"(i) CONSULTATION.—A statewide strategic long-range transportation plan shall be developed, as appropriate, in consultation with State, tribal, regional, and local agencies responsible for land use management, natural resources, environmental protection, conservation, and historic preservation.

"(ii) COMPARISONS.—Consultation under clause (i) shall involve, as appropriate, comparison of statewide strategic long-range transportation plans—

"(I) to State and tribal conservation plans and maps, if available; and

"(II) to inventories of natural and historic resources, if available.

"(3) PARTICIPATION BY INTERESTED PARTIES.—

"(A) IN GENERAL.—The State shall provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, providers of freight transportation services, private providers of transportation, including intercity bus services, representatives of users of public transportation,

representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, and other interested parties with a reasonable opportunity to comment on the statewide strategic long-range transportation plan.

''(B) METHODS.—In carrying out subparagraph (A), the State shall, to the maximum extent practicable—

''(i) hold any public meetings at convenient and accessible locations and times;

''(ii) employ visualization techniques to describe plans; and

''(iii) make public information available in electronically accessible format and means, such as the Internet, as appropriate to afford a reasonable opportunity for consideration of public information under subparagraph (A).

''(4) MITIGATION ACTIVITIES.—

''(A) IN GENERAL.—A statewide strategic long-range transportation plan shall include a discussion of potential environmental mitigation activities and potential areas to carry out these activities, including activities that may have the

1 greatest potential to restore and maintain the
2 environmental functions affected by the plan.
3 ''(B) CONSULTATION.—The discussion
4 shall be developed in consultation with Federal,
5 State, and tribal wildlife, land management,
6 and regulatory agencies.
7 ''(5) FINANCIAL PLAN.—The statewide stra-
8 tegic long-range transportation plan may include a
9 financial plan that—
10 ''(A) demonstrates how the adopted state-
11 wide strategic long-range transportation plan
12 can be implemented;
13 ''(B) indicates resources from public and
14 private sources that are reasonably expected to
15 be made available to carry out the statewide
16 strategic long-range transportation plan;
17 ''(C) recommends any additional financing
18 strategies for needed projects and programs;
19 and
20 ''(D) may include, for illustrative purposes,
21 additional projects that would be included in
22 the adopted statewide strategic long-range
23 transportation plan if reasonable additional re-
24 sources beyond those identified in the financial
25 plan were available.

"(6) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—A State shall not be required to select any project from the illustrative list of additional projects included in the financial plan described in paragraph (5).

"(7) EXISTING SYSTEM.—A statewide strategic long-range transportation plan should include capital, operations, and management strategies, investments, procedures, and other measures to ensure the preservation and most efficient use of the existing transportation system.

"(8) INTERCITY BUS.—A statewide strategic long-range transportation plan shall consider the role intercity buses may play in reducing congestion, pollution, and energy consumption in a cost-effective manner and strategies and investments that preserve and enhance intercity bus systems, including systems that are privately owned and operated.

"(9) PUBLICATION OF STATEWIDE STRATEGIC LONG-RANGE TRANSPORTATION PLANS.—A statewide strategic long-range transportation plan prepared by a State shall be published or otherwise made available, including to the maximum extent practicable in electronically accessible formats and means, such as the Internet.

1 ''(g) STATEWIDE TIP.—

2 ''(1) DEVELOPMENT.—A State shall develop a
3 statewide TIP for all areas of the State. Such pro-
4 gram shall cover a period of 4 years and be updated
5 every 4 years or more frequently if the Governor
6 elects to update more frequently.

7 ''(2) CONSULTATION WITH GOVERNMENTS.—

8 ''(A) METROPOLITAN AREAS.—With re-
9 spect to a metropolitan area in the State, the
10 program shall be developed in cooperation with
11 the MPO designated for the metropolitan area
12 under section 5203.

13 ''(B) NONMETROPOLITAN AREAS.—With
14 respect to a nonmetropolitan area in the State,
15 the program shall be developed in cooperation
16 with affected nonmetropolitan local officials or,
17 if applicable, through regional transportation
18 planning organizations described in subsection
19 (k).

20 ''(C) INDIAN TRIBAL AREAS.—With respect
21 to an area of the State under the jurisdiction
22 of an Indian tribal government, the program
23 shall be developed in consultation with the trib-
24 al government and the Secretary of the Interior.

1 "(3) PARTICIPATION BY INTERESTED PAR-
2 TIES.—In developing the program, the State shall
3 provide citizens, affected public agencies, representa-
4 tives of public transportation employees, freight
5 shippers, private providers of transportation, pro-
6 viders of freight transportation services, representa-
7 tives of users of public transportation, representa-
8 tives of users of pedestrian walkways and bicycle
9 transportation facilities, representatives of the dis-
10 abled, and other interested parties with a reasonable
11 opportunity to comment on the proposed program.
12 "(4) INCLUDED PROJECTS.—
13 "(A) IN GENERAL.—A statewide TIP de-
14 veloped for a State shall include federally sup-
15 ported surface transportation expenditures
16 within the boundaries of the State.
17 "(B) LISTING OF PROJECTS.—An annual
18 listing of projects for which funds have been ob-
19 ligated in the preceding year in each metropoli-
20 tan planning area shall be published or other-
21 wise made available by the cooperative effort of
22 the State, public transportation operator, and
23 the MPO for public review. The listing shall be
24 consistent with the funding categories identified
25 in each metropolitan TIP.

"(C) PROJECTS UNDER CHAPTER 2 OF TITLE 23.—

"(i) REGIONALLY SIGNIFICANT PROJECTS.—Regionally significant projects proposed for funding under chapter 2 of title 23 shall be identified individually in the statewide TIP.

"(ii) OTHER PROJECTS.—Projects proposed for funding under such chapter that are not determined to be regionally significant shall be grouped in one line item or identified individually in the statewide TIP.

"(D) CONSISTENCY WITH STATEWIDE STRATEGIC LONG-RANGE TRANSPORTATION PLAN.—A project shall be—

"(i) consistent with the statewide strategic long-range transportation plan developed under this section for the State;

"(ii) identical to the project or phase of the project as described in an approved metropolitan long-range transportation plan;

"(iii) identical to the project or phase of the project as described in a metropolitan TIP approved by the Governor; and

"(iv) in conformance with the applicable State air quality implementation plan developed under the Clean Air Act, if the project is carried out in an area designated as nonattainment for ozone, particulate matter, or carbon monoxide under that Act.

"(E) REQUIREMENT OF ANTICIPATED FULL FUNDING.—The statewide TIP shall include a project, or the identified phase of a project, only if full funding can reasonably be anticipated to be available for the project or the identified phase within the time period contemplated for completion of the project or the identified phase.

"(F) FINANCIAL PLAN.—The statewide TIP may include a financial plan that—

"(i) demonstrates how the approved statewide TIP can be implemented;

"(ii) indicates resources from public and private sources that are reasonably ex-

pected to be made available to carry out the statewide TIP;

''(iii) recommends any additional financing strategies for needed projects and programs; and

''(iv) may include, for illustrative purposes, additional projects that would be included in the adopted statewide TIP if reasonable additional resources beyond those identified in the financial plan were available.

''(G) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—

''(i) NO REQUIRED SELECTION.—Notwithstanding subparagraph (F), a State shall not be required to select any project from the illustrative list of additional projects included in the financial plan under subparagraph (F).

''(ii) REQUIRED ACTION BY THE SECRETARY.—An action by the Secretary shall be required for a State to select any project from the illustrative list of additional projects included in the financial

plan under subparagraph (F) for inclusion in an approved statewide TIP.

"(H) PRIORITIES.—The statewide TIP shall reflect the priorities for programming and expenditures of funds required by title 23, this chapter, and chapter 53 of this title.

"(5) PROJECT SELECTION FOR AREAS WITHOUT MPOS.—

"(A) IN GENERAL.—Except as provided by subparagraph (B), projects carried out in areas without a designated MPO shall be selected from the approved statewide TIP by the State in cooperation with affected nonmetropolitan local officials or, if applicable, through regional transportation planning organizations described in subsection (k).

"(B) NHS PROJECTS.—Projects carried out on the National Highway System under title 23 or under sections 5311 and 5317 of this title in areas without a designated MPO shall be selected from the approved statewide TIP by the State in consultation with affected nonmetropolitan local officials.

"(6) TIP APPROVAL.—Every 4 years, a statewide TIP shall be reviewed and approved by the Secretary if based on a current planning finding.

"(7) PLANNING FINDING.—A finding shall be made by the Secretary at least once every 4 years that the transportation planning process through which statewide strategic long-range transportation plans and TIPs are developed is consistent with this section and section 5203.

"(8) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, action by the Secretary shall not be required to advance a project included in the approved statewide TIP in place of another project in the program.

"(h) FUNDING.—Funds set aside pursuant to sections 104(f) and 505 of title 23 and section 5305(g) of this title shall be available to carry out this section.

"(i) TREATMENT OF CERTAIN STATE LAWS AS CONGESTION MANAGEMENT PROCESSES.—For purposes of this section and section 5203, State laws, rules, or regulations pertaining to congestion management systems or programs may constitute the congestion management process under this section and section 5203 if the Secretary finds that the State laws, rules, or regulations are

consistent with, and fulfill the intent of, the purposes of this section and section 5203, as appropriate.

"(j) CONTINUATION OF CURRENT REVIEW PRACTICE.—Since statewide strategic long-range transportation plans and TIPs are subject to a reasonable opportunity for public comment, individual projects included in such plans and TIPs are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and decisions by the Secretary concerning such plans and TIPs have not been reviewed under that Act as of January 1, 1997, any decision by the Secretary concerning such plans and TIPS shall not be considered to be a Federal action subject to review under that Act.

"(k) DESIGNATION OF REGIONAL TRANSPORTATION PLANNING ORGANIZATIONS.—

"(1) IN GENERAL.—To carry out the transportation planning process required by this section, a State may establish and designate regional transportation planning organizations to enhance the planning, coordination, and implementation of statewide strategic long-range transportation plans and TIPs, with an emphasis on addressing the needs of nonmetropolitan areas of the State.

"(2) STRUCTURE.—A regional transportation planning organization shall be established as a

multi-jurisdictional organization of volunteers from nonmetropolitan local officials or their designees and representatives of local transportation systems.

"(3) REQUIREMENTS.—A regional transportation planning organization shall establish, at a minimum—

"(A) a policy committee, the majority of which shall consist of nonmetropolitan local officials, or their designees, and which shall also include, as appropriate, additional representatives from the State, private business, transportation service providers, economic development practitioners, and the public in the region; and

"(B) a fiscal and administrative agent, such as an existing regional planning and development organization, to provide professional planning, management, and administrative support.

"(4) DUTIES.—The duties of a regional transportation planning organization shall include—

"(A) developing and maintaining, in cooperation with the State, regional long-range multimodal transportation plans;

"(B) developing a regional transportation improvement program for consideration by the State;

"(C) fostering the coordination of local planning, land use, and economic development plans with State, regional, and local transportation plans and programs;

"(D) providing technical assistance to local officials;

"(E) participating in national, multistate, and State policy and planning development processes to ensure the regional and local input of nonmetropolitan areas;

"(F) providing a forum for public participation in the statewide and regional transportation planning processes;

"(G) considering and sharing plans and programs with neighboring regional transportation planning organizations, MPOs, and, where appropriate, tribal organizations; and

"(H) conducting other duties, as necessary, to support and enhance the statewide planning process under subsection (d).

"(5) STATES WITHOUT REGIONAL TRANSPORTATION PLANNING ORGANIZATIONS.—If a State

chooses not to establish or designate a regional transportation planning organization, the State shall consult with affected nonmetropolitan local officials to determine projects that may be of regional significance.

**"§ 5205. National strategic transportation plan**

"(a) DEVELOPMENT OF NATIONAL STRATEGIC TRANSPORTATION PLAN.—

"(1) DEVELOPMENT OF PLAN.—

"(A) IN GENERAL.—The Secretary, in consultation with State departments of transportation, shall develop a national strategic transportation plan (in this section referred to as the 'national plan') in accordance with the requirements of this section.

"(B) SOLICITATION.—Not later than 30 days after the date of enactment of this section, the Secretary shall publish in the Federal Register a solicitation requesting each State department of transportation to submit to the Secretary, not later than 90 days after such date of enactment, a list of projects that the State recommends for inclusion in the national plan.

"(C) STATE SELECTION OF PROJECTS.—In selecting projects under subparagraph (B), a

State department of transportation shall consider the elements of the national plan described in paragraph (2).

"(D) FAILURE TO SUBMIT RECOMMENDATIONS.—If a State does not submit a list of recommended projects in accordance with this paragraph, the Secretary shall select projects in the State that will be considered for inclusion in the national plan.

"(E) SELECTION OF PROJECTS.—Not later than 60 days after the date on which the Secretary receives a list of recommended projects from a State department of transportation under this paragraph, the Secretary shall review the list and select projects from the list for inclusion in the national plan.

"(F) BASIS FOR SELECTION.—In selecting projects for inclusion in the national plan, the Secretary shall consider, at a minimum—

"(i) the projects recommended by State departments of transportation under this paragraph;

"(ii) the ability of projects to improve mobility by increasing transportation options for passengers and freight;

"(iii) the degree to which projects create intermodal links between different modes of transportation, including passenger and freight rail, public transportation, intercity bus, airports, seaports, and navigable inland waterways; and

"(iv) the ability of projects to generate national economic benefits, including—

"(I) improvements to economic productivity through congestion relief; and

"(II) improvements to passenger and freight movement.

"(2) ELEMENTS OF NATIONAL PLAN.—

"(A) ROLE OF STATEWIDE STRATEGIC LONG-RANGE TRANSPORTATION PLANS.—The national plan shall be modeled after the statewide strategic long-range transportation plans developed under section 5204(f).

"(B) NATIONAL AND REGIONAL TRANSPORTATION PROJECTS.—Giving emphasis to the facilities that serve important national and regional transportation functions, the national plan shall include an identification of transpor-

tation projects (including major roadways, public transportation facilities, intercity bus facilities, multimodal and intermodal facilities, and intermodal connectors) that facilitate the development of—

"(i) a national transportation system; and

"(ii) an integrated regional transportation system.

"(C) INTERCONNECTIVITY BETWEEN STATES AND REGIONS.—The national plan shall ensure a level of interconnectivity among transportation facilities and strategies at State and regional borders.

"(D) IDENTIFICATION OF POTENTIAL HIGH-SPEED INTERCITY RAIL CORRIDORS AND SHIPPING ROUTES.—In developing the national plan, the Secretary, in consultation with State departments of transportation, shall identify potential high-speed passenger rail projects and potential short seas shipping routes.

"(E) INTERCITY BUS NETWORK.—The national plan shall identify projects to preserve and expand the Nation's intercity bus network

and provide interconnectivity to other forms of intercity and local transportation.

"(F) COST ESTIMATES FOR PROJECTS.—In developing the national plan, the Secretary shall include estimates of the costs of each of the projects and strategies identified in the national plan and a total cost of all of the projects and strategies identified in the national plan.

"(3) ISSUANCE AND UPDATING OF NATIONAL PLAN.—

"(A) ISSUANCE.—Not later than April 30, 2014, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works, the Committee on Banking, Housing, and Urban Affairs, and the Committee on Commerce, Science, and Transportation of the Senate the national plan developed under this section.

"(B) UPDATES.—At least once every 2 years after the date of submission of the national plan under subparagraph (A), the Secretary—

"(i) in consultation with State departments of transportation, shall update the national plan; and

"(ii) shall submit the updated national plan to the committees referred to in subparagraph (A).

"(b) DISSEMINATION OF TRANSPORTATION DATA AND STATISTICS FOR DEVELOPMENT OF STRATEGIC LONG-RANGE TRANSPORTATION PLANS.—

"(1) IN GENERAL.—The Secretary shall develop, and disseminate to the States, relevant long-range transportation data and statistics that a State or the Secretary, as the case may be, shall use in the development of statewide, regional, and national strategic long-range transportation plans.

"(2) TYPES OF TRANSPORTATION DATA AND STATISTICS TO BE DEVELOPED.—The data and statistics referred to in paragraph (1) shall include, at a minimum, 20-year projections—

"(A) of population growth in each State;

"(B) from the Department of Transportation's Freight Analysis Framework (referred to in this paragraph as 'FAF'), including projections for annual average daily truck flow on specific highway routes;

"(C) from the Department of Transportation's Highway Performance Monitoring System (referred to in this paragraph as 'HPMS') of estimated peak period congestion on major highway routes or segments of routes and in metropolitan areas;

"(D) from HPMS and FAF of estimated traffic volumes on segments of highway that are projected to be classified as moderately or highly congested;

"(E) from HPMS and FAF for highway bottlenecks;

"(F) of public transportation use in urbanized areas, including for each urbanized area a comparison of estimated ridership growth and estimated public transportation revenue vehicle miles to available system capacity and current service levels;

"(G) of aviation passenger enplanements and cargo ton miles flown;

"(H) of increases in unmanned aerial system and general aviation active aircraft and hours flown;

"(I) of capacity-constrained airports and congested air traffic routes;

"(J) of passenger demand for suborbital space tourism;

"(K) of demand on major freight rail lines;

"(L) of shipping traffic at United States ports; and

"(M) of intercity bus and passenger rail ridership demand.

**"§ 5206. National performance management system**

"(a) ESTABLISHMENT OF NATIONAL PERFORMANCE MANAGEMENT SYSTEM.—

"(1) ESTABLISHMENT.—The Secretary shall establish a national performance management system to track the Nation's progress toward broad national performance goals for the Nation's highway and public transportation systems.

"(2) COMPONENTS.—The National Performance Management System shall include the following components:

"(A) A national performance management goal.

"(B) Core performance measures.

"(C) Technical guidance.

"(D) A State performance management process, including—

"(i) performance targets;

1 ''(ii) strategies; and
2 ''(iii) reporting requirements.
3 ''(b) NATIONAL PERFORMANCE MANAGEMENT
4 GOAL.—
5 ''(1) ESTABLISHMENT.—The Secretary shall es-
6 tablish, in broad qualitative terms, a national per-
7 formance management goal for the Nation's highway
8 and public transportation systems to ensure eco-
9 nomic growth, safety improvement, and increased
10 mobility.
11 ''(2) CONSISTENCY WITH NATIONAL STRATEGIC
12 TRANSPORTATION PLAN.—The national strategic
13 transportation plan, to the greatest extent prac-
14 ticable, shall be consistent with the national per-
15 formance management goal.
16 ''(c) CORE PERFORMANCE MEASURES.—
17 ''(1) ESTABLISHMENT.—Not later than 2 years
18 after the date of enactment of this section, the Sec-
19 retary, in collaboration with the States, metropolitan
20 planning organizations, and public transportation
21 agencies through the process described in paragraph
22 (4) shall establish core performance measures.
23 ''(2) IMPLEMENTATION.—A State shall be re-
24 quired to implement the core performance measures

as part of the State's performance management process established in subsection (e).

"(3) CATEGORIES.—The core performance measures shall include not more than 2 measures from each of the following categories:

"(A) Pavement condition on the National Highway System.

"(B) Bridge condition on the National Highway System.

"(C) Highway and motor carrier safety.

"(D) Highway safety infrastructure asset management.

"(E) Bike and pedestrian safety.

"(F) Highway congestion.

"(G) Air emissions and energy consumption.

"(H) Freight mobility.

"(I) Public transportation state of good repair.

"(J) Public transportation service availability.

"(K) Rural connectivity.

"(4) PROCESS.—The core performance measures shall be established under the following process:

"(A) At any time after the date of enactment of this section, the State departments of transportation (in consultation with metropolitan planning organizations and public transportation agencies), acting through their national organization, may jointly submit to the Secretary a complete set of recommended core performance measures for use in statewide transportation planning.

"(B) The Secretary shall give substantial weight to the recommendations submitted by the State departments of transportation, if such recommendations are submitted not later than 18 months after enactment of this section.

"(C) After consultation with the State departments of transportation regarding the recommendations, the Secretary shall issue a notice in the Federal Register announcing the Secretary's proposed set of core performance measures and providing an opportunity for comment.

"(D) After considering any comments, the Secretary shall publish a notice in the Federal Register not later than 2 years after the date

of enactment of this section announcing the final set of core performance measures.

"(d) TECHNICAL GUIDANCE.—

"(1) IN GENERAL.—Not later than 6 months after the Secretary publishes the final set of core performance measures in the Federal Register under subsection (c)(4)(D), the Secretary shall issue technical guidance, including a uniform methodology for collecting data, for use by the States in applying the core performance measures.

"(2) DEVELOPMENT.—The Secretary shall—

"(A) develop the technical guidance in collaboration with the State departments of transportation;

"(B) give substantial weight to any recommendations submitted by the State departments of transportation through their national organization, if such recommendations are submitted not later than 3 months after the Secretary publishes the final set of core performance measures in the Federal Register under subsection (c)(4)(D); and

"(C) provide a reasonable opportunity for State departments of transportation to com-

ment on the technical guidance before it is issued.

"(e) STATE PERFORMANCE MANAGEMENT PROCESS.—

"(1) ESTABLISHMENT OF PERFORMANCE TARGETS.—

"(A) INITIAL TARGETS.—Not later than 1 year after the Secretary publishes the final set of core performance measures in the Federal Register under subsection (c)(4)(D), a State shall amend its statewide strategic long-range transportation plan to include a target level of performance for each of the core performance measures.

"(B) REVISIONS TO TARGETS.—A State may revise its performance targets for the core performance measures at any time by amending its statewide strategic long-range transportation plan and resubmitting the plan to the Secretary.

"(2) REPORTING REQUIREMENTS.—

"(A) IN GENERAL.—In order to improve the outcomes of the transportation planning process, the States shall implement a national

performance reporting process in accordance with subparagraphs (B) and (C).

"(B) BASELINE REPORT.—Not later than 6 months after adopting its initial performance targets for the core performance measures pursuant to paragraph (1)(A), a State shall publish a baseline report including data from the most recent year for which data is available for the full set of core performance measures.

"(C) ANNUAL PROGRESS REPORTS.—Not later than 18 months after publication of the baseline report, and annually thereafter, a State shall publish a report documenting the progress that the State has made in meeting its performance targets for the core performance measures.".

(b) CONFORMING AMENDMENTS.—

(1) SUBTITLE ANALYSIS.—The analysis for subtitle III of title 49, United States Code, is amended by inserting after the item relating to chapter 51 the following:

**"52. Transportation Planning ..... 5201.".**

(2) METROPOLITAN TRANSPORTATION PLANNING.—

(A) TITLE 23.—Section 134 of title 23, United States Code, is amended to read as follows:

**"§ 134. Metropolitan transportation planning**

''Metropolitan transportation planning programs funded under section 104(f) shall be carried out in accordance with the metropolitan planning provisions of section 5203 of title 49, United States Code.''.

(B) CHAPTER 53 OF TITLE 49.—Section 5303 of title 49, United States Code, is amended to read as follows:

**"§ 5303. Metropolitan transportation planning**

''Metropolitan transportation planning programs funded under section 5305 shall be carried out in accordance with the metropolitan planning provisions of section 5203.''.

(3) STATEWIDE TRANSPORTATION PLANNING.—

(A) TITLE 23.—Section 135 of title 23, United States Code, is amended to read as follows:

**"§ 135. Statewide transportation planning**

''Statewide transportation planning programs funded under sections 104(f) and 505 shall be carried out in accordance with the metropolitan planning provisions of section 5204 of title 49, United States Code.''.

(B) CHAPTER 53 OF TITLE 49.—Section 5304 of title 49, United States Code, is amended to read as follows:

**"§ 5304. Statewide transportation planning**

''Statewide transportation planning programs funded under section 5305 shall be carried out in accordance with the metropolitan planning provisions of section 5204.''.

**SEC. 4002. SPECIAL RULES FOR SMALL METROPOLITAN PLANNING ORGANIZATIONS.**

(a) CONTINUATION OF APPLICABILITY OF SECTION 134.—A metropolitan planning organization that serves an urbanized area with a population of more than 50,000 and less than 100,000 and that is subject to the provisions of section 134 of title 23, United States Code, and section 5303 of title 49, United States Code (as in effect on the day before the date of enactment of this Act), shall continue to be designated as a metropolitan planning organization subject to section 5203 of title 49, United States Code (as added by this title), unless the Governor and units of general purpose local government that together represent at least 75 percent of the affected population, including the largest incorporated city (based on population) as determined by the Bureau of the Census, agree to terminate the designation.

(b) TREATMENT.—A metropolitan planning organization described in paragraph (1) shall be treated, for purposes of title 23, United States Code, and chapters 52 and 53 of title 49, United States Code, the Transportation Equity Act for the 21st Century (Public Law 105–178), and SAFETEA–LU (Public Law 109–59) as a metropolitan planning organization that is subject to the provisions of section 5203 of title 49, United States Code (as added by this title).

**SEC. 4003. FINANCIAL PLANS.**

Not later than 90 days after the date of enactment of this Act, the Secretary shall issue revised regulations under sections 5203 and 5204 of title 49, United States Code (as added by this title), to clarify that—

(1) a financial plan for a long-range transportation plan or transportation improvement program is required to be updated not more than once every 4 years;

(2) an amendment to a long-range transportation plan or transportation improvement program does not require a review of the entire financial plan, but rather requires only a plan for covering any incremental costs associated with the amendment;

(3) project costs and revenue estimates used in developing a financial plan for a long-range plan

should be based on long-term trends, and need not be adjusted to reflect short-term fluctuations;

(4) the Department shall defer to the judgment of State and local governments regarding the magnitude of potential State and local revenue streams, including the likelihood that State or local governments will approve tax increases, tolling, bonding, or other measures to increase revenues; and

(5) the requirement for a financial plan does not give the Secretary the authority or responsibility to determine the adequacy of a State or metropolitan area's funding levels for operation and maintenance of the transportation system.

**SEC. 4004. PLAN UPDATE.**

Not later than September 30, 2012, a State shall update its statewide strategic long-range transportation plan to comply with the requirements of section 5205 of title 49, United States Code.

**SEC. 4005. STATE PLANNING AND RESEARCH FUNDING FOR TITLE 23.**

Section 505 of title 23, United States Code, is amended—

(1) in subsection (a)(5) by inserting ''intercity bus,'' after ''public transportation,''; and

(2) in subsection (b)(1) by inserting ''intercity bus,'' after ''public transportation,''.

**SEC. 4006. NATIONAL ACADEMY OF SCIENCES STUDY.**

(a) STUDY.—The Secretary shall enter into appropriate arrangements with the National Academy of Sciences to conduct a study on the implementation of section 5206 of title 49, United States Code (as added by this title).

(b) CONTENTS.—The study shall—

(1) report on the timeliness of implementation, the quality and consistency of performance measurement practices, the costs of compliance, and impact on the transportation planning process;

(2) include recommendations for changes to improve implementation; and

(3) include recommendations for future additions or changes to the performance categories as described in this section.

(c) CONSULTATION.—The National Academy of Sciences shall conduct the study required under this section in consultation with the Federal Highway Administration, Federal Transit Administration, American Association of State Highway and Transportation Officials, American Public Transit Association, and Association of Metropolitan Planning Organizations.

(d) COMPLETION IN PHASES.—

(1) IN GENERAL.—The National Academy of Sciences shall complete the study in 2 phases, corresponding to the major stages of implementation of section 5206 of title 49, United States Code.

(2) PHASE I.—Phase 1 of the study shall—

(A) address implementation of performance measures; and

(B) be completed not later than 3 years after the date of enactment of this Act.

(3) PHASE II.—Phase 2 of the study shall—

(A) address implementation of performance targets, as well as performance measures; and

(B) be completed not later than 5 years after the date of enactment of this Act.

**SEC. 4007. CONGESTION RELIEF.**

The Secretary shall—

(1) encourage States and metropolitan planning organizations to prioritize congestion relief projects in transportation improvement programs in order to improve the flow of commerce and the productivity of the Federal-aid system; and

(2) provide technical assistance and educational materials to States to quantify the economic, envi-

ronmental, and quality-of-life damage caused by traffic congestion as well as identify multiple options for solutions, including new roads and lanes, bottleneck removal, and low-cost congestion relief projects.

# TITLE V—HIGHWAY SAFETY

**SEC. 5001. AMENDMENTS TO TITLE 23, 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 23, United States Code.

**SEC. 5002. AUTHORIZATION OF APPROPRIATIONS.**

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

(1) HIGHWAY SAFETY PROGRAMS.—For carrying out section 402 of title 23, United States Code, $493,312,000 for each of fiscal years 2013 through 2016.

(2) NATIONAL DRIVER REGISTER.—For the National Highway Traffic Safety Administration to carry out chapter 303 of title 49, United States

Code, $4,116,000 for each of fiscal years 2013 through 2016.

(3) 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 title (including the amendments made by this title) $162,572,000 for each of fiscal years 2013 through 2016.

(b) PROHIBITION ON OTHER USES.—Except as otherwise provided in chapter 4 of title 23, United States Code, and this title (including the amendments made by this title), the amounts made available from the Highway Trust Fund (other than the Alternative Transportation Account) for a program under that chapter shall be used only to carry out such program and may not be used by States or local governments for construction purposes.

(c) APPLICABILITY OF CHAPTER 1.—Except as otherwise provided in chapter 4 of title 23, United States Code, and this title (including the amendments made by this title), the amounts made available under subsection (a) for each of fiscal years 2013 through 2016 shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code.

**SEC. 5003. HIGHWAY SAFETY PROGRAMS.**

(a) IN GENERAL.—Section 402(a) is amended to read as follows:

"(a) STATE HIGHWAY SAFETY PROGRAMS.—

"(1) IN GENERAL.—Each State shall have a highway safety program that is subject to approval by the Secretary and is designed to reduce traffic crashes and the fatalities, injuries, and property damage resulting therefrom.

"(2) UNIFORM GUIDELINES.—A State's highway safety program under paragraph (1) shall be established and carried out in accordance with uniform guidelines promulgated by the Secretary, which shall be expressed in terms of performance criteria and shall include programs—

"(A) to reduce injuries and fatalities resulting from motor vehicles being driven in excess of posted speed limits;

"(B) to encourage the proper use of occupant protection devices (including the use of seat belts and child restraints) by occupants of motor vehicles;

"(C) to reduce fatalities and injuries resulting from persons driving motor vehicles while impaired by alcohol or a controlled substance;

"(D) to prevent crashes and reduce fatalities and injuries resulting from crashes involving motor vehicles and motorcycles;

"(E) to reduce crashes resulting from unsafe driving behavior (including aggressive or fatigued driving and distracted driving arising from the use of electronic devices in vehicles);

"(F) to improve law enforcement activities relating to motor vehicle crash prevention, traffic supervision, and postcrash procedures;

"(G) to improve the timeliness, accuracy, completeness, uniformity, and accessibility of the safety data of States that is needed—

"(i) for activities relating to performance targets established under subsection (m);

"(ii) to identify priorities for national, State, and local highway and traffic safety programs; and

"(iii) to improve the compatibility and interoperability of the data systems of each State with national data systems and the data systems of other States;

"(H) to improve driver performance, including through driver education, driver testing

to determine proficiency to operate motor vehicles, driver examinations (both physical and mental), and driver licensing; and

"(I) to improve pedestrian and bicycle safety.

"(3) RECORD SYSTEM.—The uniform guidelines promulgated under paragraph (2) shall include provisions for an effective record system of—

"(A) traffic crashes, including injuries and fatalities resulting therefrom;

"(B) crash investigation activities carried out to determine the probable causes of crashes, injuries, and fatalities;

"(C) vehicle registration, operation, and inspection activities;

"(D) highway design and maintenance activities, including lighting, markings, and surface treatment activities;

"(E) traffic surveillance activities relating to the detection and correction of locations with a significant potential for crashes; and

"(F) emergency services.

"(4) APPLICABILITY OF GUIDELINES.—The uniform guidelines applicable to State highway safety programs shall, to the extent determined appro-

priate by the Secretary, be 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) is amended—

(1) in paragraph (1)—

(A) in subparagraph (D) by striking ''and'' at the end;

(B) in subparagraph (E)—

(i) in clause (i) by striking ''national law enforcement mobilizations'' and inserting ''any national traffic safety law enforcement mobilizations coordinated by the Secretary''; and

(ii) by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

''(F) demonstrate that the State has established a highway safety data and traffic records coordinating committee with a multidisciplinary membership that includes, among others, managers, collectors, and users of traffic records and public health and injury control data systems;

"(G) demonstrate that the State has developed a multiyear highway safety data and traffic records system strategic plan that—

"(i) addresses existing deficiencies in the State's highway safety data and traffic records system;

"(ii) is approved by the State's highway safety data and traffic records coordinating committee;

"(iii) specifies how existing deficiencies in the State's highway safety data and traffic records system were identified;

"(iv) prioritizes, on the basis of the identified highway safety data and traffic records system deficiencies of the State, the highway safety data and traffic records system needs and goals of the State;

"(v) identifies performance-based measures by which progress toward those goals will be determined; and

"(vi) specifies how funds apportioned to the State under subsection (c) and any other funds of the State are to be used to address needs and goals identified in the multiyear plan; and

"(H) demonstrate that an assessment or audit of the State's highway safety data and traffic records system was conducted or updated during the 5-year period ending on the date on which such State highway safety program is submitted to the Secretary for approval."; and

(2) by striking paragraph (3).

(c) APPORTIONMENT OF FUNDS.—Section 402(c) is amended to read as follows:

"(c) APPORTIONMENT OF FUNDS.—

"(1) IN GENERAL.—Funds made available to carry out this section shall be used to aid States in conducting the highway safety programs approved under subsection (a).

"(2) APPORTIONMENT FORMULA.—Funds described in paragraph (1) shall be apportioned among the States each fiscal year in the following manner:

"(A) 62.5 percent in the ratio that the population of each State bears to the total population of all States, as shown by the latest available Federal census.

"(B) 20 percent in the ratio that the public road mileage in each State bears to the total public road mileage in all States.

"(C) 10 percent only to States that have enacted and are enforcing a primary safety belt use law, in the ratio that the population of each such State bears to the total population of all such States, as shown by the latest available Federal census.

"(D) 5 percent only to States that have enacted and are enforcing an ignition interlock law, in the ratio that the population of each such State bears to the total population of all such States, as shown by the latest available Federal census.

"(E) 2.5 percent only to States that have enacted and are enforcing a graduated drivers licensing law, in the ratio that the population of each such State bears to the total population of all such States, as shown by the latest available Federal census.

"(3) MINIMUM APPORTIONMENT.—The annual apportionment under paragraph (2) to each State shall not be less than three-quarters of 1 percent of the total apportionment under that paragraph in the applicable fiscal year, except that the apportionment to the Secretary of the Interior shall not be less than 1.5 percent of the total apportionment and the ap-

portionments to the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands shall not be less than one-quarter of 1 percent of the total apportionment.

"(4) IMPLEMENTATION OF APPROVED HIGHWAY SAFETY PROGRAMS.—

"(A) REQUIREMENT FOR RECEIVING APPORTIONMENTS.—The Secretary shall not apportion any funds under this section to any State that is not implementing a highway safety program approved by the Secretary under this section.

"(B) LIMITATIONS ON REQUIREMENTS RELATING TO MOTORCYCLE SAFETY HELMETS.—A highway safety program approved by the Secretary shall not include any requirement that a State implement such program by adopting or enforcing any law, rule, or regulation based on a guideline promulgated by the Secretary under this section that requires any motorcycle operator 18 years of age or older or passenger 18 years of age or older to wear a safety helmet when operating or riding a motorcycle on the streets and highways of that State.

"(C) COMPLIANCE WITH IMPLEMENTATION REQUIREMENTS.—Implementation of a highway safety program under this section shall not be construed to require the Secretary to require compliance with every uniform guideline promulgated under this section, or with every element of every uniform guideline, in every State.

"(D) MINIMUM REQUIREMENTS FOR IMPAIRED DRIVING HIGH RANGE STATES.—An impaired driving high range State shall expend in a fiscal year, on projects and activities addressing impaired driving, at least 30 percent of the funds apportioned to that State under paragraph (2) for that fiscal year.

"(E) AUTOMATED TRAFFIC ENFORCEMENT SYSTEMS.—

"(i) PROHIBITION.—A State may not expend funds apportioned to that State under paragraph (2) to carry out any program to purchase, operate, or maintain an automated traffic enforcement system.

"(ii) AUTOMATED TRAFFIC ENFORCEMENT SYSTEM DEFINED.—In this subparagraph, the term 'automated traffic enforcement system' means automated technology

that monitors compliance with traffic laws.''.

(d) MISCELLANEOUS.—Section 402 is amended—

(1) in subsection (d) by striking ''(d) All provisions'' and inserting ''(d) APPLICABILITY OF CERTAIN PROVISIONS.—All provisions'';

(2) in subsection (e) by striking ''(e) Uniform guidelines'' and inserting ''(e) COOPERATION.—Uniform guidelines'';

(3) in subsection (f) by striking ''(f) The Secretary'' and inserting ''(f) DEPARTMENT AND AGENCY PARTICIPATION.—The Secretary'';

(4) in subsection (g)—

(A) by striking ''(g) Nothing in'' and inserting ''(g) LIMITATION ON FUNDS.—Nothing in'';

(B) by striking ''for (1) highway construction'' and inserting ''for highway construction''; and

(C) by striking ''guidelines) or'' and all that follows before the period at the end and inserting ''guidelines) or for any purpose for which funds are authorized under section 403(a)'';

(5) by striking subsection (k); and

(6) by redesignating subsections (l) and (m) as subsections (k) and (l), respectively.

(e) HIGHWAY SAFETY PERFORMANCE MANAGEMENT.—Section 402 (as amended by this Act) is further amended by adding at the end the following:

"(m) ESTABLISHMENT OF PERFORMANCE TARGETS.—

"(1) IN GENERAL.—The Governor of each State shall establish quantifiable performance targets for their State—

"(A) to be incorporated into the highway safety plan of the State under subsection (n) each year; and

"(B) with respect to, at a minimum—

"(i) the average number of fatalities in the State resulting from traffic crashes per 100,000,000 vehicle miles traveled;

"(ii) the average number of serious injuries in the State resulting from traffic crashes per 100,000,000 vehicle miles traveled;

"(iii) the average number of traffic fatalities in the State involving drivers or motorcycle operators with a blood alcohol

content of .08 or above per 100,000,000 vehicle miles traveled;

"(iv) the average number of traffic crashes in the State involving drivers or motorcycle operators with a blood alcohol content of .08 or above per 100,000,000 vehicle miles traveled;

"(v) the average number of unrestrained motor vehicle occupant fatalities, for all seat positions, in the State resulting from traffic crashes per 100,000,000 vehicle miles traveled; and

"(vi) the average number of motorcyclist fatalities in the State resulting from traffic crashes per 100,000,000 vehicle miles traveled.

"(2) CONSIDERATIONS IN ESTABLISHING PERFORMANCE TARGETS.—In establishing performance targets for a State under this subsection, a Governor shall consider, at a minimum—

"(A) the number of fatalities in the State resulting from traffic crashes during the preceding 3 years;

"(B) the number of serious injuries in the State resulting from traffic crashes during the preceding 3 years;

"(C) the extent to which vehicle miles traveled in the State may impact the number of fatalities and serious injuries in the State resulting from traffic crashes; and

"(D) data available from the Fatality Analysis Reporting System of the National Highway Traffic Safety Administration.

"(n) HIGHWAY SAFETY PLAN AND REPORTING REQUIREMENTS.—

"(1) IN GENERAL.—With respect to fiscal year 2014, and each fiscal year thereafter, the Secretary shall require the Governor of each State, as a condition of the approval of the State's highway safety program for that fiscal year, to develop and submit to the Secretary for approval a highway safety plan applicable to that fiscal year in accordance with this subsection. The plan required under this paragraph may be incorporated into any other document required to be submitted under this section.

"(2) TIMING.—Each Governor shall submit to the Secretary the highway safety plan of their State

not later than September 1 of the fiscal year preceding the fiscal year to which the plan applies.

"(3) CONTENTS.—A State's highway safety plan shall include, at a minimum—

"(A) current data with respect to each performance target established for the State under subsection (m);

"(B) for the fiscal year preceding the fiscal year to which the plan applies, a description of the State's performance regarding each performance target category described in subsection (m)(1)(B);

"(C) for the fiscal year preceding the fiscal year to which the plan applies, a description of the projects and activities for which the State obligated funding apportioned to the State under this section;

"(D) for the fiscal year to which the plan applies, the State's strategy for using funds apportioned to the State under this section for projects and activities that will allow the State to meet the performance targets established for the State under subsection (m);

"(E) data and data analysis supporting the effectiveness of projects and activities proposed in the strategy under subparagraph (D);

"(F) 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 State's strategy under subparagraph (D); and

"(G) a certification that the State will maintain its aggregate expenditures for highway safety activities, from sources other than funds apportioned to the State under this section, at or above the average level of such expenditures in the 2 fiscal years preceding the date of enactment of this subsection.

"(4) REVIEW OF HIGHWAY SAFETY PLANS.—

"(A) IN GENERAL.—Not later than 60 days after the date on which the Secretary receives a State's highway safety plan, the Secretary shall approve or disapprove the plan.

"(B) APPROVALS AND DISAPPROVALS.—The Secretary shall approve or disapprove a State's highway safety plan based on a review of the plan, including an evaluation of whether, in the Secretary's judgment, the plan is evi-

dence-based, is supported by data and analysis, and, if implemented, will allow the State to meet the performance targets established for the State under subsection (m). The Secretary shall disapprove a State's highway safety plan if the plan does not, in the Secretary's judgment, provide for the evidenced-based use of funding in a manner sufficient to allow the State to meet performance targets.

"(C) ACTIONS UPON DISAPPROVAL.—If the Secretary disapproves a State's highway safety plan, the Secretary shall inform the Governor of the State of the reasons for the disapproval and require the Governor to resubmit the plan with such modifications as the Secretary determines necessary.

"(D) REVIEW OF RESUBMITTED PLANS.—If the Secretary requires a Governor to resubmit a highway safety plan with modifications, the Secretary shall approve or disapprove the modified plan not later than 30 days after the date on which the modified plan is submitted to the Secretary.

"(E) FUNDING ALLOCATIONS.—If a State failed to accomplish, as determined by the Sec-

retary, a performance target established for that State under subsection (m) in the fiscal year preceding the fiscal year to which a State highway safety plan under review applies, the Secretary shall require the following to be included in the highway safety plan under review:

"(i) If the State failed to accomplish a performance target established under subsection (m)(1)(B)(iii) or (m)(1)(B)(iv), a certification that the State will expend funds apportioned to the State under this section, during the fiscal year to which the plan applies, for projects and activities addressing impaired driving in an amount that is at least 5 percent more than the amount expended on such projects and activities in the preceding fiscal year using such funds.

"(ii) If the State failed to accomplish a performance target established under subsection (m)(1)(B)(v), a certification that the State will expend funds apportioned to the State under this section, during the fiscal year to which the plan applies, for projects and activities addressing

occupant protection in an amount that is at least 5 percent more than the amount expended on such projects and activities in the preceding fiscal year using such funds.

''(iii) If the State failed to accomplish a performance target established under subsection (m)(1)(B)(vi), a certification that the State will expend funds apportioned to the State under this section, during the fiscal year to which the plan applies, for projects and activities addressing motorcycle safety in an amount that is at least 5 percent more than the amount expended on such projects and activities in the preceding fiscal year using such funds.

''(F) DATA.—

''(i) FATALITIES DATA.—A State's compliance with performance targets relating to fatalities shall be determined using the most recent data from the Fatality Analysis Reporting System of the National Highway Traffic Safety Administration.

''(ii) CRASH DATA.—A State's compliance with performance targets relating to

serious injuries shall be determined using State crash data files.

"(G) PUBLIC NOTICE.—A State shall make each highway safety plan of the State available to the public.

"(o) ANNUAL REPORT TO CONGRESS.—Not later than October 1, 2015, and annually thereafter, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing—

"(1) an evaluation of each State's performance with respect to the State's highway safety plan under subsection (n) and performance targets under subsection (m); and

"(2) such recommendations as the Secretary may have for improvements to activities carried out under subsections (m) and (n).

"(p) DEFINITIONS.—In this section, the following definitions apply:

"(1) CHILD RESTRAINT.—The term 'child restraint' means any product designed to provide restraint to a child in a motor vehicle (including booster seats and other products used with a lap and shoulder belt assembly) that meets applicable Fed-

eral motor vehicle safety standards prescribed by the National Highway Traffic Safety Administration.

"(2) CONTROLLED SUBSTANCE.—The term 'controlled substance' has the meaning given that term in section 102 of the Controlled Substances Act (21 U.S.C. 802).

"(3) DRIVING WHILE INTOXICATED; DRIVING UNDER THE INFLUENCE.—The terms 'driving while intoxicated' and 'driving under the influence' have the meaning given those terms in section 164.

"(4) GRADUATED DRIVERS LICENSING LAW.—The term 'graduated drivers licensing law' means a law enacted by a State that requires, before the granting of an unrestricted driver's license to individuals under the age of 21 years, a 2-stage licensing process that includes the following:

"(A) A learner's permit stage that—

"(i) allows for the acquisition of a learner's permit by an individual not earlier than the date on which that individual attains 15 years and 6 months of age;

"(ii) is at least 6 months in duration;

"(iii) requires an individual with a learner's permit to complete at least 30

hours of driving supervised by a licensed driver who is 21 years of age or older;

''(iv) requires an individual with a learner's permit to be accompanied and supervised by a licensed driver who is 21 years of age or older at all times when operating a motor vehicle; and

''(v) is in effect until the commencement of the intermediate stage or until the date on which the applicable individual attains 18 years of age.

''(B) An intermediate stage that—

''(i) applies to an individual immediately after the expiration of the learner's permit stage for that individual;

''(ii) is at least 6 months in duration;

''(iii) prohibits the operation of a motor vehicle by an individual to whom the stage applies, if that individual is transporting more than one nonfamilial passenger under the age of 18 years and there is no licensed driver 21 years of age or older present in the motor vehicle; and

''(iv) prohibits an individual to whom the stage applies from operating a motor

vehicle between the hours of midnight and 4 a.m., unless such individual is accompanied and supervised by a licensed driver who is 21 years of age or older.

''(5) IMPAIRED DRIVING HIGH RANGE STATE.—The term 'impaired driving high range State' means a State that averaged more than .50 alcohol impaired driving fatalities per 100,000,000 vehicle miles traveled, as determined using data from the Fatality Analysis Reporting System of the National Highway Traffic Safety Administration, for the most recent 3 years for which data are available.

''(6) IGNITION INTERLOCK DEVICE.—The term 'ignition interlock device' means an in-vehicle device that requires a driver to provide a breath sample prior to a motor vehicle starting and that prevents a motor vehicle from starting if the blood alcohol content of the driver is above the legal limit.

''(7) IGNITION INTERLOCK LAW.—The term 'ignition interlock law' means a law enacted by a State that requires throughout the State the installation of an ignition interlock device, for a minimum of 6 months, on each motor vehicle operated by an individual who is convicted of driving while intoxicated or driving under the influence.

"(8) MOTOR VEHICLE.—The term 'motor vehicle' has the meaning given that term in section 157.

"(9) MOTORCYCLIST SAFETY TRAINING.—The term 'motorcyclist safety training' means a formal program of instruction that is approved for use in a State by the designated State authority having jurisdiction over motorcyclist safety issues, which may include a State motorcycle safety administrator or a motorcycle advisory council appointed by the Governor of the State.

"(10) PRIMARY SAFETY BELT USE LAW.—The term 'primary safety belt use law' means a law enacted by a State that—

"(A) requires all occupants in the front seat of a motor vehicle to utilize a seat belt when the motor vehicle is being driven; and

"(B) allows for a law enforcement officer to stop a vehicle solely for the purpose of issuing a citation for a violation of the requirement in subparagraph (A) in the absence of evidence of another offense.

"(11) PROJECTS AND ACTIVITIES ADDRESSING IMPAIRED DRIVING.—The term 'projects and activities addressing impaired driving' means projects and activities—

"(A) to develop and implement law enforcement measures and tools designed to reduce impaired driving, including training, education, equipment, and other methods of support for law enforcement and criminal justice professionals;

"(B) to improve impaired driving prosecution and adjudication, including the establishment of courts that specialize in impaired driving cases;

"(C) to carry out safety campaigns relating to impaired driving using paid media;

"(D) to provide inpatient and outpatient alcohol rehabilitation based on mandatory assessment and appropriate treatment;

"(E) to establish and improve information systems containing data on impaired driving; or

"(F) to establish and implement an ignition interlock system for individuals convicted of driving while intoxicated or driving under the influence.

"(12) PROJECTS AND ACTIVITIES ADDRESSING MOTORCYCLE SAFETY.—The term 'projects and activities addressing motorcycle safety' means projects and activities—

"(A) to improve the content and delivery of motorcyclist safety training curricula;

"(B) to support licensing, training, and safety education for motorcyclists, including new entrants;

"(C) to enhance motorcycle safety through public service announcements, including safety messages on road sharing, outreach, and public awareness activities; or

"(D) to provide for the safety of motorcyclists through the promotion of appropriate protective equipment.

"(13) PROJECTS AND ACTIVITIES ADDRESSING OCCUPANT PROTECTION.—The term 'projects and activities addressing occupant protection' means projects and activities—

"(A) to provide for occupant protection training, education, equipment, and other methods of support for law enforcement and criminal justice professionals;

"(B) to carry out safety campaigns relating to occupant protection using paid media;

"(C) to establish and improve information systems containing data on occupant protection;

"(D) to provide for training of firefighters, law enforcement officers, emergency medical services professionals, and others on the provision of community child passenger safety services; or

"(E) to purchase child restraints for low-income families.

"(14) PUBLIC ROAD.—The term 'public road' means any road under the jurisdiction of and maintained by a public authority and open to public travel.

"(15) PUBLIC ROAD MILEAGE.—The term 'public road mileage' means the number of public road miles in a State as—

"(A) determined at the end of the calendar year preceding the year in which applicable funds are apportioned; and

"(B) certified by the Governor of the State, subject to approval by the Secretary.

"(16) SEAT BELT.—The term 'seat belt' has the meaning given that term in section 157.".

**SEC. 5004. USE OF CERTAIN FUNDS MADE AVAILABLE FOR ADMINISTRATIVE EXPENSES.**

(a) IN GENERAL.—Section 403 is amended to read as follows:

**"§ 403. Use of certain funds made available for administrative expenses**

''(a) HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.—The Secretary is authorized to carry out, using funds made available out of the Highway Trust Fund (other than the Alternative Transportation Account) under section 5002(a)(3) of the American Energy and Infrastructure Jobs Act of 2012—

''(1) ongoing research into driver behavior and its effect on traffic safety;

''(2) research on, initiatives to counter, and demonstration projects on fatigued driving by drivers of motor vehicles and distracted driving in such vehicles, including the effect that the use of electronic devices and other factors determined relevant by the Secretary have on driving;

''(3) training or education programs in cooperation with other Federal departments and agencies, States, private sector persons, highway safety personnel, and law enforcement personnel;

''(4) research on and evaluations of the effectiveness of traffic safety countermeasures, including seat belts and impaired driving initiatives;

''(5) research on, evaluations of, and identification of best practices related to driver education programs (including driver education curricula, instruc-

tor training and certification, program administration, and delivery mechanisms) and make recommendations for harmonizing driver education and multistage graduated licensing systems;

''(6) research, training, and education programs related to older drivers;

''(7) highway safety demonstration projects related to driver behavior; and

''(8) research, training, and programs relating to motorcycle safety, including impaired driving.

''(b) HIGH VISIBILITY ENFORCEMENT PROGRAM.—

''(1) IN GENERAL.—The Administrator of the National Highway Traffic Safety Administration shall establish and administer, using funds made available out of the Highway Trust Fund (other than the Alternative Transportation Account) under section 5002(a)(3) of the American Energy and Infrastructure Jobs Act of 2012, a program under which at least 2 high-visibility traffic safety law enforcement campaigns will be carried out for the purpose specified in paragraph (2) in each of fiscal years 2013 through 2016.

''(2) PURPOSE.—The purpose of each law enforcement campaign under this subsection shall be to achieve one or more of the following objectives:

"(A) Reduce alcohol-impaired or drug-impaired operation of motor vehicles.

"(B) Increase the use of seat belts by occupants of motor vehicles.

"(C) Reduce distracted driving of motor vehicles.

"(3) ADVERTISING.—The Administrator may use, or authorize the use of, funds made available to carry out this subsection to pay for the development, production, and use of broadcast and print media advertising in carrying out law enforcement campaigns under this subsection. Consideration shall be given to advertising directed at non-English speaking populations, including those who listen to, read, or watch nontraditional media.

"(4) COORDINATION WITH STATES.—The Administrator shall coordinate with States in carrying out law enforcement campaigns under this subsection, including advertising funded under paragraph (3), with a view toward—

"(A) relying on States to provide the law enforcement resources for the campaigns out of funding available under this subsection and section 402; and

"(B) providing out of National Highway Traffic Safety Administration resources most of the means necessary for national advertising and education efforts associated with the law enforcement campaigns.

"(5) ANNUAL EVALUATION.—The Secretary shall conduct an annual evaluation of the effectiveness of campaigns carried out under this subsection.

"(6) STATE DEFINED.—In this subsection, the term 'State' has the meaning given that term in section 401.

"(c) AVAILABILITY OF FUNDS.—The Secretary shall ensure that at least $137,244,000 of the funds made available out of the Highway Trust Fund (other than the Alternative Transportation Account) under section 5002(a)(3) of the American Energy and Infrastructure Jobs Act of 2012 each fiscal year are used for programs and activities authorized under this section.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 4 is amended by striking the item relating to section 403 and inserting the following:

"403. Use of certain funds made available for administrative expenses.".

**SEC. 5005. REPEAL OF PROGRAMS.**

(a) GENERAL PROVISION.—A repeal made by this section shall not affect funds apportioned or allocated before the effective date of the repeal.

(b) OCCUPANT PROTECTION INCENTIVE GRANTS.—Section 405, and the item relating to that section in the analysis for chapter 4, are repealed.

(c) SAFETY BELT PERFORMANCE GRANTS.—Section 406, and the item relating to that section in the analysis for chapter 4, are repealed.

(d) INNOVATIVE PROJECT GRANTS.—Section 407, and the item relating to that section in the analysis for chapter 4, are repealed.

(e) STATE TRAFFIC SAFETY INFORMATION SYSTEM IMPROVEMENTS.—Section 408, and the item relating to that section in the analysis for chapter 4, are repealed.

(f) ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES.—Section 410, and the item relating to that section in the analysis for chapter 4, are repealed.

(g) STATE HIGHWAY SAFETY DATA IMPROVEMENTS.—Section 411, and the item relating to that section in the analysis for chapter 4, are repealed.

(h) HIGH VISIBILITY ENFORCEMENT PROGRAM.—Section 2009 of SAFETEA–LU (23 U.S.C. 402 note; 119 Stat. 1535), and the item relating to that section in the table of contents contained in section 1(b) of that Act, are repealed.

(i) MOTORCYCLIST SAFETY.—Section 2010 of SAFETEA–LU (23 U.S.C. 402 note; 119 Stat. 1535),

and the item relating to that section in the table of contents contained in section 1(b) of that Act, are repealed.

(j) CHILD SAFETY AND CHILD BOOSTER SEAT INCENTIVE GRANTS.—Section 2011 of SAFETEA–LU (23 U.S.C. 405 note; 119 Stat. 1538), and the item relating to that section in the table of contents contained in section 1(b) of that Act, are repealed.

(k) DRUG-IMPAIRED DRIVING ENFORCEMENT.—Section 2013 of SAFETEA–LU (23 U.S.C. 403 note; 119 Stat. 1539), and the item relating to that section in the table of contents contained in section 1(b) of that Act, are repealed.

(l) FIRST RESPONDER VEHICLE SAFETY PROGRAM.—Section 2014 of SAFETEA–LU (23 U.S.C. 402 note; 119 Stat. 1540), and the item relating to that section in the table of contents contained in section 1(b) of that Act, are repealed.

(m) RURAL STATE EMERGENCY MEDICAL SERVICES OPTIMIZATION PILOT PROGRAM.—Section 2016 of SAFETEA–LU (119 Stat. 1541), and the item relating to that section in the table of contents contained in section 1(b) of that Act, are repealed.

(n) OLDER DRIVER SAFETY; LAW ENFORCEMENT TRAINING.—Section 2017 of SAFETEA–LU (119 Stat. 1541), and the item relating to that section in the table

of contents contained in section 1(b) of that Act, are repealed.

**SEC. 5006. DISCOVERY AND ADMISSION AS EVIDENCE OF CERTAIN REPORTS AND SURVEYS.**

Section 409 is amended by striking ''and 148'' and inserting ''148, and 402''.

**SEC. 5007. PROHIBITION ON FUNDS TO CHECK HELMET USAGE OR CREATE CHECKPOINTS FOR A MOTORCYCLE DRIVER OR PASSENGER.**

The Secretary may not provide a grant or otherwise make available funding to a State, Indian tribe, county, municipality, or other local government to be used for any program to check helmet usage or create checkpoints for a motorcycle driver or passenger.

**SEC. 5008. NATIONAL DRIVER REGISTER.**

(a) ACCURACY OF INFORMATION.—Not later than October 1, 2013, to ensure the accuracy of information contained in the National Driver Register established under section 30302 of title 49, United States Code, the Secretary, in cooperation with the States, shall—

(1) establish and implement procedures to—

(A) ensure that participating States submit reports required under section 30304(a) of such title with respect to a conviction not later than 31 days after receiving notice of the con-

viction, as required under section 30304(c)(2) of such title; and

(B) verify and improve the accuracy of reports submitted for inclusion in the Register under section 30304 of such title; and

(2) establish and implement a process for—

(A) the removal or modification of an invalid or duplicative driver record contained in the Register; and

(B) the verification of a request for the removal or modification of an invalid or duplicative driver record contained in the Register.

(b) REPORT TO CONGRESS.—Not later than February 1, 2013, and every February 1 thereafter, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report describing—

(1) the timeliness and completeness of State submissions under section 30304 of title 49, United States Code;

(2) the Department's efforts to monitor and ensure compliance with the reporting requirements under such section; and

(3) recommendations for improving the National Driver Register established under section 30302 of title 49, United States Code, including the accuracy of information contained in the Register, and the Problem Driver Pointer System of the American Association of Motor Vehicle Administrators.

# TITLE VI—COMMERCIAL MOTOR VEHICLE SAFETY

**SEC. 6001. SHORT TITLE.**

This title may be cited as the ''Motor Carrier Safety, Efficiency, and Accountability Act of 2012''.

**SEC. 6002. AMENDMENTS 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—Authorization of Appropriations

**SEC. 6101. MOTOR CARRIER SAFETY GRANTS.**

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 31104(a) is amended to read as follows:

1 ''(a) IN GENERAL.—Subject to subsection (f), there
2 is authorized to be appropriated from the Highway Trust
3 Fund (other than the Alternative Transportation Account)
4 to carry out section 31102 $247,000,000 for each of fiscal
5 years 2013 through 2016.''.
6 (b) ADMINISTRATIVE TAKEDOWN.—
7 (1) IN GENERAL.—Section 31104(e) is amend-
8 ed to read as follows:
9 ''(e) DEDUCTION FOR ADMINISTRATIVE EX-
10 PENSES.—
11 ''(1) IN GENERAL.—On October 1 of each fiscal
12 year (or as soon after that date as practicable), the
13 Secretary may deduct, from amounts made available
14 under subsection (a) for that fiscal year, not more
15 than 1.25 percent of those amounts for administra-
16 tive expenses incurred in carrying out section 31102
17 in that fiscal year.
18 ''(2) TRAINING.—The Secretary shall use at
19 least 75 percent of the amounts deducted under
20 paragraph (1) to train non-Government employees
21 and to develop related training materials in carrying
22 out section 31102.''.
23 (2) REPORT TO CONGRESS.—At the end of each
24 fiscal year, the Secretary shall submit to Congress a
25 report detailing the use of amounts deducted under

1 section 31104(e) of title 49, United States Code, as
2 amended by paragraph (1) of this subsection.
3 (c) ALLOCATION CRITERIA.—Section 31104(f) is
4 amended to read as follows:
5 "(f) ALLOCATION CRITERIA.—
6 "(1) IN GENERAL.—On October 1 of each fiscal
7 year (or as soon after that date as practicable) and
8 after making the deduction under subsection (e), the
9 Secretary shall allocate amounts made available to
10 carry out section 31102 for such fiscal year among
11 the States that are eligible for grant funds under
12 section 31102(f)(2).
13 "(2) ALLOCATION FORMULA.—The amounts
14 made available to carry out section 31102 shall be
15 allocated among the States in the following manner:
16 "(A) 20 percent in the ratio that—
17 "(i) the total public road mileage in
18 each State; bears to
19 "(ii) the total public road mileage in
20 all States.
21 "(B) 20 percent in the ratio that—
22 "(i) the total vehicle miles traveled in
23 each State; bears to
24 "(ii) the total vehicle miles traveled in
25 all States.

"(C) 20 percent in the ratio that—

"(i) the total population of each State (as shown in the annual census estimates issued by the Bureau of the Census); bears to

"(ii) the total population of all States (as shown in the annual census estimates issued by the Bureau of the Census).

"(D) 20 percent in the ratio that—

"(i) the total special fuel consumption (net after reciprocity adjustment) in each State (as determined by the Secretary); bears to

"(ii) the total special fuel consumption (net after reciprocity adjustment) in all States (as determined by the Secretary).

"(E) 10 percent only to those States that share a land border with another country and conduct border commercial motor vehicle safety programs and related activities (in this subparagraph referred to as a 'border State'), with—

"(i) 70 percent of such amount to be allocated among border States in the ratio that—

"(I) the total number of international commercial motor vehicle inspections conducted within the boundaries of each border State (as determined by the Secretary); bears to

"(II) the total number of international commercial motor vehicle inspections conducted within the boundaries of all border States (as determined by the Secretary); and

"(ii) 30 percent of such amount to be allocated among border States in the ratio that—

"(I) the total number of land border crossing locations with State-maintained commercial motor vehicle safety enforcement infrastructure within the boundaries of each border State (as determined by the Secretary); bears to

"(II) the total number of land border crossing locations with State-maintained commercial motor vehicle safety enforcement infrastructure within the boundaries of all border

States (as determined by the Secretary).

''(F) 10 percent only to those States that reduce the rate of large truck-involved fatal accidents in the State for the most recent calendar year for which data are available when compared to the average rate of large truck-involved fatal accidents in the State for the 10-year period ending on the last day preceding that calendar year (in this subparagraph referred to as an 'eligible State'), with—

''(i) 25 percent of such amount to be allocated among eligible States in the ratio that—

''(I) the total public road mileage in each eligible State; bears to

''(II) the total public road mileage in all eligible States;

''(ii) 25 percent of such amount to be allocated among eligible States in the ratio that—

''(I) the total vehicle miles traveled in each eligible State; bears to

''(II) the total vehicle miles traveled in all eligible States;

"(iii) 25 percent of such amount to be allocated among eligible States in the ratio that—

"(I) the total population of each eligible State (as shown in the annual census estimates issued by the Bureau of the Census); bears to

"(II) the total population of all eligible States (as shown in the annual census estimates issued by the Bureau of the Census); and

"(iv) 25 percent of such amount to be allocated among eligible States in the ratio that—

"(I) the total special fuel consumption (net after reciprocity adjustment) in each eligible State (as determined by the Secretary); bears to

"(II) the total special fuel consumption (net after reciprocity adjustment) in all eligible States (as determined by the Secretary).

"(3) MAXIMUM AND MINIMUM ALLOCATIONS.—

"(A) MAXIMUM ALLOCATION.—The allocation under subparagraphs (A) through (D) of

paragraph (2) for a fiscal year to each State (excluding the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands) shall be not greater than 4.944 percent of the total allocation under those subparagraphs in that fiscal year.

"(B) MINIMUM ALLOCATION.—The allocation under paragraph (2) for a fiscal year to each State (excluding the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands) shall be not less than 0.44 percent of the total allocation under that paragraph in that fiscal year.

"(C) ALLOCATION TO TERRITORIES.—The annual allocation to each of the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands shall be $350,000.".

(d) ADMINISTRATIVE EXPENSES.—Section 31104(i) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated from the Highway Trust Fund (other than the Alternative Transportation Account) for the Secretary of Trans-

portation to pay administrative expenses of the Federal Motor Carrier Safety Administration $244,144,000 for each of fiscal years 2013 through 2016.''; and

(2) by adding at the end the following:

''(3) OUTREACH AND EDUCATION.—

''(A) IN GENERAL.—Using the funds authorized by this subsection, the Secretary shall conduct an outreach and education program to be administered by the Administrator of the Federal Motor Carrier Safety Administration in cooperation with the Administrator of the National Highway Traffic Safety Administration.

''(B) PROGRAM ELEMENTS.—The program shall include, at a minimum, the following:

''(i) A program to promote a more comprehensive and national effort to educate commercial motor vehicle operators and passenger vehicle drivers about how such operators and drivers can more safely share the road with each other.

''(ii) A program to promote enhanced traffic enforcement efforts aimed at reducing the incidence of the most common unsafe driving behaviors that cause or con-

tribute to crashes involving commercial motor vehicles and passenger vehicles.

''(iii) A program to establish a public-private partnership to provide resources and expertise for the development and dissemination of information relating to sharing the road referred to in clauses (i) and (ii) to each partner's constituents and to the general public through the use of brochures, videos, paid and public advertisements, the Internet, and other media.''.

**SEC. 6102. GRANT PROGRAMS.**

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Highway Trust Fund (other than the Alternative Transportation Account) the following sums for the following Federal Motor Carrier Safety Administration programs:

(1) COMMERCIAL DRIVER'S LICENSE PROGRAM IMPLEMENTATION GRANTS.—For commercial driver's license program implementation grants under section 31313 of title 49, United States Code, $30,000,000 for each of fiscal years 2013 through 2016.

(2) COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS DEPLOYMENT.—For carrying

out the commercial vehicle information systems and networks deployment program under section 4126 of SAFETEA–LU (119 Stat. 1738) $30,000,000 for each of fiscal years 2013 through 2016.

(b) PERIOD OF AVAILABILITY.—The amounts made available under this section shall remain available until expended.

(c) INITIAL DATE OF AVAILABILITY.—Amounts authorized to be appropriated from the Highway Trust Fund (other than the Alternative Transportation Account) by 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.

(d) CONTRACT AUTHORITY.—Approval by the Secretary of a grant with funds made available under this section imposes upon the United States a contractual obligation for payment of the Government's share of costs incurred in carrying out the objectives of the grant.

# Subtitle B—Registration

**SEC. 6201. REGISTRATION REQUIREMENTS.**

(a) GENERAL REQUIREMENTS.—Section 13901 is amended to read as follows:

**"§ 13901. Requirement for registration**

''(a) IN GENERAL.—A person may provide the following transportation or services only if the person is registered under this chapter to provide the transportation or service:

''(1) Transportation as a motor carrier subject to jurisdiction under subchapter I of chapter 135.

''(2) Service as a freight forwarder subject to jurisdiction under subchapter III of chapter 135.

''(3) Service as a broker for transportation subject to jurisdiction under subchapter I of chapter 135.

''(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 the transportation or service. In the case of a person registered by the Secretary to provide more than one type of transportation or service, the Secretary shall issue a separate registration number to the person for each authority to provide transportation or service.

''(2) TRANSPORTATION OR SERVICE TYPE INDICATOR.—A registration number issued under para-

graph (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 the 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 addresses of the principals of each entity holding such registration;

''(2) the status of such registration; and

''(3) the electronic address of the entity's surety provider for the submission of claims.''.

(2) CONFORMING AMENDMENT.—The analysis for such chapter is amended by adding at the end the following:

''13909. Availability of information.''.

**SEC. 6202. MOTOR CARRIER REGISTRATION.**

(a) MOTOR CARRIER GENERALLY.—Section 13902(a) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) IN GENERAL.—Except as provided in this section, the Secretary shall register a person to provide transportation subject to jurisdiction under subchapter I of chapter 135 as a motor carrier using self-propelled vehicles the motor carrier owns, rents, or leases if the Secretary finds 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 a successor regulation, for

transportation provided by an over-the-road bus; and

"(vi) the minimum financial responsibility requirements established by the Secretary pursuant to sections 13906 and 31138;

"(B) has demonstrated, through successful completion of a proficiency examination, to be developed by the Secretary by regulation, knowledge of the requirements and regulations described in subparagraph (A);

"(C) has disclosed to the Secretary any relationship involving common stock, common ownership, common control, common management, or common familial relationship between that person and any other motor carrier in the 3-year period preceding the date of the filing of the application for registration; and

"(D) has been issued a Department of Transportation number under section 31134."; and

(2) 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.''.

(b) ENHANCED REGISTRATION PROCEDURES FOR HOUSEHOLD GOODS MOTOR CARRIERS.—

(1) IN GENERAL.—Section 13902(a)(2) is amended to read as follows:

''(2) REGISTRATION FOR HOUSEHOLD GOODS MOTOR CARRIERS.—

''(A) ADDITIONAL REQUIREMENTS.—In addition to meeting the requirements of paragraph (1), the Secretary may register a person to provide transportation of household goods as a household goods motor carrier only after the person—

''(i) provides evidence of participation in an arbitration program under section 14708 and provides a copy of the notice of the arbitration program as required by section 14708(b)(2);

''(ii) identifies the motor carrier's tariff and provides a copy of the notice of the availability of that tariff for inspection as required by section 13702(c);

''(iii) provides evidence that the person has access to, has read, is familiar

with, and will observe all applicable Federal laws relating to consumer protection, estimating, consumers' rights and responsibilities, and options for limitations of liability for loss and damage;

''(iv) discloses any relationship involving common stock, common ownership, common control, common management, or common familial relationships between the person and any other motor carrier, freight forwarder, or broker of household goods within 3 years of the proposed date of registration;

''(v) demonstrates that the person is willing and able to comply with the household goods consumer protection rules of the Secretary; and

''(vi) demonstrates, through successful completion of a proficiency examination, to be developed by the Secretary by regulation, knowledge of the requirements and regulations described in this subparagraph.

''(B) HOUSEHOLD GOODS AUDITS.—

''(i) IN GENERAL.—The Secretary shall require, by regulation, each registrant

described in subparagraph (A) to undergo a household goods audit during the 180-day period beginning 1 year after the date of issuance of a provisional registration to the registrant.

"(ii) REGULATIONS.—

"(I) DEADLINE.—The Secretary shall issue regulations under clause (i) not later than 2 years after the date of enactment of the Motor Carrier Safety, Efficiency, and Accountability Act of 2012.

"(II) ISSUANCE OF STANDARDS.—The regulations shall include standards for household goods audits.

"(iii) CONTENTS.—The Secretary shall ensure that the standards issued under clause (ii)(II) require evidence demonstrating that a registrant described in subparagraph (A)—

"(I) has consistently adhered to the household goods regulations of the Secretary;

"(II) has consistently adhered to the requirements of its tariff;

1 ''(III) has not wrongfully with-
2 held the household goods of a cus-
3 tomer;
4 ''(IV) has not had a pattern of
5 substantiated customer service com-
6 plaints filed against it; and
7 ''(V) has complied with all rel-
8 evant arbitration requirements.
9 ''(C) CORRECTIVE ACTION PLAN.—
10 ''(i) IN GENERAL.—If a registrant de-
11 scribed in subparagraph (A) fails a house-
12 hold goods audit, the registrant may sub-
13 mit to the Secretary for approval a correc-
14 tive action plan to address deficiencies
15 identified in the audit. The registrant shall
16 submit the plan during the 60-day period
17 beginning on the date the registrant is no-
18 tified of the results of the audit.
19 ''(ii) DEADLINE FOR APPROVAL OR
20 DISAPPROVAL.—The Secretary shall ap-
21 prove or disapprove a corrective action
22 plan submitted under clause (i) not later
23 than 60 days after the date of submission
24 of the plan.

"(iii) ASSESSMENT OF IMPLEMENTATION OF CORRECTIVE ACTION PLAN.—If the Secretary approves a corrective action plan submitted by a registrant under clause (i), the Secretary shall determine, during the 1-year period beginning on the date of such approval, whether the registrant has carried out the plan satisfactorily.

"(D) PROVISIONAL REGISTRATION.—

"(i) IN GENERAL.—Any registration issued under subparagraph (A) shall be designated as a provisional registration until the audit required by subparagraph (B) is completed.

"(ii) REQUIREMENT FOR ISSUANCE OF PERMANENT REGISTRATION.—A provisional registration issued to a registrant under subparagraph (A) shall become permanent after the registrant—

"(I) passes the household goods audit required under subparagraph (B); or

"(II) implements to the satisfaction of the Secretary a corrective action plan under subparagraph (C).

"(iii) REVOCATION OF PROVISIONAL REGISTRATION.—If a registrant fails a household goods audit required under subparagraph (B) or does not implement to the satisfaction of the Secretary a corrective action plan under subparagraph (C), the Secretary shall revoke the provisional registration of the registrant.

"(E) REAPPLYING FOR REGISTRATION.—

"(i) IN GENERAL.—Nothing in this paragraph permanently prohibits a person from reapplying for registration to provide transportation of household goods as a household goods motor carrier.

"(ii) LIMITATION.—If the Secretary revokes the provisional registration of a person under this paragraph, the person shall be required to wait at least 1 year before reapplying for a registration to provide transportation of household goods as a household goods motor carrier.".

(2) RULEMAKING.—Not later than 2 years after the date of enactment of this Act, the Secretary shall issue a final rule establishing the proficiency examination referred to in section 13902(a)(2)(A)(vi) of title 49, United States Code, as amended by paragraph (1).

(c) REGISTRATION AS FREIGHT FORWARDER OR BROKER REQUIRED.—Section 13902 is amended—

(1) by redesignating subsection (g) as subsection (h); and

(2) by inserting after subsection (f) the following:

''(g) REGISTRATION AS FREIGHT FORWARDER OR BROKER REQUIRED.—A motor carrier registered under this chapter—

''(1) may only provide transportation of property with—

''(A) self-propelled motor vehicles owned or leased by the motor carrier; or

''(B) interchanges, as permitted under regulations issued by the Secretary and subject to requirements that the originating carrier physically transports the cargo at some point and retains liability for the cargo and payment of interchanged carriers; and

"(2) may not arrange such transportation unless the motor carrier has obtained a separate registration as a freight forwarder or broker for transportation under section 13903 or 13904, as the case may be.".

**SEC. 6203. REGISTRATION OF FREIGHT FORWARDERS AND BROKERS.**

(a) REGISTRATION OF FREIGHT FORWARDERS.—Section 13903 is amended to read as follows:

**"§ 13903. Registration of freight forwarders**

"(a) IN GENERAL.—The Secretary shall register a person to provide service subject to jurisdiction under subchapter III of chapter 135 as a freight forwarder if the Secretary finds that the person—

"(1) is qualified by experience to act as a freight forwarder; and

"(2) is fit, willing, and able to provide the service and to comply with this part and applicable regulations of the Secretary.

"(b) FINANCIAL SECURITY REQUIREMENTS.—A registration issued under subsection (a) shall remain in effect only as long as the freight forwarder is in compliance with section 13906(c).

"(c) EXPERIENCE OR TRAINING REQUIREMENT.—A 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 completion of relevant training.

"(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 is amended to read as follows:

**"§ 13904. Registration of brokers**

"(a) IN GENERAL.—The Secretary shall register a person to be a broker for transportation of property subject to jurisdiction under subchapter I of chapter 135, if the Secretary finds that the person—

"(1) is qualified by experience to act as a broker for transportation; and

"(2) is fit, willing, and able to be a broker for transportation and to comply with this part and applicable regulations of the Secretary.

"(b) FINANCIAL SECURITY REQUIREMENTS.—A registration issued under subsection (a) shall remain in effect only as long as the broker for transportation is in compliance with section 13906(b).

"(c) EXPERIENCE OR TRAINING REQUIREMENT.—A 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 completion of relevant training.

"(d) REGISTRATION AS MOTOR CARRIER REQUIRED.—

"(1) IN GENERAL.—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.

"(2) LIMITATION.—This subsection does not apply to a motor carrier registered under this chapter or to an employee or agent of the motor carrier to the extent the transportation is to be provided entirely by the motor carrier.

"(e) REGULATIONS TO PROTECT MOTOR CARRIERS AND SHIPPERS.—Regulations of the Secretary applicable to brokers registered under this section shall provide for

the protection of motor carriers and shippers by motor vehicle.

''(f) BOND AND INSURANCE.—The Secretary may impose on brokers for motor carriers of passengers such requirements for bonds or insurance (or both) as the Secretary determines are needed to protect passengers and carriers dealing with such brokers.''.

**SEC. 6204. EFFECTIVE PERIODS OF REGISTRATION.**

Section 13905(c) is amended to read as follows:

''(c) EFFECTIVE PERIOD.—

''(1) IN GENERAL.—Except as provided in this part, each registration issued under section 13902, 13903, or 13904 shall be effective from the date specified by the Secretary and shall remain in effect for such period as the Secretary determines appropriate by regulation.

''(2) REISSUANCE OF REGISTRATION.—Not later than 4 years after the date of enactment of the Motor Carrier Safety, Efficiency, and Accountability Act of 2012, the Secretary shall require a freight forwarder or broker to renew its registration issued under this chapter. Such registration shall expire not later than 5 years after the date of such renewal and may be further renewed as provided under this chapter.

"(3) REQUIREMENT FOR INFORMATION UPDATE.—

"(A) IN GENERAL.—The Secretary shall require a motor carrier, freight forwarder, or broker to update its registration information under this chapter within 30 days of 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.

"(B) MOTOR CARRIERS OF PASSENGERS.—In addition to the requirements of subparagraph (A), the Secretary shall require a motor carrier of passengers to update its registration information, including numbers of vehicles, annual mileage, and individuals responsible for compliance with Federal safety regulations quarterly for the first 2 years after being issued a registration under section 13902.".

**SEC. 6205. REINCARNATED CARRIERS.**

(a) DENIALS, SUSPENSIONS, AMENDMENTS, AND REVOCATIONS.—Section 13905(d) is amended—

(1) by redesignating paragraph (2) as paragraph (4);

(2) by striking paragraph (1) and inserting the following:

"(1) APPLICATIONS.—On application of the registrant, the Secretary may deny, suspend, 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) deny, 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 a successor regulation, for transportation provided by an over-the-road bus; or

"(iii) a condition of its registration;

"(B) deny, suspend, amend, or revoke any part of the registration of a motor carrier, broker, or freight forwarder for failure to—

"(i) pay a civil penalty imposed under chapter 5, 51, 149, or 311 of this title; or

"(ii) arrange and abide by an acceptable payment plan for such civil penalty, within 90 days of the time specified by order of the Secretary for the payment of such penalty; and

"(C) deny, suspend, amend, or revoke any part of a registration of a motor carrier following a determination by the Secretary that the motor carrier 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.

"(3) LIMITATION.—Paragraph (2)(B) 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."; and

(3) in paragraph (4) (as redesignated by subparagraph (A) of this paragraph) by striking ''paragraph (1)(B)'' and inserting ''paragraph (2)(B)''.

(b) PROCEDURE.—Section 13905(e) is amended by inserting ''or if the Secretary determines that the registrant has failed to disclose a material fact in an application for registration in accordance with subsection (d)(2)(C)'' before the first comma.

(c) DUTIES OF EMPLOYERS AND EMPLOYEES.—Section 31135 is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following:

''(d) AVOIDING COMPLIANCE.—

''(1) IN GENERAL.—Two or more employers shall not use common ownership, common management, common control, or common familial relationship to enable any or all such employers to avoid compliance, or mask or otherwise conceal noncompliance, or a history of noncompliance, with commercial motor vehicle safety regulations issued under this subchapter or an order of the Secretary issued under this subchapter or such regulations.

"(2) PENALTY.—If the Secretary determines that actions described in the preceding sentence have occurred, the Secretary shall—

"(A) deny, suspend, amend, or revoke all or part of any such employer's registration under sections 13905 and 31134; and

"(B) take into account such noncompliance for purposes of determining civil penalty amounts under section 521(b)(2)(D).".

(d) 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 motor carrier is or has been related, through common stock, common ownership, common control, common management, or common familial relationship to any other motor carrier.".

**SEC. 6206. 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 security 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 the case the broker 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 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 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 ATTORNEYS 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 attorneys fees.

"(3) MINIMUM FINANCIAL SECURITY.—A broker 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 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 Web site 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 the broker 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 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 re-

quirements 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 provide the financial security of a broker for 5 years.

"(8) DEDUCTION OF COSTS PROHIBITED.—The amount of the financial security required under this subsection may not be reduced by deducting attorney's fees or administrative costs.

"(9) FINANCIAL SECURITY AMOUNT ASSESSMENT.—Every 5 years, the Secretary shall review, with public notice and comment, the amounts of the financial security required under this subsection to determine whether the amounts are sufficient to provide adequate financial security, and shall be authorized to increase the 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, 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 FINANCIAL SECURITY.—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 subpara-

graph (A), a trust fund or other financial security 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 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 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 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 ATTORNEYS 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 attorneys 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 to be 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—

"(i) bodily injury to, or death of, an individual, or

"(ii) 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 when 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 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 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 the available financial security of the freight forwarder 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 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 ineligible to provide the financial security of a freight forwarder for 5 years.

"(9) DEDUCTION OF COSTS PROHIBITED.—The amount of the financial security required under this subsection may not be reduced by deducting attorney's fees or administrative costs.

"(10) FINANCIAL SECURITY AND INSURANCE AMOUNT ASSESSMENT.—Every 5 years, the Secretary shall review, with public notice and comment,

the amounts of the financial security and insurance required under this subsection to determine whether the amounts are sufficient to provide adequate financial security, and shall be authorized to increase the amounts, if necessary, based upon that determination.''.

(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 of 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.

(d) REVIEW OF SECURITY REQUIREMENTS.—Not later than 15 months after the date of enactment of this Act, the Inspector General of the Department of Transportation shall—

(1) review the regulations and enforcement practices of the Secretary under subsections (b) and (c) of section 13906 of title 49, United States Code, as amended by this Act; and

(2) make any recommendations to the Secretary that may be necessary to improve the enforcement of such regulations.

**SEC. 6207. REGISTRATION FEE SYSTEM.**

Section 13908(d)(1) is amended by striking ''but shall not exceed $300''.

**SEC. 6208. UNLAWFUL BROKERAGE ACTIVITIES.**

(a) IN GENERAL.—Chapter 149 is amended by adding at the end the following:

**''§ 14916. Unlawful brokerage activities**

''(a) PROHIBITED ACTIVITIES.—A person may provide interstate brokerage services as a broker only if the person—

''(1) is registered under, and in compliance with, section 13904; and

''(2) has satisfied the financial security requirements under section 13906.

''(b) Subsection (a) shall not apply to—

''(1) a non-vessel-operating common carrier (as defined in section 40102 of title 46);

''(2) an ocean freight forwarder (as defined in section 40102 of title 46);

''(3) a customs broker licensed in accordance with section 111.2 of title 19, Code of Federal Regulations; or

''(4) an indirect air carrier holding a Standard Security Program approved by the Transportation Security Administration,

when arranging for inland transportation as part of an international through movement involving ocean transportation between the United States and a foreign port.

"(c) 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.

"(d) 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 such chapter is amended by adding at the end the following:

"14916. Unlawful brokerage activities.".

**SEC. 6209. REQUIREMENT FOR REGISTRATION AND USDOT NUMBER.**

(a) IN GENERAL.—Subchapter III of chapter 311 is amended by inserting after section 31133 the following:

**"§ 31134. Requirement for registration and Department of Transportation number**

''(a) IN GENERAL.—An employer or an employee of the employer may operate a commercial motor vehicle in interstate commerce only if the Secretary of Transportation registers the employer under this section and issues the employer a Department of Transportation number.

''(b) REGISTRATION.—Upon application for registration and a Department of Transportation number under this section, the Secretary shall register the employer if the Secretary determines that—

''(1) the employer is willing and able to comply with the requirements of this subchapter and chapter 51 if applicable; and

''(2)(A) during the 3-year period before the date of the filing of the application, the employer was not related through common stock, common ownership, common control, common management, or common familial relationship to any other person subject to safety regulations under this subchapter who, during such 3-year period, was unwilling or un-

able to comply with the requirements of this subchapter or chapter 51 if applicable; or

"(B) the employer has disclosed to the Secretary any relationship involving common stock, common ownership, common control, common management, or common familial relationship between that person and any other motor carrier.

"(c) REVOCATION OR SUSPENSION.—The Secretary shall revoke or suspend the registration of an employer issued under subsection (b) if the Secretary determines that—

"(1) the authority of the employer to operate as a motor carrier, freight forwarder, or broker pursuant to chapter 139 is revoked or suspended under section 13905(d)(1) or 13905(f); or

"(2) the employer has willfully failed to comply with the requirements for registration set forth in subsection (b).

"(d) COMMERCIAL REGISTRATION.—An employer registered under this section may not provide transportation subject to jurisdiction under subchapter I of chapter 135 unless the employer is also registered under section 13902 to provide such transportation.

"(e) STATE AUTHORITY.—Nothing in this section shall be construed as affecting the authority of a State

to issue a Department of Transportation number under State law to a person operating in intrastate commerce.''.

(b) CLERICAL AMENDMENT.—The analysis for chapter 311 is amended by inserting after the item relating to section 31133 the following:

''31134. Requirement for registration and Department of Transportation number.''.

# Subtitle C—Commercial Motor Vehicle Safety

**SEC. 6301. MOTOR CARRIER SAFETY ASSISTANCE PROGRAM.**

(a) GENERAL AUTHORITY.—Section 31102 is amended to read as follows:

**''§ 31102. Motor carrier safety assistance program**

''(a) GENERAL AUTHORITY.—The Secretary of Transportation shall administer a motor carrier safety assistance program to assist States with—

''(1) the development or implementation of programs for improving motor carrier safety; and

''(2) the enforcement of Federal regulations, standards, and orders (and compatible State regulations, standards, and orders) on—

''(A) commercial motor vehicle safety; and

''(B) hazardous materials transportation safety.

''(b) STATE PLANS.—

"(1) PROCEDURES.—The Secretary shall prescribe procedures for a State to participate in the program, including procedures under which the State shall submit a plan, in writing, to the Secretary in which the State agrees—

"(A) to assume responsibility for improving motor carrier safety in the State; and

"(B) to adopt and enforce Federal regulations, standards, and orders (and compatible State regulations, standards, and orders) on—

"(i) commercial motor vehicle safety; and

"(ii) hazardous materials transportation safety.

"(2) CONTENTS.—A plan submitted by a State under paragraph (1) shall—

"(A) provide for implementation of performance-based activities, including deployment of technology, to enhance the efficiency and effectiveness of commercial motor vehicle safety programs;

"(B) provide for implementation of a border commercial motor vehicle safety program and related enforcement activities if the State shares a land border with another country;

"(C) designate a State motor vehicle safety agency (in this paragraph referred to as the 'designated State agency') responsible for administering the plan throughout the State;

"(D) provide satisfactory assurances that the designated State agency has or will have the legal authority, resources, and qualified personnel necessary to enforce the regulations, standards, and orders;

"(E) provide satisfactory assurances that the State will devote adequate amounts to the administration of the plan and enforcement of the regulations, standards, and orders;

"(F) provide a right of entry and inspection to carry out the plan;

"(G) provide that all reports required under this section be submitted to the designated State agency and that the designated State agency will make the reports available to the Secretary on request;

"(H) provide that the designated State agency will adopt the reporting requirements and use the forms for recordkeeping, inspections, and investigations the Secretary prescribes;

"(I) require registrants of commercial motor vehicles to make a declaration of knowledge of applicable safety regulations, standards, and orders of the Government and the State;

"(J) provide that the State will grant maximum reciprocity for inspections conducted under the North American Inspection Standard through the use of a nationally accepted system that allows ready identification of previously inspected commercial motor vehicles;

"(K) ensure that activities described in subsection (f)(3)(B), if financed with grants under this section, will not diminish the effectiveness of the development and implementation of commercial motor vehicle safety programs described in subsection (a);

"(L) ensure that the designated State agency will coordinate the plan, data collection, and information systems with State highway safety programs under title 23;

"(M) ensure participation in appropriate Federal Motor Carrier Safety Administration information systems and other information systems by all appropriate jurisdictions receiving funding under this section;

"(N) provide satisfactory assurances that the State is willing and able to exchange information with other States in a timely manner;

"(O) provide satisfactory assurances that the State will undertake efforts that will emphasize and improve enforcement of State and local traffic safety laws and regulations related to commercial motor vehicle safety;

"(P) provide satisfactory assurances that the State will promote activities in support of national priorities, including—

"(i) activities aimed at removing impaired commercial motor vehicle drivers from the highways of the United States—

"(I) through adequate enforcement of regulations on the use of alcohol and controlled substances; and

"(II) by ensuring ready roadside access to alcohol detection and measuring equipment;

"(ii) activities aimed at providing an appropriate level of training to State motor carrier safety assistance program officers and employees on recognizing drivers im-

paired by alcohol or controlled substances; and

''(iii) interdiction activities affecting the transportation of controlled substances by commercial motor vehicle drivers and training on appropriate strategies for carrying out those interdiction activities;

''(Q) provide satisfactory assurances that the State has established a program to ensure that—

''(i) accurate, complete, and timely motor carrier safety data is collected and reported to the Secretary; and

''(ii) the State will participate in a national motor carrier safety data correction system prescribed by the Secretary;

''(R) ensure that the State will cooperate in the enforcement of financial responsibility requirements under sections 13906, 31138, and 31139 and regulations issued thereunder;

''(S) ensure consistent, effective, and reasonable sanctions;

''(T) ensure that roadside inspections will be conducted at a location that is adequate to

protect the safety of drivers and enforcement personnel;

''(U) provide satisfactory assurances that the State will include, in the training manual for the licensing examination to drive a non-commercial motor vehicle and a commercial motor vehicle, information on best practices for driving safely in the vicinity of noncommercial and commercial motor vehicles;

''(V) provide satisfactory assurances that the State will enforce the registration requirements of sections 13902 and 31134 by prohibiting the operation of any vehicle discovered to be operated by a motor carrier—

''(i) without a registration issued under such sections; or

''(ii) beyond the scope of such registration;

''(W) provide satisfactory assurances that the State will conduct comprehensive and highly visible traffic enforcement and commercial motor vehicle safety inspection programs in high-risk locations and corridors; and

''(X) provide for implementation of activities to monitor the safety performance of motor

carriers of passengers, including inspections of commercial motor vehicles designed or used to transport passengers; except that roadside inspections must be conducted at a station, terminal, border crossing, maintenance facility, destination, or other location where a motor carrier may make a planned stop, except in the case of an imminent or obvious safety hazard.

''(3) MAINTENANCE OF EFFORT.—

''(A) IN GENERAL.—A plan submitted by a State under this subsection shall provide that the total expenditure of amounts of the State and political subdivisions of the State (not including amounts of the United States) for commercial motor vehicle safety programs and for enforcement of commercial motor vehicle size and weight limitations, drug interdiction, and State traffic safety laws and regulations under subsection (f) will be maintained at a level at least equal to the average level of that expenditure for the 3 most recent fiscal years ending before the date of enactment of the Motor Carrier Safety, Efficiency, and Accountability Act of 2012.

"(B) CALCULATING STATE EXPENDITURES.—In calculating the average level of State expenditure, 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 Government amounts.

"(c) GUIDANCE AND STANDARDS.—

"(1) IN GENERAL.—Not later than October 1, 2013, the Secretary shall—

"(A) develop guidance on the effectiveness of specific enforcement and related activities in generating reductions in fatalities and crashes involving commercial motor vehicles; and

"(B) publish standards for data timeliness, accuracy, and completeness that will allow States to meet the objectives of this section and that are consistent with the standards issued under section 31106(a)(4).

"(2) OPTIMIZATION OF ALLOCATIONS.—The Secretary shall develop a tool for States to optimize allocations of motor carrier safety resources to carry

out enforcement and related activities to meet the objectives of this section.

"(3) UPDATES OF GUIDANCE.—The Secretary shall update the guidance issued under paragraph (1)(A) periodically to reflect new information.

"(d) PERFORMANCE MEASURES.—

"(1) STATE TARGETS.—For fiscal year 2014, and each fiscal year thereafter, each State, in the plan submitted by that State under subsection (b), shall—

"(A) establish targets, in quantifiable metrics, for enforcement activities, data quality, and other benchmarks to reduce fatalities and crashes involving commercial motor vehicles;

"(B) select target activities in accordance with the Secretary's latest guidance to ensure States pursue activities likely to generate maximum fatality and crash reduction; and

"(C) meet the standards for data published by the Secretary under subsection (c)(1)(B).

"(2) ANNUAL UPDATES OF STATE PLANS.—A State shall—

"(A) update its plan under subsection (b) annually to establish targets for the following fiscal year; and

"(B) submit the updated plan to the Secretary.

"(3) REQUIREMENTS FOR TARGETS.—If a State receives an increase in grant funds under this section in a fiscal year as compared to the previous fiscal year, the targets established by the State under paragraph (1) for the fiscal year shall exceed the levels achieved by the State in the previous fiscal year.

"(4) STATE REPORTS.—

"(A) INFORMATION ON FATALITIES AND CRASHES INVOLVING COMMERCIAL MOTOR VEHICLES.—Under the motor carrier safety assistance program, a State shall report to the Secretary the number and rate of fatalities and crashes involving commercial motor vehicles occurring in the State in the previous fiscal year.

"(B) OTHER INFORMATION.—A State shall include in the report required under subparagraph (A) information on commercial motor vehicles registered in the State and involved in crashes in such fiscal year and any other information requested by the Secretary.

1 "(5) ASSESSMENTS.—As part of the annual
2 plan approval process under subsection (e), the Sec-
3 retary shall assess whether—
4 "(A) a State met its targets in the pre-
5 vious fiscal year; and
6 "(B) targeted activities are reducing fatali-
7 ties and crashes involving commercial motor ve-
8 hicles.
9 "(e) PLAN REVIEW.—
10 "(1) APPROVAL PROCESS.—Before distributing
11 grant funds under subsection (f) in a fiscal year, the
12 Secretary shall—
13 "(A) review each State plan submitted to
14 the Secretary under subsection (b), as updated
15 by the State under subsection (d); and
16 "(B)(i) approve the plan if the Secretary
17 determines that the plan is adequate to promote
18 the objectives of this section; or
19 "(ii) disapprove the plan.
20 "(2) RESUBMITTAL.—If the Secretary dis-
21 approves a plan under this subsection, the Secretary
22 shall—
23 "(A) give the State a written explanation;
24 and

"(B) allow the State to modify and resubmit the plan for approval.

"(3) CONTINUOUS EVALUATION OF PLANS.—

"(A) IN GENERAL.—On the basis of reports submitted by the motor vehicle safety agency of a State with a plan approved under this subsection and the Secretary's own investigations, the Secretary shall make a continuing evaluation of the way the State is carrying out the plan.

"(B) WITHDRAWAL OF APPROVAL.—

"(i) IN GENERAL.—If the Secretary finds, after notice and opportunity for comment, a State plan previously approved under this subsection is not being followed or has become inadequate to ensure enforcement of the regulations, standards, or orders, the Secretary shall withdraw approval of the plan and notify the State.

"(ii) EFFECTIVE DATE.—The plan shall not be effective beginning on the date the notice is received.

"(iii) JUDICIAL REVIEW.—A State adversely affected by a withdrawal under this

subparagraph may seek judicial review under chapter 7 of title 5.

"(C) ADMINISTRATIVE AND JUDICIAL PROCEEDINGS.—Notwithstanding a withdrawal of approval of a State plan under this paragraph, the State may retain jurisdiction in administrative or judicial proceedings begun before the date of the withdrawal if the issues involved are not related directly to the reasons for the withdrawal.

"(f) GRANTS TO STATES.—

"(1) IN GENERAL.—Subject to the availability of funds, the Secretary shall make grants to States for the development or implementation of programs under this section in accordance with paragraph (3).

"(2) ELIGIBILITY.—

"(A) IN GENERAL.—A State shall be eligible for a grant under this subsection in a fiscal year in an amount equal to the State's allocated amount determined under section 31104(f) if the State has in effect a State plan under subsection (b) that has been approved by the Secretary under subsection (e) for that fiscal year.

"(B) WITHHOLDING OF FUNDS.—In the case of a State that does not meet the require-

ments of subparagraph (A) in a fiscal year, the Secretary may withhold grant funds from a State's allocated amount determined under section 31104(f) for that fiscal year as follows:

"(i) The Secretary may withhold up to 25 percent of such funds if the State had a plan approved under subsection (e) for the fiscal year preceding the fiscal year of the grant, but has not had a plan approved under subsection (e) for the fiscal year of the grant.

"(ii) The Secretary may withhold up to 50 percent of such funds if the State had a plan approved under subsection (e) for the second fiscal year preceding the fiscal year of the grant, but has not had a plan approved under subsection (e) for the fiscal year of the grant and the preceding fiscal year.

"(iii) The Secretary may withhold up to 75 percent of such funds if the State had a plan approved under subsection (e) for the third fiscal year preceding the fiscal year of the grant, but has not had a plan approved under subsection (e) for the fiscal

year of the grant and the 2 preceding fiscal years.

"(iv) The Secretary may withhold 100 percent of such funds if the State has not had a plan approved under subsection (e) for the fiscal year of the grant and the 3 preceding fiscal years.

"(C) SUBSEQUENT AVAILABILITY OF WITHHELD FUNDS.—The Secretary shall make available to a State the grant funds withheld from the State for a fiscal year under subparagraph (B) if the Secretary approves the State's plan under subsection (e) on or before the last day of that fiscal year.

"(D) REALLOCATION OF WITHHELD FUNDS.—If the Secretary withholds grant funds from a State for a fiscal year under subparagraph (B), and the State does not have a plan approved under subsection (e) on or before the last day of that fiscal year, such funds shall be released to the Secretary for reallocation among the States under section 31104(f) in the following fiscal year.

"(3) USE OF GRANT FUNDS.—

"(A) IN GENERAL.—A State receiving a grant under this subsection shall use the grant funds for activities to further the State's plan under subsection (b).

"(B) USE OF GRANTS TO ENFORCE OTHER LAWS.—Subject to subparagraph (C), a State may use grant funds received under this subsection—

"(i) if carried out in conjunction with an appropriate inspection of a commercial motor vehicle to enforce Federal or State commercial motor vehicle safety regulations, for—

"(I) enforcement of commercial motor vehicle size and weight limitations at locations other than fixed weight facilities, at specific locations such as steep grades or mountainous terrains where the weight of a commercial motor vehicle can significantly affect the safe operation of the vehicle, or at ports where intermodal shipping containers enter and leave the United States; and

"(II) detection of the unlawful presence of a controlled substance (as defined under section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802)) in a commercial motor vehicle or on the person of any occupant (including the operator) of the vehicle; and

"(ii) for documented enforcement of State traffic laws and regulations designed to promote the safe operation of commercial motor vehicles, including documented enforcement of such laws and regulations relating to noncommercial motor vehicles when necessary to promote the safe operation of commercial motor vehicles.

"(C) LIMITATIONS.—

"(i) EFFECT ON COMMERCIAL MOTOR VEHICLE SAFETY PROGRAMS.—A State may use grant funds received under this subsection for an activity described in subparagraph (B) only if the activity will not diminish the effectiveness of commercial

motor vehicle safety programs described in subsection (a).

"(ii) ENFORCEMENT ACTIVITIES RELATING TO NONCOMMERCIAL MOTOR VEHICLES.—A State may not use more than 5 percent of the total amount of grants received by the State under this subsection in a fiscal year for enforcement activities relating to noncommercial motor vehicles described in subparagraph (B)(ii) unless the Secretary determines a higher percentage will result in significant increases in commercial motor vehicle safety.

"(g) ANNUAL REPORT.—The Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate an annual report that—

"(1) analyzes commercial motor vehicle safety trends among the States and documents the most effective commercial motor vehicle safety programs implemented with grants under this section;

"(2) describes the effect of activities carried out with grants made under this section on commercial motor vehicle safety; and

"(3) documents the number and rate of fatalities and crashes involving commercial motor vehicles by State.".

(b) CONFORMING AMENDMENT.—Section 31103(a) is amended by striking "section 31102(b)(1)(E) of this title" and inserting "section 31102(b)(3)".

(c) CLERICAL AMENDMENT.—The analysis for chapter 311 is amended by striking the item relating to section 31102 and inserting the following:

"31102. Motor carrier safety assistance program.".

**SEC. 6302. PERFORMANCE AND REGISTRATION INFORMATION SYSTEMS MANAGEMENT PROGRAM.**

(a) IN GENERAL.—Section 31109 is amended to read as follows:

**"§ 31109. Performance and registration information systems management program**

"(a) IN GENERAL.—The Secretary shall carry out a performance and registration information systems management program to link Federal motor carrier safety information systems with State commercial vehicle registration and licensing systems as part of the motor carrier information system established under section 31106.

"(b) DESIGN.—The program shall enable a State to—

"(1) determine the safety fitness of a motor carrier or registrant—

1 ''(A) when licensing or registering the
2 motor carrier or registrant; or
3 ''(B) while the license or registration is in
4 effect; and
5 ''(2) deny, suspend, or revoke the commercial
6 motor vehicle registration of a motor carrier or reg-
7 istrant to whom the Secretary has issued an oper-
8 ations out-of-service order.
9 ''(c) PROGRAM PARTICIPATION.—Not later than Sep-
10 tember 30, 2015, the Secretary shall require a State to
11 participate in the program by—
12 ''(1) complying with the uniform policies, proce-
13 dures, and technical and operational standards pre-
14 scribed by the Secretary under section 31106(a)(4);
15 ''(2) having in effect a law providing the State
16 with the authority to impose the sanctions described
17 in paragraph (3)(A) on the basis of an out-of-service
18 order issued by the Secretary; and
19 ''(3) establishing and implementing a process,
20 approved by the Secretary, to—
21 ''(A) deny, suspend, or revoke the vehicle
22 registration or seize the registration plates of a
23 commercial motor vehicle registered to a motor
24 carrier to whom the Secretary has issued an
25 out-of-service order; and

"(B) reinstate the vehicle registration or return the registration plates of the commercial motor vehicle subject to sanctions under subparagraph (A) if the Secretary permits such carrier to resume operations after the date of issuance of such order.

"(d) FUNDING.—A State may use grant funds made available to the State under section 4126 of SAFETEA–LU (119 Stat. 1738) for each of fiscal years 2013 through 2016 to meet the requirements of this section for participation in the program under subsection (c).".

(b) CONFORMING AMENDMENTS.—Section 31106(b) is amended—

(1) by striking paragraphs (2) through (4);

(2) by striking "(b) PERFORMANCE AND REGISTRATION INFORMATION PROGRAM.—" and all that follows through "(1) INFORMATION CLEARINGHOUSE.—The Secretary" and inserting the following:

"(b) INFORMATION CLEARINGHOUSE.—The Secretary"; and

(3) by aligning the remaining text accordingly.

(c) CLERICAL AMENDMENT.—The analysis for chapter 311 is amended by striking the item relating to section 31109 and inserting the following:

"31109. Performance and registration information systems management program.".

**SEC. 6303. COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS DEPLOYMENT GRANTS.**

(a) IN GENERAL.—Section 4126(a) of SAFETEA–LU (119 Stat. 1738) is amended—

(1) in paragraph (1) by striking "and" at the end;

(2) in paragraph (2) by striking "and Federal" and all that follows through the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(3) facilitate compliance with Federal and State commercial motor vehicle regulatory requirements; and

"(4) provide assistance for State participation in the performance and registration information systems management program under section 31109.".

(b) AMOUNT OF GRANTS.—

(1) CORE DEPLOYMENT GRANTS.—Section 4126(c) of such Act (119 Stat. 1738) is amended—

(A) by striking paragraph (2); and

(B) by redesignating paragraph (3) as paragraph (2).

(2) EXPANDED DEPLOYMENT GRANTS.—Section 4126(d) of such Act (119 Stat. 1739) is amended—

(A) by striking paragraph (3); and

(B) by redesignating paragraph (4) as paragraph (3).

(c) ELIGIBILITY.—Section 4126(e) of such Act (119 Stat. 1739) is amended—

(1) in paragraph (2)(B)—

(A) by inserting ''in interstate commerce'' after ''efficiency''; and

(B) by striking ''and'' at the end;

(2) in paragraph (3) by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(4) shall be participating not later than September 30, 2015, in the performance and registration information systems management program under section 31109 of title 49, United States Code.''.

(d) FEDERAL SHARE.—Section 4126(f) of such Act (119 Stat. 1739) is amended—

(1) by striking ''The Federal'' and inserting the following:

''(1) IN GENERAL.—The Federal''; and

(2) by adding at the end the following:

''(2) PERFORMANCE AND REGISTRATION INFORMATION SYSTEMS MANAGEMENT PROGRAM.—Not-

withstanding any other provision of this subsection, the Federal share of the cost of a project relating to participation in the performance and registration information systems management program under section 31109 of title 49, United States Code, shall be 100 percent for fiscal years 2013 through 2016.''.

**SEC. 6304. COMMERCIAL MOTOR VEHICLE SAFETY INSPECTION PROGRAMS.**

(a) IN GENERAL.—Section 31142(b) is amended to read as follows:

''(b) INSPECTION OF VEHICLES AND RECORD RETENTION.—

''(1) REGULATIONS ON GOVERNMENT STANDARDS.—The Secretary of Transportation shall prescribe regulations on Government standards for inspection of commercial motor vehicles and retention by employers of records of such inspections.

''(2) CONTENTS OF STANDARDS.—The standards shall provide for—

''(A) annual or more frequent inspections of a commercial motor vehicle designed or used to transport property unless the Secretary finds that another inspection system is as effective as an annual or more frequent inspection system; and

"(B) annual or more frequent inspections of a commercial motor vehicle designed or used to transport passengers.

"(3) TREATMENT OF REGULATIONS.—Regulations prescribed under this subsection shall be treated as regulations prescribed under section 31136.

"(4) SPECIAL RULES FOR INSPECTION PROGRAM.—Any inspection required under paragraph (2)(B) shall be conducted by, or under a program established by, the State in which the vehicle is registered. A roadside inspection conducted by a State or other jurisdiction shall not be considered an inspection for the purposes of meeting the requirements of paragraph (2)(B).".

(b) PERIODIC REVIEW OF STATE SAFETY INSPECTION PROGRAMS.—The Secretary shall periodically review State safety inspection programs of commercial motor vehicles designed or used to transport passengers.

**SEC. 6305. AMENDMENTS TO SAFETY FITNESS DETERMINATION.**

On and after the date the Secretary publishes in the Federal register the final rule revising the safety fitness determination methodology established pursuant to 31144 of title 49, United States Code, to correspond with the Compliance Safety Accountability program, the Secretary

shall consider Safety Recommendation H–99–6 of the National Transportation Safety Board, issued February 26, 1999, closed.

**SEC. 6306. NEW ENTRANT CARRIERS.**

(a) SAFETY REVIEW.—Section 31144(g)(1) is amended to read as follows:

"(1) SAFETY REVIEW.—The Secretary shall require, by regulation, each owner and operator issued a new registration under section 13902 or 31134 to undergo a safety review under this section—

"(A) except as provided by subparagraphs (B) and (C), within the first 18 months after the date on which the owner or operator begins operations under such registration;

"(B) in the case of an owner or operator with authority to transport hazardous materials, within the first 9 months after the date on which the owner or operator begins operations under such registration; and

"(C) in the case of an owner or operator with authority to transport passengers, within the first 90 days after the date on which the owner or operator begins operations under such registration.".

(b) NEW ENTRANT REGISTRATION.—Section 31144(g)(4) is amended to read as follows:

"(4) NEW ENTRANT REGISTRATION.—

"(A) IN GENERAL.—Notwithstanding any other provision of this title, any new registration issued under section 13902 or 31134 shall each be designated as new entrant registration until the safety review required by paragraph (1) is completed.

"(B) REQUIREMENT FOR ISSUANCE OF PERMANENT OPERATING AUTHORITY.—A new registration issued to an owner or operator under section 13902 or 31134 shall become permanent after the owner or operator has passed the safety review required under paragraph (1).".

(c) FUNDING.—Section 31144(g)(5) is amended to read as follows:

"(5) FUNDING.—

"(A) IN GENERAL.—A State shall carry out the requirements of this section with funds allocated to the State under section 31104(f).

"(B) DETERMINATION.—If the Secretary determines that a State or local government is not able to use government employees to con-

duct new entrant motor carrier safety reviews with funds allocated to the State under section 31104(f), the Secretary may conduct for the State or local government the safety reviews that the State or local government is not able to conduct with such funds.''.

(d) FEDERAL SHARE.—Section 31103(b) is amended to read as follows:

''(b) NEW ENTRANT MOTOR CARRIER SAFETY REVIEWS.—

''(1) INCREASE IN SHARE OF COSTS.—Subject to paragraph (2), the Secretary may reimburse a State an amount that is up to 100 percent of the costs incurred by the State in a fiscal year for new entrant motor carrier safety reviews conducted under section 31144(g).

''(2) LIMITATION.—The increased Federal share provided under paragraph (1) shall apply with respect to reimbursements of costs described in paragraph (1) made using not more than 20 percent of the funds allocated to a State under section 31104(f) for a fiscal year. Any such reimbursements made using an amount in excess of 20 percent of such funds shall be subject to the cost-sharing requirements of subsection (a).''.

(e) CONFORMING AMENDMENT.—Section 31144(g) is amended, in the subsection heading, by striking ''SAFETY REVIEWS OF NEW OPERATORS'' and inserting ''NEW ENTRANT MOTOR CARRIER SAFETY REVIEWS''.

**SEC. 6307. IMPROVED OVERSIGHT OF MOTOR CARRIERS OF PASSENGERS.**

Section 31144 is amended by adding at the end the following:

''(h) SAFETY REVIEWS OF OWNERS AND OPERATORS OF INTERSTATE FOR-HIRE COMMERCIAL MOTOR VEHICLES DESIGNED OR USED TO TRANSPORT PASSENGERS.—

''(1) IN GENERAL.—Not later than September 30, 2015, the Secretary shall determine the safety fitness of each owner, and each operator, of a commercial motor vehicle designed or used to transport passengers who the Secretary registers, on or before September 30, 2014 (including before the date of enactment of this subsection), under section 13902 or 31134.

''(2) SAFETY FITNESS RATING.—As part of the safety fitness determination required by paragraph (1), the Secretary shall assign a safety fitness rating to each owner and each operator described in paragraph (1).

"(3) PERIODIC MONITORING.—

"(A) PROCESS.—The Secretary shall establish a process, by regulation, for monitoring on a regular basis the safety performance of an owner or operator of a commercial motor vehicle designed or used to transport passengers, following the assignment of a safety rating to such owner or operator.

"(B) ELEMENTS OF MONITORING AND SAFETY ENFORCEMENT.—Regulations issued under subparagraph (A) shall provide for the following:

"(i) Monitoring of the safety performance, in critical safety areas (as defined by the Secretary, by regulation) of an owner or operator of a commercial motor vehicle designed or used to transport passengers (including by activities conducted onsite at the offices of the owner or operator or offsite).

"(ii) Increasingly more stringent interventions designed to correct unsafe practices of an owner or operator of a commercial motor vehicle designed or used to transport passengers.

"(iii) Periodic updates to the safety fitness rating of an owner or operator if the Secretary determines that such update will improve the safety performance of the owner or operator.

"(iv) Enforcement action, including determining that the owner or operator is not fit and may not operate a commercial motor vehicle under subsection (c)(2).".

**SEC. 6308. DRIVER MEDICAL QUALIFICATIONS.**

(a) EXAMINATION REQUIREMENT FOR NATIONAL REGISTRY OF MEDICAL EXAMINERS.—Section 31149(c)(1)(D) is amended to read as follows:

"(D) develop requirements applicable to a medical examiner in order for the medical examiner to be listed in the national registry established under this section, including—

"(i) specific courses and materials that must be completed;

"(ii) at a minimum, self-certification requirements to verify that the medical examiner has completed specific training, including refresher courses, that the Secretary determines are necessary; and

"(iii) an examination developed by the Secretary for which a passing grade must be achieved.".

(b) ADDITIONAL OVERSIGHT OF LICENSING AUTHORITIES.—

(1) IN GENERAL.—Section 31149(c)(1) is amended—

(A) in subparagraph (E) by striking "and" at the end;

(B) in subparagraph (F) by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(G) review each year the implementation of commercial driver's license requirements of a minimum of 10 States to assess the accuracy, validity, and timeliness of—

"(i) submission of physical examination reports and medical certificates to State licensing agencies; and

"(ii) the processing of such 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

process within the Department for the purposes of carrying out the requirement of section 31149(c)(1)(G) of title 49, United States Code, as added by paragraph (1) of this subsection.

(B) EFFECTIVE DATE.—Section 31149(c)(1)(G) of title 49, United States Code, as added by paragraph (1) of this subsection, shall take effect on the date that the oversight policy and process is established pursuant to subparagraph (A).

(c) 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 as required by section 31149(d)(1) of title 49, United States Code.

**SEC. 6309. COMMERCIAL MOTOR VEHICLE SAFETY STANDARDS.**

(a) SAFETY STANDARDS FOR COMMERCIAL MOTOR VEHICLES OF PROPERTY.—

(1) RESEARCH.—The Secretary shall conduct research on the need for roof strength, pillar strength, frontal and back wall strength, and other potential occupant protection standards for commercial motor vehicles of property.

(2) COMMERCIAL MOTOR VEHICLE OF PROPERTY DEFINED.—In this subsection, the term ''commercial motor vehicle of property'' means a motor vehicle used in commerce to transport property that has a gross vehicle weight rating or gross vehicle weight of at least 26,001 pounds, whichever is greater.

(b) SAFETY STANDARDS FOR MOTORCOACHES.—

(1) SAFETY STANDARDS FOR NEW MOTORCOACHES.—

(A) OCCUPANT PROTECTION SYSTEMS.—

(i) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the Secretary shall issue standards for motorcoach occupant protection systems that account for frontal impact collisions, side impact collisions, rear impact collisions, and rollovers. Such standards shall not eliminate or lessen the occupant protection standards in effect on the date of enactment of this Act and shall—

(I) be based on sound scientific research, extensive testing, and analysis by the National Highway Traffic Safety Administration, consistent with

the recommendations of the National Transportation Safety Board regarding motorcoach occupant protection; and

(II) take into consideration the various types of motorcoaches and the various uses and configurations of the occupant compartment as well as local, State, and Federal size and weight limits and restrictions.

(ii) CONTENTS.—Such standards may include seatbelts or other occupant protection systems, passive or otherwise, for passengers, including those in child safety restraint systems.

(iii) CONSULTATION.—Prior to issuing such standards, the Secretary shall consult with affected parties, as appropriate, on the proceedings leading to the issuance of the standards required by this subparagraph. Any communications concerning such consultation shall be included in the public record of the proceedings leading to the issuance of such standards and shall be subject to public comment.

(B) ROOF STRENGTH.—

(i) RESEARCH AND TESTING.—The Secretary shall conduct research and testing on roof strength to determine the method or methods that provide adequate survival space for all seating positions.

(ii) STANDARDS.—Not later than 3 years after the date of enactment of this Act, the Secretary shall issue roof strength standards for motorcoaches based on the results of such research and testing and taking into account all motorcoach window dimensions and highway size and weight restrictions.

(C) WINDOW GLAZING.—

(i) RESEARCH AND TESTING.—The Secretary shall conduct research and testing on advanced window glazing and securement to determine the best method or methods for window glazing to prevent motorcoach occupant ejection.

(ii) STANDARDS.—Not later than 3 years after the date of enactment of this Act, the Secretary shall revise window glazing standards for motorcoaches based

on the results of such research and testing and taking into account all motorcoach window dimensions and highway height and weight restrictions.

(D) FIRE PREVENTION AND MITIGATION.—

(i) RESEARCH AND TESTING.—The Secretary shall conduct research and testing to determine the most prevalent causes of motorcoach fires and the best methods to prevent such fires and to mitigate the effect of such fires, both inside and outside the motorcoach.

(ii) STANDARDS.—Not later than 3 years after the date of enactment of this Act, the Secretary shall issue fire prevention and mitigation standards for motorcoaches, based on the results of the Secretary's research and testing, taking into account motorcoach highway size and weight restrictions.

(E) EMERGENCY EVACUATION DESIGN.—

(i) RESEARCH AND TESTING.—The Secretary shall conduct research and testing to determine any necessary changes in

motorcoach design standards, including windows and doors, to improve motorcoach emergency evacuation.

(ii) STANDARDS.—Not later than 3 years after the date of enactment of this Act, the Secretary shall issue motorcoach emergency evacuation design standards, including—

(I) window standards that enhance the use of windows for emergency evacuation to the maximum extent feasible, while not detracting from the window glazing standards to be issued under this paragraph; and

(II) door standards, including design of the wheelchair lift door for emergency evacuation use.

(iii) MOTORCOACH HIGHWAY SIZE AND WEIGHT RESTRICTIONS.—Such standards shall take into account motorcoach highway size and weight restrictions.

(F) GENERAL PROVISIONS.—

(i) EFFECT ON STATE AND LOCAL LAWS.—Notwithstanding any provision of chapter 301 of title 49, United States

Code, a State or a political subdivision of a State may not adopt or enforce a law or regulation related to a motorcoach crash avoidance and occupant protection system prior to the effective date of the regulations issued pursuant to this paragraph.

(ii) APPLICABILITY OF STANDARDS.—The standards issued under subparagraphs (A) through (E) shall require motorcoaches manufactured after the last day of 3-year period beginning on the date on which such standards are issued to be engineered and equipped to meet such standards.

(iii) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection or in the regulations issued pursuant to this subsection may be construed as indicating an intention by Congress to affect, change, or modify in any way the liability, if any, of a motorcoach manufacturer or motorcoach owner or operator under applicable law to buses or motorcoaches, manufactured and operated with or without passenger seat belts or other passenger restraint systems, prior to the effective date

of the regulations issued under this subsection.

(2) SAFETY STANDARDS FOR EXISTING MOTORCOACHES.—

(A) IN GENERAL.—Not later than 3 years after the date of enactment of this subsection, the Secretary shall issue standards for motorcoaches that are manufactured before the date that is 3 years after the date on which the standards required under paragraph (1) are issued, taking into account the limitations posed by the need to retrofit existing motorcoaches. Such standards shall have the same objectives as the standards required under subparagraphs (A) through (E) of paragraph (1), but may differ from such standards based on what is technically feasible for existing motorcoaches.

(B) STANDARDS FOR COMPONENT PARTS AND EQUIPMENT.—In lieu of issuing comprehensive standards for motorcoaches under subparagraph (A), the Secretary may develop standards for various component parts and equipment of motorcoaches that would increase occupant protection.

(C) EFFECTIVE DATE.—The effective date for the standards issued under this subsection shall be the same as the effective date for the standards issued under paragraph (1).

(D) CERTIFICATION.—The Secretary shall establish, by regulation, a system whereby the motorcoaches to which the standards issued under subparagraph (A) apply shall be certified as in compliance with such standards. Such certification shall be carried out by the Secretary or by private parties at the discretion and authorization of the Secretary.

(3) COMPLIANCE TIMETABLES.—

(A) EFFECTIVE DATE.—The effective date of the standards issued under paragraphs (1) and (2) shall be 3 years after the date on which such final standards are issued. All motorcoaches manufactured after such date shall comply with such standards.

(B) PHASED IN REQUIREMENTS.—

(i) FIRST PHASE.—Not later than 6 years after the effective date of the standards issued under paragraphs (1) and (2), a motorcoach owner or operator shall ensure that at least 50 percent of the

motorcoaches used by the owner or operator comply with either the standards issued under paragraph (1) or the standards issued under paragraph (2), as appropriate.

(ii) SECOND PHASE.—Not later than 12 years after the effective date of the standards issued under paragraphs (1) and (2), a motorcoach owner or operator shall ensure that 100 percent of the motorcoaches used by the owner or operator comply with either of such standards.

(C) STATE AND LOCAL LAWS.—

(i) LIABILITY OF MOTORCOACH MANUFACTURERS AND OWNERS AND OPERATORS.—Nothing in this subsection may be construed to affect, change, or modify in any way the liability, if any, of a motorcoach manufacturer or motorcoach owner or operator under applicable law to buses or motorcoaches unless the manufacturer or owner or operator is shown not to be in compliance with the timetables set forth in subparagraphs (A) and (B).

(ii) PREEMPTION.—Notwithstanding any provision of chapter 301 of title 49, United States Code, a State or a political subdivision of a State may not adopt or enforce a law or regulation related to any of the standards required by paragraphs (1) and (2) during the time periods set forth in subparagraphs (A) and (B).

(4) DEFINITION OF MOTORCOACH.—In this subsection, the term ''motorcoach'' means an over-the-road bus, characterized by an elevated passenger deck located over a baggage compartment.

**SEC. 6310. CRASH AVOIDANCE TECHNOLOGY.**

(a) STUDY.—The Secretary shall study the effectiveness of crash avoidance technologies as countermeasures to lessen the impact of distracted driving in commercial motor vehicle crashes.

(b) REPORT TO CONGRESS.—Not later than October 1, 2013, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report detailing the results of the study.

**SEC. 6311. EXPANSION OF COLLISION MITIGATION STUDY.**

(a) STUDY.—The Secretary shall expand the ongoing study of the Department on collision mitigation systems in commercial motor vehicles to include systems that can react to a stopped vehicle.

(b) REPORT TO CONGRESS.—Not later than October 1, 2013, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report detailing the results of the study.

# Subtitle D—Commercial Motor Vehicle Operators

**SEC. 6401. NATIONAL CLEARINGHOUSE FOR RECORDS RELATING TO ALCOHOL AND CONTROLLED SUBSTANCES TESTING OF COMMERCIAL MOTOR VEHICLE OPERATORS.**

(a) IN GENERAL.—Chapter 313 is amended by inserting after section 31306 the following:

**"§ 31306a. National clearinghouse for records relating to alcohol and controlled substances testing**

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—Subject to the requirements of this section, the Secretary of Transportation shall establish and maintain an information

system that will serve as a national clearinghouse for records relating to the alcohol and controlled substances testing program applicable to operators of commercial motor vehicles under section 31306.

"(2) PURPOSES.—The purposes of the clearinghouse shall be—

"(A) to improve compliance with the requirements of the testing program; and

"(B) to help prevent accidents and injuries resulting from the misuse of alcohol or use of controlled substances by operators of commercial motor vehicles.

"(3) CONTENTS.—The clearinghouse shall be a repository of records relating to violations of the testing program by individuals submitted to the Secretary in accordance with this section.

"(4) ELECTRONIC EXCHANGE OF RECORDS.—The Secretary shall ensure the ability for records to be submitted to the clearinghouse, and requested from the clearinghouse, on an electronic basis.

"(5) DEADLINE.—The Secretary shall establish the clearinghouse not later than 1 year after the date of enactment of this section.

"(b) EMPLOYMENT PROHIBITIONS.—

"(1) IN GENERAL.—An employer may permit an individual to operate a commercial motor vehicle or perform any other safety sensitive function only if the employer makes a request for information from the clearinghouse at such times as the Secretary shall specify, by regulation, and the information in the clearinghouse at the time of the request indicates that the individual—

"(A) has not violated the requirements of the testing program in the preceding 3-year period; or

"(B) if the individual has violated the requirements of the testing program during that period, is eligible to return to safety sensitive duties pursuant to the return-to-duty process established under the testing program.

"(2) VIOLATIONS.—For purposes of paragraph (1), an individual shall be considered to have violated the requirements of the testing program if the individual—

"(A) has a confirmed or verified, as applicable, positive alcohol or controlled substances test result under the testing program;

"(B) has failed or refused to submit to an alcohol or controlled substances test under the testing program; or

"(C) has otherwise failed to comply with the requirements of the testing program.

"(3) APPLICABILITY.—Paragraph (1) shall apply to an individual who performs a safety sensitive function for an employer as a full-time regularly employed driver, casual, intermittent, or occasional driver, or leased driver, or independent owner-operator contractor of such employer or, as determined by the Secretary, pursuant to another arrangement.

"(4) WRITTEN NOTICE THAT CLEARINGHOUSE IS OPERATIONAL.—The Secretary shall issue a written notice when the Secretary determines that the clearinghouse is operational and employers are able to use the clearinghouse to meet the requirements of section 382.413 of title 49, Code of Federal Regulations, as in effect on the date of enactment of this section.

"(5) EFFECTIVE DATE.—Paragraph (1) shall take effect on a date specified by the Secretary in the written notice issued under paragraph (4) that

is not later than 30 days after the date of issuance of the written notice.

"(6) CONTINUED APPLICATION OF EXISTING REQUIREMENTS.—Following the date on which paragraph (1) takes effect, an employer shall continue to be subject to the requirements of section 382.413 of title 49, Code of Federal Regulations, as in effect on the date of enactment of this section, for a period of 3 years or for such longer period as the Secretary determines appropriate.

"(7) NOTICE OF REQUIREMENTS APPLICABLE TO EMPLOYERS.—The Secretary shall provide notice of the requirements applicable to employers under this section through published notices in the Federal Register.

"(c) REPORTING OF RECORDS.—

"(1) IN GENERAL.—The Secretary shall require employers and appropriate service agents, including medical review officers, to submit to the Secretary for inclusion in the clearinghouse records of violations of the testing program by individuals described in subsection (b)(3).

"(2) SPECIFIC REPORTING REQUIREMENTS.—In carrying out paragraph (1), the Secretary shall require, at a minimum—

1 ''(A) a medical review officer to report
2 promptly, as determined by the Secretary, to
3 the clearinghouse—
4 ''(i) a verified positive controlled sub-
5 stances test result of an individual under
6 the testing program; and
7 ''(ii) a failure or refusal of an indi-
8 vidual to submit to a controlled substances
9 test in accordance with the requirements of
10 the testing program; and
11 ''(B) an employer (or, in the case of an op-
12 erator of a commercial motor vehicle who is
13 self-employed, the service agent administering
14 the operator's testing program) to report
15 promptly, as determined by the Secretary, to
16 the clearinghouse—
17 ''(i) a confirmed positive alcohol test
18 result of an individual under the testing
19 program; and
20 ''(ii) a failure or refusal of an indi-
21 vidual to provide a specimen for a con-
22 trolled substances test in accordance with
23 the requirements of the testing program.
24 ''(3) UPDATING OF RECORDS.—The Secretary
25 shall ensure that a record in the clearinghouse is up-

1 dated to include a return-to-duty test result of an in-
2 dividual under the testing program.
3 ''(4) INCLUSION OF RECORDS IN CLEARING-
4 HOUSE.—The Secretary shall include all records of
5 violations received pursuant to this subsection in the
6 clearinghouse.
7 ''(5) MODIFICATIONS AND DELETIONS.—If the
8 Secretary determines that a record contained in the
9 clearinghouse is not accurate, the Secretary shall
10 modify or delete the record.
11 ''(6) NOTIFICATION OF INDIVIDUALS.—The
12 Secretary shall establish a process to provide notifi-
13 cation to an individual of—
14 ''(A) a submission of a record to the clear-
15 inghouse relating to the individual; and
16 ''(B) any modification or deletion of a
17 record in the clearinghouse pertaining to the in-
18 dividual, including the reason for the modifica-
19 tion or deletion.
20 ''(7) TIMELY AND ACCURATE REPORTING.—The
21 Secretary may establish additional requirements, as
22 appropriate, to ensure timely and accurate reporting
23 of records to the clearinghouse.
24 ''(8) DELETION OF RECORDS.—The Secretary
25 shall delete a record of a violation submitted to the

clearinghouse after a period of 3 years beginning on the date the individual is eligible to return to safety sensitive duties pursuant to the return-to-duty process established under the testing program.

''(d) ACCESS TO CLEARINGHOUSE BY EMPLOYERS.—

''(1) IN GENERAL.—The Secretary shall establish a process for an employer to request and receive records in the clearinghouse pertaining to an individual in accordance with subsection (b).

''(2) WRITTEN CONSENT OF INDIVIDUALS.—An employer shall obtain the written consent of an individual before requesting any records in the clearinghouse pertaining to the individual.

''(3) ACCESS TO RECORDS.—Upon receipt of a request for records from an employer under paragraph (1), the Secretary shall provide the employer with access to the records as expeditiously as practicable.

''(4) RECORDS OF REQUESTS.—The Secretary shall require an employer to maintain for a 3-year period—

''(A) a record of each request made by the employer for records from the clearinghouse; and

"(B) any information received pursuant to the request.

"(5) USE OF RECORDS.—

"(A) IN GENERAL.—An employer—

"(i) may obtain from the clearinghouse a record pertaining to an individual only for the purpose of determining whether a prohibition applies with respect to the individual to operate a commercial motor vehicle or perform any other safety sensitive function under subsection (b)(1); and

"(ii) may use the record only for such purpose.

"(B) PROTECTION OF PRIVACY OF INDIVIDUALS.—An employer that receives a record from the clearinghouse pertaining to an individual shall protect the privacy of the individual and the confidentiality of the record, including taking reasonable precautions to ensure that information contained in the record is not divulged to any person who is not directly involved in determining whether a prohibition applies with respect to the individual to operate a commercial motor vehicle or perform any other

safety sensitive function under subsection (b)(1).

"(e) ACCESS TO CLEARINGHOUSE BY INDIVIDUALS.—

"(1) IN GENERAL.—The Secretary shall establish a process for an individual to request and receive information from the clearinghouse—

"(A) to learn whether a record pertaining to the individual is contained in the clearinghouse;

"(B) to verify the accuracy of the record;

"(C) to verify updates to the individual's record, including completion of a return-to-duty process under the testing program; and

"(D) to learn of requests for information from the clearinghouse regarding the individual.

"(2) DISPUTE PROCEDURE.—The Secretary shall establish a procedure, including an appeal process, for an individual to dispute and remedy an administrative error in a record pertaining to the individual in the clearinghouse, except that the appeal process shall not be used to dispute or remedy the validity of a controlled substance or alcohol test result.

"(3) ACCESS TO RECORDS.—Upon receipt of a request for records from an individual under paragraph (1), the Secretary shall provide the individual with access to the records as expeditiously as practicable.

"(f) ACCESS TO CLEARINGHOUSE BY CHIEF COMMERCIAL DRIVER LICENSING OFFICIALS.—

"(1) IN GENERAL.—The Secretary shall establish a process for the chief commercial driver licensing official of a State to request and receive records pertaining to an individual from the clearinghouse.

"(2) USE OF INFORMATION.—The chief commercial driver licensing official of a State may not obtain from the clearinghouse a record pertaining to an individual for any purpose other than to take an action related to a commercial driver's license for the individual under applicable State law or to comply with section 31311(a)(22).

"(g) USE OF CLEARINGHOUSE INFORMATION FOR ENFORCEMENT PURPOSES.—The Secretary may use the records in the clearinghouse for the purposes of enforcement activities under this chapter.

"(h) DESIGN OF CLEARINGHOUSE.—

"(1) IN GENERAL.—In establishing the clearinghouse, the Secretary shall develop a secure process for—

"(A) registration, authorization, and authentication of a user of the clearinghouse;

"(B) registration, authorization, and authentication of individuals required to report to the clearinghouse under subsection (c);

"(C) preventing information from the clearinghouse from being accessed by unauthorized users;

"(D) timely and accurate electronic submissions of data to the clearinghouse under subsection (c);

"(E) timely and accurate access to records from the clearinghouse under subsections (d), (e), and (f); and

"(F) updates to an individual's record related to compliance with the return-to-duty process under the testing program.

"(2) ARCHIVE CAPABILITY.—The clearinghouse shall be designed to allow for an archive of the receipt, modification, and deletion of records for the purposes of auditing and evaluating the timeliness,

accuracy, and completeness of data in the clearinghouse.

"(3) SECURITY STANDARDS.—The clearinghouse shall be designed and administered in compliance with applicable Department of Transportation information technology security standards.

"(4) INTEROPERABILITY WITH OTHER SYSTEMS.—In establishing the clearinghouse and developing requirements for data to be included in the clearinghouse, the Secretary, to the maximum extent practicable, shall take into consideration—

"(A) existing information systems containing regulatory and safety data for motor vehicle operators;

"(B) the efficacy of using or combining clearinghouse data with 1 or more of such systems; and

"(C) the potential interoperability of the clearinghouse with existing and future information systems containing regulatory and safety data for motor vehicle operators.

"(i) PRIVACY.—

"(1) AVAILABILITY OF CLEARINGHOUSE INFORMATION.—The Secretary shall establish a process to make information available from the clearinghouse

in a manner that is consistent with this section and applicable Federal information and privacy laws, including regulations.

"(2) UNAUTHORIZED INDIVIDUALS.—The Secretary may not provide information from the clearinghouse to an individual who is not authorized by this section to receive the information.

"(j) FEES.—

"(1) AUTHORITY TO COLLECT FEES.—

"(A) GENERAL AUTHORITY.—The Secretary may collect fees for requests for information from the clearinghouse.

"(B) AMOUNT TO BE COLLECTED.—Fees collected under this subsection in a fiscal year shall equal as nearly as possible the costs of operating the clearinghouse in that fiscal year, including personnel costs.

"(C) RECEIPTS TO BE CREDITED AS OFFSETTING COLLECTIONS.—The amount of any fee collected under this subsection shall be—

"(i) credited as offsetting collections to the account that finances the activities and services for which the fee is imposed; and

"(ii) available without further appropriation for such activities and services until expended.

"(2) LIMITATION.—The Secretary shall ensure that an individual requesting information from the clearinghouse in order to dispute or remedy an error in a record pertaining to the individual pursuant to subsection (e)(2) may obtain the information without being subject to a fee authorized by paragraph (1).

"(k) ENFORCEMENT.—An employer, and any person acting as a service agent, shall be subject to civil and criminal penalties for a violation of this section in accordance with section 521(b).

"(l) DEFINITIONS.—In this section, the following definitions apply:

"(1) CHIEF COMMERCIAL DRIVER LICENSING OFFICIAL.—The term 'chief commercial driver licensing official' means the official in a State who is authorized—

"(A) to maintain a record about a commercial driver's license issued by the State; and

"(B) to take action on a commercial driver's license issued by the State.

1 ''(2) CLEARINGHOUSE.—The term 'clearing-
2 house' means the clearinghouse to be established
3 under subsection (a).
4 ''(3) EMPLOYER.—Notwithstanding section
5 31301, the term 'employer' means a person or entity
6 employing 1 or more employees (including an indi-
7 vidual who is self-employed) that is subject to De-
8 partment of Transportation requirements under the
9 testing program. The term does not include a service
10 agent.
11 ''(4) MEDICAL REVIEW OFFICER.—The term
12 'medical review officer' means a person who is a li-
13 censed physician and who is responsible for receiving
14 and reviewing laboratory results generated under the
15 testing program and evaluating medical explanations
16 for certain controlled substances test results.
17 ''(5) SAFETY SENSITIVE FUNCTION.—The term
18 'safety sensitive function' has the meaning such
19 term has under part 382 of title 49, Code of Federal
20 Regulations, or any successor regulation.
21 ''(6) SERVICE AGENT.—The term 'service
22 agent' means a person or entity, other than an em-
23 ployee of an employer, who provides services covered
24 by part 40 of title 49, Code of Federal Regulations,
25 or any successor regulation, to employers or employ-

ees (or both) under the testing program, and the term includes a medical review officer.

"(7) TESTING PROGRAM.—The term 'testing program' means the alcohol and controlled substances testing program established under section 31306.".

(b) CONFORMING AMENDMENT.—The analysis for such chapter is amended by inserting after the item relating to section 31306 the following:

"31306a. National clearinghouse for records relating to alcohol and controlled substances testing.".

(c) PENALTIES.—

(1) APPLICATION OF PENALTY.—Section 31306(j) is amended by inserting "An employer, including an individual who is self-employed, shall be subject to civil and criminal penalties in accordance with section 521(b) for a violation of this section." before "This section".

(2) VIOLATIONS RELATING TO COMMERCIAL MOTOR VEHICLE SAFETY REGULATIONS AND OPERATORS.—Section 521(b) is amended—

(A) in paragraph (1)(A) by inserting "31306, 31306a," before "31310(g)(1)(A)";

(B) in paragraphs (2)(A), (2)(B), and (6)(A) by inserting "31306, 31306a, or" before "31502"; and

(C) in paragraph (5)(A) by inserting ''31306, 31306a,'' before ''or 31502''.

(3) CONTROLLED SUBSTANCE OR ALCOHOL TESTING.—Any person acting as a service agent under the Secretary's regulations in part 40 of title 49, Code of Federal Regulations, as in effect on the date of enactment of this Act, who violates the requirements prescribed by the Secretary for conducting alcohol or controlled substances testing under such part or any related regulation of the Department shall be liable to the United States Government for a civil penalty of not more than $10,000 for each violation. Each day that a violation continues shall constitute a separate violation.

**SEC. 6402. COMMERCIAL MOTOR VEHICLE OPERATOR TRAINING.**

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall issue final regulations establishing minimum training requirements for commercial motor vehicle operators.

(b) REQUIREMENTS.—The regulations shall—

(1) require commercial motor vehicle operators, before obtaining a commercial driver's license for the first time or upgrading from one class of commercial

driver's license to another, to receive training that meets the requirements established by the Secretary;

(2) address the knowledge and skills necessary for an operator of a commercial motor vehicle to safely operate a commercial motor vehicle;

(3) address the specific and additional training needs of commercial motor vehicle operators seeking passenger or hazardous materials endorsements;

(4) require instruction that is effective for acquiring the knowledge and skills referred to in paragraphs (2) and (3);

(5) require the issuance of a certification that a commercial motor vehicle operator has met the requirements established by the Secretary; and

(6) require a training provider (including public or private driving schools, motor carriers, or owners or operators of a commercial motor vehicle) offering training that results in the issuance of a certification to an operator under paragraph (5) to demonstrate that such training meets the requirements of the regulations, through a process established by the Secretary.

(c) 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 4042 of the Motor Carrier Safety, Efficiency, and Accountability Act of 2012;".

**SEC. 6403. COMMERCIAL DRIVER'S LICENSE PROGRAM.**

(a) IN GENERAL.—Section 31309(e)(4)(A) is amended by striking the period at the end and inserting "and must use the systems to receive and submit conviction and disqualification data.".

(b) REQUIREMENTS FOR STATE PARTICIPATION.—

(1) IN GENERAL.—Section 31311(a) is amended—

(A) in paragraph (5) by striking "At least" and all that follows through "regulation)," and inserting the following: "Within the time period the Secretary prescribes by regulation,"; and

(B) by adding at the end the following:

"(22) Before renewing or issuing a commercial driver's license to an individual, the State shall request information pertaining to the individual from the drug and alcohol clearinghouse maintained under section 31306a.

"(23) The State shall ensure that the State's commercial driver's license information system complies with applicable Federal information technology standards.".

(2) STATE COMMERCIAL DRIVER'S LICENSE PROGRAM PLAN.—Section 31311 is amended by adding at the end the following:

"(d) STATE COMMERCIAL DRIVER'S LICENSE PROGRAM PLAN.—

"(1) IN GENERAL.—A State shall develop and submit to the Secretary for approval a plan for complying with the requirements of subsection (a) in the period beginning on the date that the plan is approved and ending on September 30, 2017.

"(2) CONTENTS.—A plan submitted by a State under paragraph (1) shall identify—

"(A) the actions that the State must 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

"(B) other actions that the State must take to comply with the requirements of 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).

"(B) DEADLINE FOR COMPLIANCE WITH 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 requirements of subsection (a) not later than September 30, 2017.

"(4) APPROVAL AND DISAPPROVAL.—The Secretary shall—

"(A) review a plan submitted by a State under paragraph (1); and

"(B)(i) approve the plan if the Secretary determines that the plan is adequate to promote the objectives of this section; or

"(ii) disapprove the plan.

"(5) MODIFICATION OF DISAPPROVED PLANS.—If the Secretary disapproves a plan under this subsection, the Secretary shall—

"(A) provide the State a written explanation of the disapproval; and

"(B) allow the State to modify and resubmit the plan for approval.

"(6) PLAN UPDATES.—The Secretary may require States to review and update plans, as appropriate.".

(3) ANNUAL COMPARISON OF STATE LEVELS OF COMPLIANCE.—Section 31311 is further amended by adding at the end the following:

"(e) ANNUAL COMPARISON OF STATE LEVELS OF COMPLIANCE.—On an annual basis, the Secretary shall—

"(1) conduct a comparison of the relative levels of compliance by States with the requirements of subsection (a); and

"(2) make available to the public the results of the comparison, using a mechanism that the Secretary determines appropriate.".

(c) GRANTS FOR COMMERCIAL DRIVER'S LICENSE PROGRAM IMPLEMENTATION.—

(1) IN GENERAL.—Section 31313(a) is amended to read as follows:

"(a) GRANTS FOR COMMERCIAL DRIVER'S LICENSE PROGRAM IMPLEMENTATION.—

"(1) IN GENERAL.—The Secretary of Transportation may make a grant to a State in a fiscal year to assist the State in complying with the requirements of section 31311.

"(2) ELIGIBILITY.—A State shall be eligible for a grant under this subsection if the State has in effect a commercial driver's license program plan approved by the Secretary under section 31311(d).

"(3) USES OF GRANT FUNDS.—A State may use grant funds under this subsection—

"(A) to comply with section 31311; and

"(B) in the case of a State that is making a good faith effort toward substantial compliance with the requirements of section 31311 and this section, to improve its implementation of its commercial driver's license program, including expenses—

"(i) for computer hardware and software;

"(ii) for publications, testing, personnel, training, and quality control;

"(iii) for commercial driver's license program coordinators; and

"(iv) to establish and implement a system to notify an employer of an operator of a commercial motor vehicle of a suspension or revocation of such operator's driver's license.

"(C) PROHIBITIONS.—A State may not use grant funds under this subsection to rent, lease, or buy land or buildings.

"(4) MAINTENANCE OF EXPENDITURES.—The Secretary may make a grant to a State under this subsection only if the State provides assurances satisfactory to the Secretary that the total expenditure of amounts of the State and political subdivisions of the State (not including amounts of the United States) for the State's commercial driver's license program will be maintained at a level that at least equals the average level of that expenditure by the State and political subdivisions of the State for the most recent 3 fiscal years ending before the date of enactment of the Motor Carrier Safety, Efficiency, and Accountability Act of 2012.".

(2) APPORTIONMENT.—Section 31313 is amended—

(A) by striking subsections (b) and (c);

(B) by redesignating subsection (d) as subsection (b); and

(C) by striking subsection (b) (as so redesignated) and inserting the following:

''(b) APPORTIONMENT.—

''(1) APPORTIONMENT FORMULA.—Subject to paragraph (2), the amounts made available to carry out this section for a fiscal year shall be apportioned among the States in the ratio that—

''(A) the number of commercial driver's licenses issued in each State; bears to

''(B) the total number of commercial driver's licenses issued in all States.

''(2) MINIMUM APPORTIONMENT.—The apportionment to each State that has in effect a commercial driver's license program plan approved by the Secretary under section 31311(d) shall be not less than one-half of 1 percent of the total funds available to carry out this section.''.

(3) CONFORMING AMENDMENT.—The section heading for section 31313 is amended by striking ''**improvements**'' and inserting ''**implementation**''.

(4) CLERICAL AMENDMENT.—The analysis for chapter 313 is amended by striking the item relating to section 31313 and inserting the following:

"31313. Grants for commercial driver's license program implementation.".

**SEC. 6404. COMMERCIAL DRIVER'S LICENSE PASSENGER ENDORSEMENT REQUIREMENTS.**

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall review and assess the current knowledge and skill testing requirements for a commercial driver's license passenger endorsement to determine what improvements to the knowledge test or examination of driving skills are necessary to ensure the safe operation of commercial motor vehicles designed or used to transport passengers.

(b) REPORT.—Not later than 120 days after completion of the review and assessment under subsection (a), the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate—

(1) a report on the review and assessment conducted under subsection (a);

(2) a plan to implement any changes to the knowledge and skills tests; and

(3) a timeframe by which the Secretary will implement the changes.

**SEC. 6405. COMMERCIAL DRIVER'S LICENSE HAZARDOUS MATERIALS ENDORSEMENT EXEMPTION.**

(a) IN GENERAL.—The Secretary may not require an individual with a class A commercial driver's license to obtain a hazardous materials endorsement under part 383 of title 49, Code of Federal Regulations (or any successor regulation), in order to operate a service vehicle carrying diesel fuel in quantities of 3,785 liters (1,000 gallons) or less if—

(1) the tank containing such fuel is clearly marked with a placard reading ''Diesel Fuel''; and

(2) the individual is acting within the scope of the individual's employment as an employee of any of the following farm-related service industries:

(A) Agri-chemical business.

(B) Custom harvesters.

(C) Farm retail outlets and suppliers.

(D) Livestock feeders.

(b) IMPLEMENTATION.—The Secretary shall carry out subsection (a) in a manner consistent with the exemption provided to restricted commercial driver's license holders under section 383.3(f) of title 49, Code of Federal Regulations, as in effect on the date of enactment of this Act.

**SEC. 6406. PROGRAM TO ASSIST VETERANS TO ACQUIRE COMMERCIAL DRIVER'S LICENSES.**

(a) ESTABLISHMENT.—Not later than 1 year after the date of enactment of this Act, the Secretary, in consultation with the Secretary of Defense and in cooperation with the States, shall establish accelerated licensing procedures to assist veterans to acquire commercial driver's licenses.

(b) ACCELERATED LICENSING PROCEDURES.—The procedures established under subsection (a) shall be designed to be applicable to any veteran who—

(1) is attempting to acquire a commercial driver's license; and

(2) obtained, during military service, driving experience that, in the determination of the Secretary, makes the use of accelerated licensing procedures appropriate.

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

(1) COMMERCIAL DRIVER'S LICENSE.—The term ''commercial driver's license'' has the meaning given that term in section 31301 of title 49, United States Code.

(2) STATE.—The term ''State'' has the meaning given that term in section 31301 of title 49, United States Code.

(3) VETERAN.—The term ''veteran'' has the meaning given that term in section 101 of title 38, United States Code.

# Subtitle E—Motor Carrier Safety

**SEC. 6501. MOTOR CARRIER TRANSPORTATION.**

Section 13506(a)(4) is amended by inserting ''in interstate or intrastate commerce'' after ''a motor vehicle''.

**SEC. 6502. HOURS OF SERVICE STUDY.**

(a) HOURS OF SERVICE STUDY.—

(1) IN GENERAL.—Not later than March 31, 2013, the Secretary shall complete a field study on the efficacy of the restart rule published on December 27, 2011 (in this section referred to as the ''2011 restart rule''), applicable to operators of commercial motor vehicles of property subject to maximum driving time requirements of the Secretary.

(2) REQUIREMENT.—The study shall expand upon the results of the laboratory-based study relating to commercial motor vehicle driver fatigue sponsored by the Federal Motor Carrier Safety Administration presented in the report of December 2010 titled ''Investigation into Motor Carrier Practices to Achieve Optimal Commercial Motor Vehicle Driver Performance: Phase I''.

(3) CRITERIA.—In conducting the field study, the Secretary shall ensure that—

(A) the methodology for the field study is consistent, to the maximum extent possible, with the laboratory-based study methodology;

(B) the data collected is representative of the drivers and motor carriers affected by the maximum driving time requirements;

(C) the analysis is statistically valid; and

(D) the field study follows the plan for the ''Scheduling and Fatigue Recovery Project'' developed by the Federal Motor Carrier Safety Administration.

(b) REPORT TO CONGRESS.—Not later than April 30, 2013, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report detailing the results of the study.

(c) RULE MODIFICATION AND IMPLEMENTATION.—

(1) APPLICABLE RESTART RULE.—The restart rule published on November 19, 2008, shall remain in effect until the Secretary completes the field study on the 2011 restart rule under subsection (a).

(2) IMPLEMENTATION ON SCHEDULE.—If the Secretary determines that the results of the field study support the 2011 restart rule, the rule shall be implemented beginning on the effective date established in the rule.

(3) MODIFICATION.—

(A) IN GENERAL.—If the Secretary determines that the results of the field study do not support the 2011 restart rule, the Secretary shall—

(i) stay the implementation of the rule; and

(ii) conduct a rulemaking to modify the rule based on the results of the study.

(B) INTERIM RULE.—If the Secretary stays the implementation of the 2011 restart rule under subparagraph (A)(i), the restart rule published on November 19, 2008, shall remain in effect until the effective date of a final rule issued under subparagraph (A)(ii).

**SEC. 6503. ELECTRONIC LOGGING DEVICES.**

(a) IN GENERAL.—If the Secretary issues regulations regarding electronic logging devices to be used to monitor compliance with the Secretary's requirements for hours of service of drivers under part 395 of title 49, Code of Fed-

eral Regulations, the regulations shall include performance standards.

(b) PERFORMANCE STANDARDS AND CERTIFICATION CRITERIA.—

(1) PERFORMANCE STANDARDS.—Any performance standards issued under subsection (a) shall ensure, at a minimum, that an electronic logging device installed in a commercial motor vehicle—

(A) is synchronized to the operation of the vehicle engine or provides real-time tracking of vehicle location;

(B) is able to identify each individual who operates the vehicle and track the periods during which such individual operates the vehicle;

(C) enables law enforcement personnel to access information contained in the recorder quickly and easily during a roadside inspection; and

(D) is tamperproof.

(2) CERTIFICATION CRITERIA.—

(A) IN GENERAL.—If the Secretary issues regulations described in subsection (a), the Secretary, in issuing the regulations, shall establish the criteria and a process for the certification of electronic logging devices to ensure that such

1 devices meet the performance standards issued
2 under subsection (a).
3 (B) EFFECT OF NONCERTIFICATION.—
4 Electronic logging devices that are not certified
5 in accordance with the certification process es-
6 tablished under subparagraph (A) shall not be
7 acceptable evidence of hours of service and
8 record of duty status requirements under part
9 395 of title 49, Code of Federal Regulations.
10 (3) ADDITIONAL REQUIREMENTS.—If the Sec-
11 retary issues regulations described in subsection (a),
12 the Secretary, in issuing the regulations, shall—
13 (A) define a standardized user interface to
14 aid vehicle operator compliance and law en-
15 forcement reviews;
16 (B) establish a secure process for—
17 (i) standardized and unique vehicle
18 operator identification;
19 (ii) data access;
20 (iii) data transfer for vehicle operators
21 between motor vehicles;
22 (iv) data storage for motor carriers;
23 and
24 (v) data transfer and transportability
25 for law enforcement; and

(C) establish a standard security level for electronic logging devices to be tamper resistant.

(c) ADDITIONAL CONSIDERATIONS.—If the Secretary issues regulations described in subsection (a), the Secretary, in issuing the regulations, shall—

(1) evaluate the ability of electronic logging device technologies that meet the performance standards described in subsection (b)—

(A) to record accurately the time an individual operating a commercial motor vehicle spends on duty but not driving, including time spent loading and unloading; and

(B) to ensure all time on duty is accounted for and cannot be altered or otherwise tampered with by the operator or motor carrier;

(2) reduce or eliminate requirements for drivers and motor carriers to retain supporting documentation associated with paper-based records of duty status if—

(A) data contained in an electronic logging device supplants such documentation; and

(B) using such data without paper-based records does not diminish the Secretary's ability

to audit and review compliance with the Secretary's hours of service regulations; and

(3) include such measures as the Secretary determines are necessary to protect the privacy of individuals whose personal information is contained in an electronic logging device.

(d) USE OF DATA.—

(1) IN GENERAL.—The Secretary may utilize information contained in an electronic logging device only to enforce the Secretary's motor carrier safety and related regulations, including record-of-duty status regulations.

(2) MEASURES TO PRESERVE CONFIDENTIALITY OF PERSONAL DATA.—The Secretary shall institute appropriate measures to preserve the confidentiality of any personal data contained in an electronic logging device and disclosed in the course of actions taken by the Secretary or law enforcement officials to enforce the regulations referred to in paragraph (1).

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

(1) COMMERCIAL MOTOR VEHICLE.—The term ''commercial motor vehicle'' has the meaning given

that term in section 31132 of title 49, United States Code.

(2) ELECTRONIC LOGGING DEVICE.—The term ''electronic logging device'' means an electronic device that acquires and stores data showing the record of duty status of the vehicle operator and performs the functions required in section 395.16(b) of title 49, Code of Federal Regulations, as in effect on April 5, 2010 (75 Fed. Reg. 17246).

**SEC. 6504. MOTOR CARRIER SAFETY ADVISORY COMMITTEE.**

Section 4144(d) of SAFETEA–LU (49 U.S.C. 31100 note; 119 Stat. 1748) is amended by striking ''shall terminate'' and all that follows through the period at the end and inserting ''shall terminate on September 30, 2017.''.

**SEC. 6505. 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 issued by the Secretary under sections 31136 and 31502 of title 49, United States Code, regarding maximum driving and on-duty time for a driver used by a

motor carrier, shall not apply during a planting or harvest period of a State, as that period is determined by the State, to—

"(A) drivers transporting agricultural commodities in the State from the source of the agricultural commodities to a location within a 150 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 150 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 150 air-mile radius from the wholesale distribution point.".

**SEC. 6506. EXEMPTION RELATING TO TRANSPORTATION OF GRAPES DURING HARVEST PERIODS.**

Regulations issued by the Secretary of Transportation under sections 31136 and 31502 of title 49, United States Code, regarding maximum driving and on-duty time for a driver used by a motor carrier, shall not apply,

beginning on the date of enactment of this Act, to a driver transporting grapes in a State if the transportation—

(1) is during a harvest period (as that period is determined by the State); and

(2) is limited to an area within a 175 air-mile radius from the location where the grapes are picked or distributed.

# Subtitle F—Miscellaneous

**SEC. 6601. 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 drug testing established under chapter 313 of title 49, United States Code.

(3) 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.

(4) 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.

(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 exempting 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.

(c) COVERED FARM VEHICLE DEFINED.—

(1) IN GENERAL.—In this section, the term ''covered farm vehicle'' means a 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 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.

**SEC. 6602. TECHNICAL CORRECTION.**

Section 306(c)(2)(B) of the SAFETEA–LU Technical Corrections Act of 2008 (29 U.S.C. 207 note; 122 Stat. 1621) is amended—

(1) in clause (ii) by striking ''or'' at the end;

(2) in clause (iii) by striking ''and'' at the end and inserting ''or''; and

(3) by adding at the end the following:

''(iv) operating under contracts with rail carriers subject to part A of subtitle IV of title 49, United States Code, and used to transport employees of such rail carriers; and''.

**SEC. 6603. STUDY OF IMPACT OF REGULATIONS ON SMALL TRUCKING COMPANIES.**

(a) STUDY.—The Comptroller General of the United States shall conduct a study to assess trends in motor carrier safety relating to small trucking companies and independent operators, including the extent to which Federal motor carrier safety regulation adversely impacts and economically and competitively disadvantages small trucking companies and independent operators and the extent to which there is a correlation between company size and crash rates and crash causation.

(b) CONTENTS.—The study shall contain the following:

(1) Overall trends in highway crashes involving large trucks for the past 2 decades, including a separate analysis of the annual number of incidents involving a large truck only, a truck and automobile, and more than one large truck.

(2) Crash causation factors typical in each type of incident described in paragraph (1), including the frequency of large truck crashes caused by or in which an automobile driver was predominately at fault, and the ratio of truck driver fatigue versus automobile driver fatigue.

(3) The correlation of—

(A) truck driver turnover and truck driver retention and longevity rates with a given trucking company to company crash rates, crash causation, the severity of injuries, number of fatalities, and fault; and

(B) truck driver experience and safety records proportional to company size.

(4) The role of truck driver experience level, longevity with a given trucking company, retention rate, high driver turnover rates, and truck driver inexperience in highway crashes involving trucks, and the degree to which each is a factor in a crash.

(5) The degree and frequency of such contributing factors as weather conditions, traffic congestion, daytime or nighttime conditions, variety of road and vehicle types, and types of pick-up and delivery locations (such as urban, rural, and small metropolitan areas) in crashes involving a truck.

(6) Impacts and incentives perceived by truck drivers caused by current Federal motor carrier safety regulations and the inflexibility in the application and enforcement of regulations.

(7) An assessment of the data quality of the Compliance, Safety, and Accountability initiative of the Federal Motor Carrier Safety Administration,

including compliance with the Data Quality Act (Public Law 106–554; section 515 of H.R. 5658, as introduced on December 14, 2000), the number of carriers for which there is insufficient data, discrepancies in measurements and methodologies, complaints about data quality, and whether company size impacts data quality.

(c) REPORT.—Not later than 9 months after the date of enactment of this Act, the Comptroller General shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the study, including recommendations for achieving a better balance of safety with competition and efficiency and recommendations to reduce adverse regulatory impacts on small trucking companies and independent operators.

(d) PROHIBITION.—No proposed regulations from the Federal Motor Carrier Safety Administration that relate to the contents of the study may become final or take effect before the expiration of the 180-day period beginning on the date the Comptroller General submits to the Committees the report described in subsection (c).

**SEC. 6604. REPORT ON SMALL TRUCKING COMPANIES.**

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, and annually thereafter, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the efforts of the Department of Transportation to better balance truck competition and efficiency with safety.

(b) CONTENTS.—The report shall contain the following:

(1) A description of specific steps that modal administrations within the Department have taken and plan to take to reduce economic and competitive disadvantages imposed by specific regulations on small trucking companies, their truck drivers, and independent operators.

(2) A description of specific performance goals, plans for, and performance to date on regulatory flexibility measures, pursuant to the Regulatory Flexibility Act (Public Law 96–354), the Data Quality Act (Public Law 106–554; section 515 of H.R. 5658, as introduced on December 14, 2000), and the Paperwork Reduction Act of 1980 (Public Law 96–511), that are affirmatively and precisely designed to achieve greater flexibility with respect to

regulatory compliance, in particular detailing concrete steps to reasonably accommodate the needs unique to small trucking companies, independent operators, and special load haulers (such as of livestock, frozen foodstuffs, and automobiles), relating to hours of service rules, log- and recordkeeping, and the accounting of driver time lost due to loading and unloading, traffic, or weather delays.

(3) A table showing the relation of truck driver experience and tenure with a trucking company or as an independent operator to incidence of being at fault in an accident.

**SEC. 6605. RULEMAKING ON ROAD VISIBILITY OF AGRICULTURAL EQUIPMENT.**

(a) RULEMAKING.—Not later than 2 years after the date of enactment of this Act, the Secretary, after consultation with the American Society of Agricultural and Biological Engineers, other appropriate Federal agencies, and other appropriate persons, shall issue a rule to improve the daytime and nighttime visibility of agricultural equipment that may be operated on a public road. Such rule shall establish minimum lighting and marking standards for applicable agricultural equipment manufactured 1 year or more subsequent to the effective date of the rule. Such rule shall provide for methods, materials, specifica-

tions, or equipment employed, equivalent to the standard set in ANSI/ASAE S279.14 published in July 2008 by the American Society of Agriculture and Biological Engineers and entitled ''Lighting and Marking of Agricultural Equipment on Highways'', or any successor standard.

(b) REVIEW.—The Secretary shall periodically, and not less than once every 5 years, review the standards established under this section and shall revise the standards to reflect the provisions of the edition of ANSI/ASAE S279 that is in effect at the time of the review.

(c) RULES OF CONSTRUCTION.—

(1) COMPLIANCE WITH SUCCESSOR STANDARDS.—No provision of any rule issued pursuant to this section shall prohibit the operation on public roads of agricultural equipment that is equipped according to any adopted edition of ANSI/ASAE S279 that is later than the edition of such standard that is referenced during the issuance of the rule.

(2) NO RETROFITTING REQUIRED.—No provision of any rule issued pursuant to this section shall require the retrofitting of agricultural equipment that is manufactured prior to 1 year after the date on which a final rule is issued pursuant to subsection (a).

(3) NO EFFECT ON ADDITIONAL MATERIALS AND EQUIPMENT.—No provision of any rule issued pursuant to this section shall 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 by the standards established under the rule.

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

(1) AGRICULTURAL EQUIPMENT.—The term ''agricultural equipment'' means ''agricultural field equipment'' as defined under the standard ANSI/ASABE S390.4 published by the American Society of Agriculture and Biological Engineers, or any successor standard.

(2) PUBLIC ROAD.—The term ''public road'' has the meaning given that term in section 101 of title 23, United States Code.

**SEC. 6606. TRANSPORTATION OF HORSES.**

Section 80502 of title 49, United States Code, is amended—

(1) in subsection (c) by striking ''This section does not'' and inserting ''Subsections (a) and (b) do not'';

(2) by redesignating subsection (d) as subsection (e);

(3) by inserting after subsection (c) the following:

''(d) TRANSPORTATION OF HORSES.—

''(1) PROHIBITION.—No person may transport, or cause to be transported, a horse from a place in a State, the District of Columbia, or a territory or possession of the United States through or to a place in another State, the District of Columbia, or a territory or possession of the United States in a motor vehicle containing 2 or more levels stacked on top of each other.

''(2) MOTOR VEHICLE DEFINED.—In this subsection, the term 'motor vehicle' has the meaning given that term in section 13102.''; and

(4) in subsection (e) (as redesignated by paragraph (2) of this subsection)—

(A) by striking ''A rail carrier'' and inserting the following:

''(1) IN GENERAL.—A rail carrier'';

(B) by striking ''this section'' and inserting ''subsection (a) or (b)'';

(C) by striking ''On learning of a violation'' and inserting the following:

"(2) TRANSPORTATION OF HORSES IN MULTI-LEVEL TRAILER.—

"(A) CIVIL PENALTY.—A person that knowingly violates subsection (d) is liable to the United States Government for a civil penalty of at least $100 but not more than $500 for each violation. A separate violation occurs under subsection (d) for each horse that is transported, or caused to be transported, in violation of subsection (d).

"(B) RELATIONSHIP TO OTHER LAWS.—The penalty provided under subparagraph (A) shall be in addition to any penalty or remedy available under any other law or common law.

"(3) CIVIL ACTION.—On learning of a violation of a provision of this section".

**SEC. 6607. REGULATORY REVIEW AND REVISION.**

Not later than 12 months after the date of enactment of this Act, the Secretary shall review and revise the Federal motor carrier safety regulations contained in chapter III of subtitle B of title 49, Code of Federal Regulations, to—

(1) simplify the regulations; and

(2) eliminate those requirements that are outmoded or excessively burdensome.

**SEC. 6608. ISSUANCE OF SAFETY REGULATIONS.**

The Secretary shall take such actions as may be necessary in fiscal year 2012 to expedite the issuance of safety regulations to carry out this title (and the amendments made by this title) following the effective date of this title.

**SEC. 6609. REPEALS.**

(a) REPEAL OF HIGH-PRIORITY PROGRAM.—Section 31104(k) is repealed.

(b) BORDER ENFORCEMENT GRANTS.—Section 31107, and the item relating to that section in the analysis for chapter 311, are repealed.

(c) COMMERCIAL DRIVER'S LICENSE INFORMATION SYSTEM MODERNIZATION.—Subsections (c), (d), and (e) of section 4123 of SAFETEA–LU (119 Stat. 1735–1736) are repealed.

(d) OUTREACH AND EDUCATION.—Section 4127 of SAFETEA–LU (119 Stat. 1741), and the item relating to that section in the table of contents contained in section 1(b) of that Act, are repealed.

(e) SAFETY DATA IMPROVEMENT PROGRAM.—Section 4128 of SAFETEA–LU (119 Stat. 1742), and the item relating to that section in the table of contents contained in section 1(b) of that Act, are repealed.

(f) GRANT PROGRAM FOR COMMERCIAL MOTOR VEHICLE OPERATORS.—Section 4134 of SAFETEA–LU (119 Stat. 1744), and the item relating to that section

in the table of contents contained in section 1(b) of that Act, are repealed.

(g) REPORT ON MOTOR CARRIER EMPLOYEE PROTECTIONS.—Section 4023 of the Transportation Equity Act for the 21st Century (49 U.S.C. 31105 note; 112 Stat. 415), and the item relating to that section in the table of contents contained in section 1(b) of that Act, are repealed.

# TITLE VII—RESEARCH AND EDUCATION

**SEC. 7001. AUTHORIZATION OF APPROPRIATIONS.**

(a) IN GENERAL.—The following sums are authorized to be appropriated out of the Alternative Transportation Account of the Highway Trust Fund:

(1) HIGHWAY RESEARCH AND DEVELOPMENT PROGRAM.—To carry out section 503 of title 23, United States Code, $141,750,000 for each of fiscal years 2013 through 2016.

(2) TECHNOLOGY AND INNOVATION DEPLOYMENT PROGRAM.—To carry out section 503a of title 23, United States Code, $60,750,000 for each of fiscal years 2013 through 2016.

(3) TRAINING AND EDUCATION.—To carry out section 504 of title 23, United States Code,

$25,500,000 for each of fiscal years 2013 through 2016.

(4) INTELLIGENT TRANSPORTATION SYSTEMS RESEARCH.—To carry out sections 512, 514, 515, 516, and 517 of title 23, United States Code, $110,000,000 for each of fiscal years 2013 through 2016.

(5) UNIVERSITY TRANSPORTATION RESEARCH.—To carry out section 5506 of title 49, United States Code, $75,000,000 for each of fiscal years 2013 through 2016.

(6) BUREAU OF TRANSPORTATION STATISTICS.—To carry out section 111 of title 49, United States Code, $27,000,000 for each of fiscal years 2013 through 2016.

(b) APPLICABILITY OF CHAPTER 1 OF TITLE 23.—Funds authorized to be appropriated by subsection (a) shall be available for obligation in the same manner as if such 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 such funds shall be 80 percent, unless otherwise expressly provided by this Act (including the amendments made by this Act) or otherwise determined by the Secretary, and such

1 funds shall remain available until expended and shall not
2 be transferable.

3 **SEC. 7002. OBLIGATION CEILING.**

4 Notwithstanding any other provision of law, the total
5 of all obligations from amounts made available from the
6 Alternative Transportation Account of the Highway Trust
7 Fund by section 7001(a) shall be $440,000,000 for each
8 of fiscal years 2013 through 2016.

9 **SEC. 7003. DEFINITIONS.**

10 Section 501 of title 23, United States Code, is
11 amended—

12 (1) by redesignating paragraph (2) as para-
13 graph (7);

14 (2) by redesignating paragraph (1) as para-
15 graph (2);

16 (3) by inserting before paragraph (2) (as so re-
17 designated) the following:

18 ''(1) CONNECTED VEHICLE TECHNOLOGY.—The
19 term 'connected vehicle technology' means the utili-
20 zation of wireless technology to enable multiple vehi-
21 cles to communicate information to each other.'';
22 and

23 (4) by inserting after paragraph (2) (as so re-
24 designated) the following:

"(3) 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.

"(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 term 'intelligent transportation system' means 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.—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.".

**SEC. 7004. SURFACE TRANSPORTATION RESEARCH, DEVELOPMENT, AND TECHNOLOGY.**

(a) IN GENERAL.—Section 502 of title 23, United States Code, is amended—

(1) in the section heading by striking "**research**" and inserting "**research, development, and technology**";

(2) in subsection (a)—

(A) in paragraph (2)—

(i) by redesignating subparagraphs (B) through (D) as subparagraphs (C) through (E), respectively;

(ii) by inserting after subparagraph (A) the following:

"(B) addresses current or emerging needs;";

(iii) in subparagraph (C) (as redesignated by clause (i) of this subparagraph) by striking "supports research in which there is" and inserting "delivers";

(iv) in subparagraph (D) (as redesignated by clause (i) of this subparagraph) by striking "or" after the semicolon;

(v) in subparagraph (E) (as redesignated by clause (i) of this subparagraph) by striking the period at the end and inserting a semicolon; and

(vi) by adding at the end the following:

''(F) presents the best means to align resources with multiyear plans and priorities; or

''(G) ensures the coordination of highway research and technology transfer activities, including those performed by the university transportation centers established under subchapter I of chapter 55 of title 49.'';

(B) in paragraph (3)—

(i) in subparagraph (B)—

(I) by striking ''support and'' and inserting ''partner with State transportation departments and other stakeholders as appropriate to''; and

(II) by striking ''by State highway agencies'';

(ii) in subparagraph (C)—

(I) by striking ''share'' and inserting ''communicate'';

(II) by inserting ''on-going and'' before ''completed''; and

(III) by striking ''and'' after the semicolon;

(iii) in subparagraph (D)—

(I) by striking ''support and facilitate technology'' and inserting ''lead efforts to coordinate areas of national emphasis for highway research, technology,''; and

(II) by striking the period at the end and inserting a semicolon; and

(iv) by adding at the end the following:

''(E) leverage partnerships with industry, academia, and other entities; and

''(F) conduct, facilitate, and support training and education of current and future transportation professionals.'';

(C) in paragraph (4)(C) by striking ''policy and planning'' and inserting ''all highway objectives seeking to improve the performance of the transportation system'';

(D) in paragraph (5) by inserting ''tribal governments,'' after ''local governments,'';

(E) by striking paragraph (7) and inserting the following:

''(7) PERFORMANCE REVIEW AND EVALUATION.—

''(A) IN GENERAL.—To the maximum extent practicable, all surface transportation research and development projects shall include a component of performance measurement and evaluation.

''(B) PERFORMANCE MEASURES.—Performance measures shall be established during the proposal stage of a research and development project and shall, to the maximum extent practicable, be outcome-based.

''(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.

''(D) AVAILABILITY OF EVALUATIONS.—All evaluations under this paragraph shall be made readily available to the public.''; and

(F) in paragraph (8) by striking ''surface'';

(3) in subsection (b)—

(A) by striking paragraph (4) and inserting the following:

"(4) TECHNOLOGICAL INNOVATION.—The Secretary shall ensure that the programs and activities carried out under this chapter are consistent with the transportation research and development strategic plan developed under section 508.";

(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 FUNDS AMONG STATES OR TO FEDERAL HIGHWAY ADMINISTRATION.—The Secretary, at the request of a State, may transfer funds apportioned or allocated under this chapter to the State to another State, or to the Federal Highway Administration, for the purpose of funding research, development, and technology transfer activities of mutual interest on a pooled funds basis.

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

(D) by adding at the end the following:

"(7) PRIZE COMPETITIONS.—

"(A) IN GENERAL.—Consistent with section 24 of the Stevenson-Wydler Technology Innovation Act of 1980, the Secretary may carry out a program to award prizes competitively to stimulate innovation in the area of surface transportation that has the potential to advance the Federal Highway Administration's research and technology objectives and activities under section 503.

"(B) ANNUAL REPORT.—

"(i) IN GENERAL.—Not later than March 1 of each year, the Secretary shall submit to the Committees on Transportation and Infrastructure and Science, Space, and Technology of the House of Representatives and the Committees on Environment and Public Works and Commerce, Science, and Transportation of the Senate a report on the activities carried out during the preceding fiscal year under the authority in subparagraph (A) if such authority under subparagraph (A) was utilized by the Secretary.

"(ii) INFORMATION INCLUDED.—A report under this subparagraph shall include, for each prize competition under subparagraph (A), the following:

"(I) A description of the proposed goals of each prize competition.

"(II) An analysis of why the utilization of the authority in subparagraph (A) was the preferable method of achieving the goals described in subclause (I) as opposed to other authorities available to the agency, such as contracts, grants, and cooperative agreements.

"(III) The total amount of cash prizes awarded for each prize competition, including a description of the amount of private funds contributed to the program, the sources of such funds, and the manner in which the amounts of cash prizes awarded and claimed were allocated among the accounts of the agency for recording as obligations and expenditures.

"(IV) The methods used for the solicitation and evaluation of submissions under each prize competition, together with an assessment of the effectiveness of such methods and lessons learned for future prize competitions.

"(V) A description of the resources, including personnel and funding, used in the execution of each prize competition together with a detailed description of the activities for which such resources were used and an accounting of how funding for execution was allocated among the accounts of the agency for recording as obligations and expenditures.

"(VI) A description of how each prize competition advanced the mission of the Department of Transportation.";

(4) in subsection (c)—

(A) in paragraph (3)(A)—

(i) by striking ''The'' and inserting ''Except as otherwise provided in this chapter, the'';

(ii) by striking ''subsection'' and inserting ''chapter''; and

(iii) by striking ''50'' and inserting ''80'';

(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. 7005. RESEARCH AND DEVELOPMENT.**

Section 503 of title 23, United States Code, is amended to read as follows:

**''§ 503. Research and development**

''(a) IN GENERAL.—The Secretary shall establish a research and development program in accordance with this section and the strategic plan developed under section 508.

''(b) RESPONSIBILITIES.—To address current and emerging highway transportation needs, the Secretary, in carrying out the program under this section, shall—

1 ''(1) identify research topics;
2 ''(2) conduct research, testing, and evaluation
3 activities;
4 ''(3) facilitate technology transfer;
5 ''(4) provide technical assistance; and
6 ''(5) ensure program activities are coordinated
7 with the transportation research and development
8 strategic plan developed under section 508.
9 ''(c) IMPROVING HIGHWAY SAFETY.—
10 ''(1) OBJECTIVES.—In carrying out the pro-
11 gram under this section, the Secretary shall create
12 systematic measures to improve highway safety for
13 all road users, vehicles, and public roads to—
14 ''(A) achieve greater long-term safety
15 gains;
16 ''(B) reduce the number of fatalities and
17 serious injuries;
18 ''(C) fill knowledge gaps that currently
19 limit the effectiveness of research;
20 ''(D) support the development and imple-
21 mentation of State strategic highway safety
22 plans under section 148;
23 ''(E) advance improvements in and use of
24 performance prediction analysis for decision-
25 making;

1 "(F) expand technology transfer to part-
2 ners and stakeholders;
3 "(G) achieve safety benefits through con-
4 nected vehicle technology; and
5 "(H) enhance rural highway safety.
6 "(2) ACTIVITIES.—Research and development
7 activities carried out under this subsection may in-
8 clude activities relating to—
9 "(A) safety assessments and decision-
10 making tools;
11 "(B) data collection and analysis;
12 "(C) crash reduction projections;
13 "(D) low-cost safety countermeasures;
14 "(E) innovative operational improvements
15 and designs of roadway and roadside features;
16 "(F) evaluation of countermeasure costs
17 and benefits;
18 "(G) development of tools for projecting
19 impacts of safety countermeasures;
20 "(H) rural road safety;
21 "(I) safety policy studies;
22 "(J) human factors studies and methods;
23 "(K) safety technology deployment;
24 "(L) safety program and process improve-
25 ments; and

"(M) tools and methods to enhance safety performance, including achievement of statewide safety performance targets.

"(d) IMPROVING HIGHWAY INFRASTRUCTURE INTEGRITY.—

"(1) OBJECTIVES.—In carrying out the program under this section, the Secretary shall improve the ability to maintain highway infrastructure integrity, meet user needs, and improve system performance through targeted Federal transportation investments to—

"(A) reduce the number of fatalities attributable to highway infrastructure design characteristics and work zones;

"(B) improve the safety of highway infrastructure;

"(C) increase the reliability of life-cycle performance predictions used in highway infrastructure design, construction, and management;

"(D) improve the ability of transportation agencies to deliver projects that meet expectations for timeliness, quality, and cost;

"(E) reduce user delay attributable to highway infrastructure system performance, maintenance, rehabilitation, and construction;

"(F) improve highway condition and performance through increased use of innovative pavements during highway design, construction, and maintenance;

"(G) improve highway condition and performance through increased use of innovative designs, materials, and construction methods in the construction, repair, and rehabilitation of bridges;

"(H) reduce the life-cycle environmental impacts of highway infrastructure, including design, construction, operation, preservation, and maintenance; and

"(I) improve the resiliency of roadways to commercial heavy freight traffic.

"(2) ACTIVITIES.—Research and technology activities carried out under this subsection may include activities relating to—

"(A) long-term infrastructure performance programs addressing pavements, bridges, tunnels, and other structures;

"(B) short-term and accelerated studies of highway infrastructure performance;

"(C) the development of more durable highway and bridge infrastructure materials and systems, including the use of carbon fiber composite materials in bridge replacement and rehabilitation;

"(D) advanced highway and bridge infrastructure design methods;

"(E) accelerated highway construction;

"(F) performance-based specifications;

"(G) construction and materials quality assurance;

"(H) comprehensive and integrated highway infrastructure asset management;

"(I) 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;

"(J) sustainable highway infrastructure design and construction;

"(K) highway and bridge infrastructure rehabilitation and preservation techniques, including those techniques to address historic infrastructure;

"(L) hydraulic, geotechnical, and aerodynamic aspects of highway infrastructure;

"(M) improved highway construction technologies and practices;

"(N) improved tools, technologies, and models for highway and bridge infrastructure management, including assessment and monitoring of infrastructure condition;

"(O) improving flexibility and resiliency of highway and bridge infrastructure systems to withstand climate variability; and

"(P) highway infrastructure resilience and other adaptation measures.

"(e) REDUCING CONGESTION, IMPROVING HIGHWAY OPERATIONS, AND ENHANCING FREIGHT PRODUCTIVITY.—

"(1) OBJECTIVES.—In carrying out the program under this section, the Secretary shall examine approaches to reduce traffic congestion (including freight-related congestion throughout the transpor-

tation network), reduce the costs of such congestion, and improve freight movement.

"(2) ACTIVITIES.—Research and technology activities carried out under this subsection may include examination of—

"(A) active traffic and demand management;

"(B) accelerating deployment of intelligent transportation systems;

"(C) arterial management and traffic signal operation;

"(D) congestion pricing;

"(E) corridor management;

"(F) emergency operations;

"(G) freeway management;

"(H) impacts of vehicle size and weight;

"(I) freight operations and technology;

"(J) operations and freight performance measurement and management;

"(K) organizing and planning for operations;

"(L) planned special events management;

"(M) real-time transportation information;

"(N) road weather management;

"(O) traffic and freight data and analysis tools;

"(P) traffic control devices;

"(Q) traffic incident management;

"(R) workzone management;

"(S) mechanisms that communicate travel, roadway, and emergency information to all road users (as defined in section 148); and

"(T) enhanced mode choice and intermodal connectivity.

"(f) ASSESSING POLICY AND SYSTEM FINANCING ALTERNATIVES.—

"(1) OBJECTIVES.—In carrying out the program under this section, the Secretary shall conduct policy analysis on emerging issues in the transportation community to provide information to policymakers and decisionmakers.

"(2) ACTIVITIES.—Research and technology activities carried out under this subsection may include activities relating to—

"(A) highway needs and investment analysis;

"(B) analysis of legislative development and implementation;

"(C) highway policy analysis;

"(D) the effect of highway congestion on the economy;

"(E) research in emerging policy areas;

"(F) advancing innovations in revenue generation, financing, and procurement for project delivery;

"(G) improving project financial and cost analysis;

"(H) highway performance measurement;

"(I) travel demand performance measurement; and

"(J) highway finance performance measurement.

"(3) INFRASTRUCTURE INVESTMENT NEEDS REPORT.—

"(A) IN GENERAL.—Not later than July 31, 2012, and July 31 of every second year thereafter, the Secretary shall transmit 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 future highway and bridge needs of the United States and the backlog of highway and bridge needs at the time of the report.

"(B) COMPARISON.—Each report under subparagraph (A) shall provide the means, including all necessary information, to relate and compare the conditions and service measures used in the previous biennial reports.

"(g) EXPLORATORY ADVANCED RESEARCH.—In carrying out the program under this section, the Secretary shall conduct long-term, higher-risk research, consistent with the transportation research and development plan under section 508, with the potential for dramatic breakthroughs in the field of highway transportation.

"(h) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—

"(1) IN GENERAL.—In carrying out the program under this section, the Secretary may make grants to, and enter into cooperative agreements and contracts with, States, other Federal agencies, institutions of higher education, private sector entities, and nonprofit organizations to pay the Federal share of the cost of research, development, and technology transfer activities.

"(2) APPLICATIONS.—To receive a grant under this subsection, an entity described in paragraph (1) shall submit an application to the Secretary. The application shall be in such form and contain such in-

formation and assurances as the Secretary may require.

"(3) TECHNOLOGY AND INFORMATION TRANSFER.—The Secretary shall ensure that the information and technology resulting from research conducted under this subsection is made available to State and local transportation departments and other interested parties as specified by the Secretary.

"(i) TURNER-FAIRBANK HIGHWAY RESEARCH CENTER.—

"(1) IN GENERAL.—The Secretary shall operate in the Federal Highway Administration a Turner-Fairbank Highway Research Center.

"(2) USES OF THE CENTER.—The Center shall support—

"(A) the conduct of highway research and development related to new highway technology, including connected vehicle technology;

"(B) the development of understandings, tools, and techniques that provide solutions to complex technical problems through the development of economical and environmentally sensitive designs, efficient and quality-controlled construction practices, and durable materials;

"(C) the development of innovative highway products and practices; and

"(D) long-term high-risk research to improve the materials used in highway infrastructure.

"(j) CENTERS FOR SURFACE TRANSPORTATION EXCELLENCE.—

"(1) ESTABLISHMENT.—The Secretary may establish not more than 4 centers for surface transportation excellence.

"(2) GOALS.—The goals of the centers for surface transportation excellence are to promote and support strategic national surface transportation programs and activities relating to the work of State departments of transportation.

"(3) ROLE OF THE CENTERS.—To achieve the goals set forth in paragraph (2), the Secretary shall establish centers that provide technical assistance, information sharing of best practices, and training in the use of tools and decisionmaking processes that can assist States in effectively implementing surface transportation programs, projects, and policies.

"(4) PROGRAM ADMINISTRATION.—

"(A) COMPETITION.—A party entering into a contract, cooperative agreement, or other

transaction with the Secretary under this subsection, or receiving a grant to perform research or provide technical assistance under this subsection, shall be selected on a competitive basis.

''(B) STRATEGIC PLAN.—The Secretary shall require each center to develop a multiyear strategic plan, and submit the plan to the Secretary at such time as the Secretary requires, that describes—

''(i) the activities to be undertaken by the center; and

''(ii) how the work of the center will be coordinated with the activities of the Federal Highway Administration and the various other research, development, and technology transfer activities authorized by this chapter.

''(5) FUNDING.—Of the amounts made available by section 7001(a)(1) of the American Energy and Infrastructure Jobs Act of 2012, not more than $3,000,000 for each of fiscal years 2013 through 2016 shall be available to carry out this subsection.''.

**SEC. 7006. TECHNOLOGY AND INNOVATION DEPLOYMENT PROGRAM.**

(a) IN GENERAL.—Chapter 5 of title 23, United States Code, is amended by inserting after section 503 the following:

**"§ 503a. Technology and innovation deployment program**

''(a) IN GENERAL.—The Secretary, in accordance with the strategic plan developed under section 508, shall carry out a technology and innovation deployment program on all aspects of highway transportation by promoting and facilitating the products, technologies, tools, methods, or other findings resulting from highway research conducted under this chapter.

''(b) OBJECTIVES.—The Secretary shall seek to advance the following objectives:

''(1) Significantly accelerate the adoption of innovative technologies by the surface transportation community.

''(2) Significantly accelerate the adoption of advanced modeling technologies, as described in section 106, by the surface transportation community.

''(3) Provide leadership and incentives to demonstrate and promote state-of-the-art technologies, elevated performance standards, and new business practices in highway construction processes that re-

sult in improved safety, faster construction, reduced congestion from construction, and improved quality and user satisfaction.

''(4) Advance longer-lasting highways using innovative technologies and practices to accomplish more rapid construction of efficient and safe highways and bridges.

''(5) Improve highway efficiency, safety, mobility, reliability, service life, and environmental protection.

''(6) Develop and deploy new tools, techniques, and practices to accelerate the adoption of innovation in all aspects of highway transportation.

''(c) ACTIVITIES.—The program may include—

''(1) activities conducted under section 503;

''(2) other technologies and innovations requiring additional development and testing not performed under section 503 but necessary to bring about successful deployment and delivery; and

''(3) developing and improving innovative technologies and practices and exploring new technologies to accelerate innovation adoption.

''(d) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—

"(1) IN GENERAL.—Under the program, the Secretary may make grants to, and enter into cooperative agreements and contracts with, States, other Federal agencies, institutions of higher education, private sector entities, Federal laboratories, and nonprofit organizations to pay the Federal share of the cost of research, development, and deployment activities.

"(2) APPLICATIONS.—To receive a grant under this subsection, an entity described in paragraph (1) shall submit an application to the Secretary. The application shall be in such form and contain such information and assurances as the Secretary may require.

"(3) TECHNOLOGY AND INFORMATION TRANSFER.—The Secretary shall ensure that the information and technology resulting from research conducted under this subsection is made available to State and local transportation departments and other interested parties as specified by the Secretary.

"(e) DEPLOYMENT OF FUTURE STRATEGIC HIGHWAY RESEARCH PROGRAM RESULTS AND PRODUCTS.—

"(1) IN GENERAL.—The Secretary, in consultation with the American Association of State High-

way and Transportation Officials and the National Academy of Sciences, shall promote research results and products developed under the Strategic Highway Research Program 2 administered by the Transportation Research Board of the National Academy of Sciences.

"(2) STRATEGY OF PROMOTION.—The Secretary, to the extent practicable, shall base the deployment of research results and products described in paragraph (1) on the recommendations included in the Transportation Research Board Special Report 296 entitled 'Implementing the Results of the Second Strategic Highway Research Program: Saving Lives, Reducing Congestion, Improving Quality of Life'.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 5 of title 23, United States Code, is amended by inserting after the item relating to section 503 the following:

"503a. Technology and innovation deployment program.".

**SEC. 7007. TRAINING AND EDUCATION.**

Section 504 of title 23, United States Code, is amended—

(1) in subsection (a)(2) by striking subparagraph (A) and inserting the following:

"(A) Federal Highway Administration employees, State and local transportation agency employees, and Federal agency partners;";

(2) in subsection (b) by striking paragraph (3) and inserting the following:

"(3) FEDERAL SHARE.—

"(A) LOCAL TECHNICAL ASSISTANCE CENTERS.—Subject to clause (ii), the Federal share of the cost of any activity carried out by a local technical assistance center under paragraphs (1) and (2) shall be 50 percent, except that the remaining share may include funds provided to a recipient under subsection (e) or section 505.

"(B) TRIBAL TECHNICAL ASSISTANCE CENTERS.—The Federal share of the cost of activities carried out by the tribal technical assistance centers under paragraph (2)(D)(ii) shall be 100 percent.";

(3) in subsection (c)(2) by adding at the end the following: "Funds provided to institutions of higher education to carry out this paragraph shall be used in direct support of student expenses associated with their transportation studies.";

(4) by striking subsection (d);

(5) by redesignating subsections (e) through (g) as subsections (d) through (f), respectively;

(6) in subsection (d) (as so redesignated)—

(A) in paragraph (1)—

(i) by striking ''sections 104(b)(1), 104(b)(2), 104(b)(3), 104(b)(4), and 144(e)'' and inserting ''paragraphs (1), (2), and (3) of section 104(b)'';

(ii) in subparagraph (D) by striking ''and'';

(iii) in subparagraph (E) by striking the period at the end and inserting a semicolon; and

(iv) by adding at the end the following:

''(F) activities delivered by the National Highway Institute under subsection (a); and

''(G) the local technical assistance program under subsection (b).''; and

(B) in paragraph (2) by inserting before the period at the end the following: '', except for activities carried out under paragraph (1)(G), for which the Federal share shall be 50 percent as described in subsection (b)(3)(A)''; and

(7) in the heading of subsection (e) (as redesignated by paragraph (4) of this section) by striking "PILOT".

**SEC. 7008. STATE PLANNING AND RESEARCH.**

Section 505(a) of title 23, United States Code, is amended in the first sentence by striking "104(h)) and under section 144" and inserting "104(i))".

**SEC. 7009. INTERNATIONAL HIGHWAY TRANSPORTATION OUTREACH PROGRAM.**

Section 506 of title 23, United States Code, and the item relating to such section in the analysis for chapter 5 of such title, are repealed.

**SEC. 7010. SURFACE TRANSPORTATION-ENVIRONMENTAL COOPERATIVE RESEARCH PROGRAM.**

Section 507 of title 23, United States Code, and the item relating to such section in the analysis for chapter 5 of such title, are repealed.

**SEC. 7011. TRANSPORTATION RESEARCH AND DEVELOPMENT STRATEGIC PLANNING.**

Section 508(a) of title 23, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking "SAFETEA-LU" and inserting "American Energy and Infrastructure Jobs Act of 2012"; and

(B) by adding ", acting through the Administrator of the Research and Innovative Technology Administration," after "Secretary"; and

(2) in paragraph (2)(A)(iii) by striking "promoting security" and inserting "improving goods movement".

**SEC. 7012. NATIONAL COOPERATIVE FREIGHT TRANSPORTATION RESEARCH PROGRAM.**

Section 509 of title 23, United States Code, and the item relating to such section in the analysis for chapter 5 of such title, are repealed.

**SEC. 7013. FUTURE STRATEGIC HIGHWAY RESEARCH PROGRAM.**

Section 510 of title 23, United States Code, and the item relating to such section in the analysis for chapter 5 of such title, are repealed.

**SEC. 7014. NATIONAL INTELLIGENT TRANSPORTATION SYSTEMS PROGRAM PLAN.**

(a) IN GENERAL.—Section 512 of title 23, United States Code, is amended—

(1) in the section heading by striking "**ITS**" and inserting "**intelligent transportation systems**"; and

(2) in subsection (a)(1) by striking "SAFETEA-LU" and inserting "American Energy and Infrastructure Jobs Act of 2012".

(b) CONFORMING AMENDMENT.—The analysis for chapter 5 of title 23, United States Code, is amended by striking the item relating to section 512 and inserting the following:

"512. National intelligent transportation systems program plan.".

**SEC. 7015. USE OF FUNDS FOR INTELLIGENT TRANSPORTATION SYSTEMS ACTIVITIES.**

(a) IN GENERAL.—Section 513 of title 23, United States Code, is amended—

(1) in the section heading by striking "**ITS**" and inserting "**intelligent transportation systems**"; and

(2) in subsection (a) by striking "subtitle C of title V of the SAFETEA-LU" and inserting "section 7001(a)(4) of the American Energy and Infrastructure Jobs Act of 2012".

(b) CONFORMING AMENDMENT.—The analysis for chapter 5 of title 23, United States Code, is amended by striking the item relating to section 513 and inserting the following:

"513. Use of funds for intelligent transportation systems activities.".

**SEC. 7016. INTELLIGENT TRANSPORTATION SYSTEMS PROGRAM GOALS AND PURPOSES.**

(a) IN GENERAL.—Chapter 5 of title 23, United States Code, is amended by adding at the end the following:

**"§ 514. Intelligent transportation systems program 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 the enhancement of safe operation of motor vehicles and nonmotorized vehicles and improved emergency response to a crash, with particular emphasis on decreasing the number and severity of collisions;

''(3) protection and enhancement of the natural environment and communities affected by surface transportation, with particular emphasis on assisting

State and local governments to achieve national environmental goals;

''(4) accommodation of the needs of all users of surface transportation systems, including operators of commercial motor vehicles, passenger motor vehicles, motorcycles, and bicycles and pedestrians, including individuals with disabilities; and

''(5) improvement of the Nation's ability to respond to emergencies and natural disasters.

''(b) PURPOSES.—The Secretary shall implement activities under the intelligent system transportation program to, at a minimum—

''(1) expedite, in both metropolitan and rural areas, deployment and integration of intelligent transportation systems for consumers of passenger and freight transportation;

''(2) ensure that Federal, State, and local transportation officials have adequate knowledge of intelligent transportation systems for consideration in the transportation planning process;

''(3) improve regional cooperation and operations planning for effective intelligent transportation system deployment;

''(4) promote the innovative use of private resources;

"(5) facilitate, in cooperation with the motor vehicle industry, the introduction of vehicle-based safety enhancing systems;

"(6) support the application of intelligent transportation systems that increase the safety and efficiency of commercial motor vehicle operations;

"(7) develop a workforce capable of developing, operating, and maintaining intelligent transportation systems; and

"(8) provide continuing support for operations and maintenance of intelligent transportation systems.".

(b) REPEAL.—Section 5303 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users is repealed.

(c) 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. Intelligent transportation systems program goals and purposes.".

**SEC. 7017. INTELLIGENT TRANSPORTATION SYSTEMS PROGRAM GENERAL AUTHORITIES AND REQUIREMENTS.**

(a) IN GENERAL.—Chapter 5 of title 23, United States Code, is further amended by adding at the end the following:

**"§ 515. Intelligent transportation systems program general authority and requirements**

''(a) SCOPE.—Subject to the provisions of this chapter, the Secretary shall conduct an ongoing intelligent transportation system program to research, develop, and operationally test intelligent transportation systems and 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 such tests and projects.

''(c) COOPERATION WITH GOVERNMENTAL, PRIVATE, AND EDUCATIONAL ENTITIES.—The Secretary shall carry out the intelligent transportation system program in cooperation with State and local governments and other public entities, private sector firms in the United States, 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 departments and 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) INFRASTRUCTURE DEVELOPMENT.—Funds made available to carry out this chapter for operational tests—

"(1) shall be used primarily for the development of intelligent transportation system infrastructure; and

"(2) to the maximum extent practicable, shall not be used for the construction of physical highway and public transportation infrastructure unless the construction is incidental and critically necessary to the implementation of an intelligent transportation system project.".

(b) REPEAL.—Sections 5304 and 5305 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users are repealed.

(c) CONFORMING AMENDMENT.—The analysis for chapter 5 of title 23, United States Code, is further amended by adding after the item relating to section 514 the following:

"515. Intelligent transportation systems program general authority and requirements.".

**SEC. 7018. INTELLIGENT TRANSPORTATION SYSTEMS RESEARCH AND DEVELOPMENT.**

(a) IN GENERAL.—Chapter 5 of title 23, United States Code, is further amended by adding at the end the following:

**"§ 516. Intelligent transportation systems research and development**

"(a) IN GENERAL.—The Secretary shall carry out a comprehensive program of intelligent transportation system research, development, and operational tests of intelligent vehicles and 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 infor-

mation, or highway operations systems and remote sensing products;

''(2) utilize 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 emergency personnel notification, commercial motor vehicle operations, and infrastructure-based or cooperative safety systems; and

''(7) facilitate the integration of intelligent infrastructure, vehicle, and control technologies.''.

(b) REPEAL.—Section 5306 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users is repealed.

(c) CONFORMING AMENDMENT.—The analysis for chapter 5 of title 23, United States Code, is further amended by adding after the item relating to section 515 the following:

"516. Intelligent transportation systems research and development.".

**SEC. 7019. INTELLIGENT TRANSPORTATION SYSTEMS NATIONAL ARCHITECTURE AND STANDARDS.**

(a) IN GENERAL.—Chapter 5 of title 23, United States Code, is further amended by adding at the end the following:

**"§ 517. Intelligent transportation systems national architecture and standards**

"(a) IN GENERAL.—

"(1) DEVELOPMENT, IMPLEMENTATION, AND MAINTENANCE.—Consistent with section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note; 110 Stat. 783), the Secretary shall develop, implement, and maintain a national architecture and supporting standards and protocols to promote the widespread use and evaluation of intelligent transportation system technology as a component of the surface transportation systems of the United States.

"(2) INTEROPERABILITY AND EFFICIENCY.—To the maximum extent practicable, the national architecture shall promote interoperability among, and ef-

ficiency of, intelligent transportation system technologies implemented throughout the United States.

"(3) USE OF STANDARDS DEVELOPMENT ORGANIZATIONS.—In carrying out this section, the Secretary shall use the services of such standards development organizations as the Secretary determines to be appropriate.

"(b) 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 identified in subsection (a), the Secretary may establish a provisional standard, after consultation with affected parties, using, to the 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.

"(c) CONFORMITY WITH NATIONAL ARCHITECTURE.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the Secretary shall ensure that intelligent transportation system projects carried out using funds made available from the Highway Trust Fund, including funds made available under this chapter, to deploy intelligent transportation system technologies conform to the national architecture, applicable standards or provisional standards, and protocols developed under subsection (a).

"(2) SECRETARY'S DISCRETION.—The Secretary may authorize exceptions to paragraph (1) for—

"(A) 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; or

"(B) the upgrade or expansion of an intelligent transportation system in existence on the date of enactment of the SAFETEA-LU if the Secretary determines that the upgrade or expansion—

"(i) would not adversely affect the goals or purposes of this chapter;

1 ''(ii) is carried out before the end of
2 the useful life of such system; and
3 ''(iii) is cost-effective as compared to
4 alternatives that would meet the con-
5 formity requirement of paragraph (1).
6 ''(3) EXCEPTIONS.—Paragraph (1) shall not
7 apply to funds used for operation or maintenance of
8 an intelligent transportation system in existence on
9 the date of enactment of the SAFETEA-LU.
10 ''(d) STANDARD DEFINED.—The term 'standard'
11 means a document that—
12 ''(1) contains technical specifications or other
13 precise criteria for intelligent transportation systems
14 that are to be used consistently as rules, guidelines,
15 or definitions of characteristics so as to ensure that
16 materials, products, processes, and services are fit
17 for their purposes; and
18 ''(2) may support the national architecture and
19 promote—
20 ''(A) the widespread use and adoption of
21 intelligent transportation system technology as
22 a component of the surface transportation sys-
23 tems of the United States; and

"(B) interoperability among intelligent transportation system technologies implemented throughout the States.".

(b) REPEAL.—Section 5307 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users is repealed.

(c) CONFORMING AMENDMENT.—The analysis for chapter 5 of title 23, United States Code, is further amended by adding after the item relating to section 516 the following:

"517. Intelligent transportation systems national architecture and standards.".

**SEC. 7020. NATIONAL UNIVERSITY TRANSPORTATION CENTERS.**

Section 5505 of title 49, United States Code, and the item relating to such section in the analysis of chapter 55 of such title, is repealed.

**SEC. 7021. UNIVERSITY TRANSPORTATION RESEARCH.**

Section 5506 of title 49, United States Code, is amended—

(1) in subsection (b)(1) by adding "that is consistent with section 503 of title 23" after "applied research";

(2) in subsection (c)—

(A) in the heading by striking "REGIONAL, TIER I, AND TIER II CENTERS" and inserting "REGIONAL AND STANDARD CENTERS";

(B) in paragraph (1)—

(i) in the heading by striking ''REGIONAL AND TIER I CENTERS'' and inserting ''REGIONAL AND STANDARD CENTERS'';

(ii) in the matter preceding subparagraph (A) by striking ''2005 through 2009'' and inserting ''2013 through 2016''; and

(iii) in subparagraph (B) by striking ''10 Tier I'' and inserting ''20 standard'';

(C) by striking paragraph (2); and

(D) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively;

(3) in subsection (e)—

(A) in paragraph (1) by striking ''March 31, 2006, and not later than March 31st of every 4th year thereafter'' and inserting ''180 days after the date of enactment of the American Energy and Infrastructure Jobs Act of 2012, and every 4 years thereafter'';

(B) in paragraph (5)—

(i) in subparagraph (B) by striking ''and'';

(ii) in subparagraph (C) by striking the period and adding ''; and''; and

(iii) by adding at the end the following:

''(D) $3,500,000 for each of fiscal years 2013 through 2016.''; and

(C) by adding at the end the following:

''(6) RESEARCH REQUIREMENT.—

''(A) COMPREHENSIVE TRANSPORTATION SAFETY.—The Secretary shall make a grant to 1 of the 10 regional university transportation centers established under subsection (c) for the purpose of furthering the objectives described in subsection (b) in the field of comprehensive transportation safety.

''(B) INTELLIGENT TRANSPORTATION SYSTEMS.—The Secretary shall make a grant to 1 of the 10 regional university transportation centers established under subsection (c) (other than the center described in subparagraph (A)) for the purpose of furthering the objectives described in subsection (b) in the field of intelligent transportation systems.'';

(4) in subsection (f)—

(A) by striking ''TIER I'' in the subsection heading and inserting ''STANDARD'';

(B) in paragraph (1)—

(i) by striking ''June 30, 2006, and not later than June 30 of every 4th year thereafter'' and inserting ''180 days after the date of enactment of the American Energy and Infrastructure Jobs Act of 2012, and every 4 years thereafter''; and

(ii) by striking ''10 Tier I'' and inserting ''20 standard'';

(C) in paragraph (3) by striking ''Tier I'' and inserting ''standard''; and

(D) in paragraph (5)—

(i) by striking ''$1,000,000'' and inserting ''$2,000,000'';

(ii) by striking ''2005 through 2009'' and inserting ''2013 through 2016''; and

(iii) by striking ''Tier I'' and inserting ''standard'';

(5) by striking subsection (g) and redesignating subsections (h) through (m) as subsections (g) through (l), respectively;

(6) in subsection (h) (as redesignated by paragraph (5) of this section)—

(A) by striking ''MAINTENANCE OF EFFORT.—''and all that follows through ''In order to be'' and inserting ''MAINTENANCE OF EFFORT.—In order to be''; and

(B) by striking paragraph (2); and

(7) in subsection (i) (as redesignated by paragraph (5) of this section)—

(A) by striking ''50'' and inserting ''65''; and

(B) by striking ''503'' and inserting ''503A''.

**SEC. 7022. BUREAU OF TRANSPORTATION STATISTICS.**

Section 111 of title 49, United States Code, is amended—

(1) in subsection (c) by striking paragraph (5) and inserting the following:

''(5) TRANSPORTATION STATISTICS.—Collecting, compiling, analyzing, and publishing a comprehensive set of transportation statistics on the performance and impacts of the national transportation system, including statistics on—

''(A) transportation safety across all modes and intermodally;

''(B) the state of good repair of United States transportation infrastructure;

"(C) the extent, connectivity, and condition of the transportation system, building on the national transportation atlas database developed under subsection (g);

"(D) economic efficiency across the entire transportation sector;

"(E) the effects of the transportation system on global and domestic economic competitiveness;

"(F) demographic, economic, and other variables influencing travel behavior, including choice of transportation mode and goods movement;

"(G) transportation-related variables that influence the domestic economy and global competiveness;

"(H) economic costs and impacts for passenger travel and freight movement;

"(I) intermodal and multimodal passenger movement; and

"(J) consequences of transportation for the environment.";

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

"(d) ACCESS TO FEDERAL DATA.—In carrying out subsection (c), the Director shall be provided access to all transportation and transportation-related information and data, including safety-related data, held by an agency of the Department of Transportation and, upon written request and subject to any statutory or regulatory restrictions, to all such data held by any other Federal Government agency, that is germane to carrying out subsection (c).";

(3) in subsection (n) by striking "Mass Transit" and inserting "Alternative Transportation"; and

(4) in subsection (o)(2)—

(A) in subparagraph (A) by inserting "and" after the semicolon;

(B) by striking subparagraph (B); and

(C) by redesignating subparagraph (C) as subparagraph (B).

**SEC. 7023. ADMINISTRATIVE AUTHORITY.**

Section 112 of title 49, United States Code, is amended by adding at the end the following:

"(f) PROGRAM EVALUATION AND OVERSIGHT.—For each of fiscal years 2013 through 2016, the Administrator may expend not more than 1 ½ percent of the amounts authorized to be appropriated for the administration and operation of the Research and Innovative Technology Ad-

ministration to carry out the coordination, evaluation, and oversight of the programs administered by the Administration.

"(g) 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 agree-

ment, 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.).''.

**SEC. 7024. TECHNICAL AND CONFORMING AMENDMENTS.**

(a) ADDITIONAL REPEALS.—Sections 5308, 5309, 5310, 5501, 5506, 5507, 5511, and 5513 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users are repealed.

(b) TABLE OF CONTENTS FOR SAFETEA-LU.—The table of contents for the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users is amended by striking the items relating to sections 5303 through 5310, 5501, 5506, 5507, 5511, and 5513.

(c) CONFORMING AMENDMENT.—Section 6010(c) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (23 U.S.C. 512 note) is amended by striking ''subtitle C of title V of this Act'' and inserting ''section 501 of title 23, United States Code''.

# TITLE VIII—RAILROADS

## Subtitle A—Repeals and Reforms of Intercity Passenger Rail Capital Grant Programs

### SEC. 8001. CAPITAL GRANTS FOR CLASS II AND CLASS III RAILROADS.

Chapter 223 of title 49, United States Code, and the item relating thereto in the table of chapters for subtitle V of such title, are repealed.

### SEC. 8002. CONGESTION GRANTS.

Section 24105 of title 49, United States Code, and the item relating thereto in the table of sections for chapter 241 of such title, are repealed.

### SEC. 8003. INTERCITY PASSENGER RAIL CAPITAL GRANTS TO STATES.

(a) AMENDMENTS.—Section 24402 of title 49, United States Code, is amended—

(1) in the section heading, by striking ''**CAPITAL INVESTMENT GRANTS TO SUPPORT INTERCITY PASSENGER RAIL SERVICE**'' and inserting ''**INTERCITY PASSENGER RAIL CAPITAL GRANTS TO STATES**'';

(2) by striking subsection (b);

(3) by redesignating subsections (c) through (l) as subsections (b) through (k), respectively;

(4) in subsection (b)(1)(D), as so redesignated by paragraph (3) of this subsection, by striking ''that if an applicant has selected the proposed operator of its service competitively, that the applicant provide'' and inserting ''that the applicant shall select the proposed operator of its service competitively, and that the applicant shall provide'';

(5) in subsection (b)(2)(B), as so redesignated by paragraph (3) of this subsection—

(A) by inserting ''and'' at the end of clause (ii); and

(B) by inserting ''and'' at the end of clause (iii); and

(C) by striking clauses (iv) and (v);

(6) in subsection (c), as so redesignated by paragraph (3) of this subsection, by striking ''subsection (c)(1)(A)'' and inserting ''subsection (b)(1)(A)'';

(7) in subsection (d), as so redesignated by paragraph (3) of this subsection, by striking ''subsection (g)'' and inserting ''subsection (f)'';

(8) in subsection (e)(2), as so redesignated by paragraph (3) of this subsection, by striking ''subsection (c)'' and inserting ''subsection (b)'';

(9) in subsection (f), as so redesignated by paragraph (3) of this subsection, by striking paragraphs (3) and (4); and

(10) in subsection (g), as so redesignated by paragraph (3) of this subsection, by amending the second sentence to read as follows: ''If any amount provided as a grant under this section is not obligated within 3 years after the date on which the State is awarded the grant, such amount shall be rescinded and deposited to the general fund of the Treasury, where such amount shall be dedicated for the sole purpose of deficit reduction and prohibited from use as an offset for other spending increases or revenue reductions.''.

(b) CONFORMING AMENDMENT.—The item relating to section 24402 in the table of sections for chapter 244 of title 49, United States Code, is amended to read as follows:

''Intercity passenger rail capital grants to States.''.

# Subtitle B—Amtrak Reforms

**SEC. 8101. AUTHORIZATION FOR AMTRAK OPERATING EXPENSES.**

Section 101(a) of the Passenger Rail Investment and Improvement Act of 2008 (Division B of Public Law 110–432, 122 Stat. 4908) is amended—

(1) in paragraph (4), by striking ''$616,000,000'' and inserting ''$466,000,000''; and

(2) in paragraph (5), by striking ''$631,000,000'' and inserting ''$473,250,000''.

**SEC. 8102. LIMITATIONS ON AMTRAK AUTHORITY.**

Section 24305 of title 49, United States Code, is amended by adding at the end the following new subsection:

''(g) LIMITATIONS ON USE OF FEDERAL FUNDS.—

''(1) LIMITATIONS.—Amtrak may not use any Federal funds for the following purposes:

''(A) Hiring or contracting with any outside legal professional for the purpose of filing, litigating, or otherwise pursuing any cause of action in a Federal or State court against a passenger rail service provider.

''(B) Filing, litigating, or otherwise pursuing in any Federal or State court any cause of action against a passenger rail service provider arising from a competitive bid process in which Amtrak and the passenger rail service provider participated.

''(2) DEFINITIONS.—For the purposes of this subsection—

"(A) the term 'outside legal professional' means any individual, corporation, partnership, limited liability corporation, limited liability partnership, or other private entity in the business of providing legal services that is not employed on a full-time basis solely by Amtrak; and

"(B) the term 'passenger rail service provider' means any company, partnership, or other public or private entity that operates passenger rail service or bids to operate passenger rail service in a competitive process.".

**SEC. 8103. APPLICABILITY OF LAWS.**

(a) TITLE 18 VIOLATIONS.—For purposes of sections 286, 287, 371, 641, 1001, and 1002 of title 18, United States Code, and, with respect to audits conducted by the Amtrak Office of the Inspector General, for purposes of section 1516 of such title, Amtrak and the Amtrak Office of the Inspector General shall be considered to be agencies of the United States Government.

(b) FALSE CLAIMS.—Claims made or presented to Amtrak shall be considered as claims under section 3729(b)(2)(A)(ii) of title 31, United States Code, and statements made or presented to Amtrak shall be consid-

ered as statements under section 3729(a)(1)(B) and (G) of title 31, United States Code.

(c) LIMITATION.—Subsections (a) and (b) shall be effective only with respect to a fiscal year for which Amtrak receives a Federal subsidy.

**SEC. 8104. INSPECTOR GENERAL OF AMTRAK.**

(a) IN GENERAL.—Chapter 243 is amended by inserting after section 24316 the following:

**"§ 24317. Inspector General**

''(a) INVESTIGATION AUTHORITY.—The Inspector General of Amtrak shall have all 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 section 286, 287, 371, 641, 1001, or 1002 of title 18, and, with respect to audits conducted by the Amtrak Office of the Inspector General, any violation of section 1516 of such title.

''(b) SERVICES FROM GENERAL SERVICES ADMINISTRATION.—The Inspector General of Amtrak may obtain from the Administrator of General Services, and the Administrator shall provide to the Inspector General, services under sections 502(a) and 602 of title 40, including travel programs.

''(c) 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 other inspectors general that operate under authority of the Inspector General Act of 1978 with respect to the performance of investigative, audit, or inspection functions authorized under that Act 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.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 243 is amended by inserting after the item relating to section 24316 the following:

"24317. Inspector General.".

**SEC. 8105. AMTRAK MANAGEMENT ACCOUNTABILITY.**

Section 24310 is amended to read as follows:

**"§ 24310. Management accountability**

"(a) IN GENERAL.—Promptly after the date of enactment of the American Energy and Infrastructure Jobs Act of 2012, and again not later than 5 years after the date of enactment of the Passenger Rail Investment and Improvement Act of 2008, the Inspector General of the De-

partment of Transportation shall complete an overall assessment of the progress made by the Department of Transportation, and 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.

''(b) ASSESSMENT.—The management assessment undertaken by the Amtrak Inspector General may include a review of—

''(1) effectiveness in improving annual financial planning;

''(2) effectiveness in implementing improved financial accounting;

''(3) efforts to implement minimum train performance standards;

''(4) progress maximizing revenues, minimizing Federal subsidies, and improving financial results; and

''(5) any other aspect of Amtrak operations the Amtrak Inspector General finds appropriate to review.''.

**SEC. 8106. AMTRAK FOOD AND BEVERAGE SERVICE.**

(a) AUTHORITY.—Section 24305(c)(4) of title 49, United States Code, is amended by striking ''only if reve-

nues from the services each year at least equal the cost of providing the services'' and inserting ''only as provided in subsection (h)''.

(b) PROCEDURES.—Section 24305 of title 49, United States Code, is further amended by adding at the end the following new subsection:

''(h) FOOD AND BEVERAGE SERVICE.—

''(1) IN GENERAL.—Except as provided in paragraph (6), food and beverage service may be provided on Amtrak trains only by a bidder selected by the Federal Railroad Administration under paragraph (5). The Federal Railroad Administration may consult with and obtain assistance from the General Services Administration in carrying out this subsection.

''(2) REQUESTS FOR PROPOSALS.—Not later than 60 days after the date of enactment of this subsection, the Federal Railroad Administration shall issue separate requests for proposals for provision of food and beverage service on Amtrak trains on the national rail passenger transportation system for each of subparagraphs (A) through (D) of section 24102(5).

''(3) DEADLINES.—

"(A) SUBMITTAL OF BIDS.—Bids for the provision of food and beverage service on Amtrak trains pursuant to the requests for proposals issued under paragraph (2) shall be submitted to the Federal Railroad Administration not later than 60 days after the issuance of the relevant request for proposals.

"(B) SELECTION OF WINNING BIDS.—The Federal Railroad Administration shall select winning bidders pursuant to paragraph (5) not later than 90 days after the issuance of the relevant request for proposals.

"(4) AMTRAK PARTICIPATION.—Amtrak may participate in the bidding pursuant to a request for proposals issued under paragraph (2).

"(5) SELECTION OF PROVIDERS.—The Federal Railroad Administration shall select for the provision of food and beverage service on Amtrak trains the qualified bidder responding to the request for proposals issued under paragraph (2) whose bid would result in the lowest cost, or the greatest source of revenue, to Amtrak.

"(6) EXEMPTION.—If no qualified bidder responds to the request for proposals issued under paragraph (2), Amtrak, after transmitting to the

Federal Railroad Administration and the Congress an explanation of the reasons for the need of an exemption, may request from the Federal Railroad Administration, and the Federal Railroad Administration may grant, an exemption from the limitations under this subsection.

''(7) SUBSIDY FOR NET LOSS.—The Federal Railroad Administration shall provide directly to the entity providing food and beverage service on Amtrak trains any portion of appropriations for Amtrak necessary to cover a net loss resulting from the provision of such service, but only to the extent that such net loss was anticipated in the bid selected.''.

# Subtitle C—Project Development and Review

**SEC. 8201. PROJECT DEVELOPMENT AND REVIEW.**

(a) AMENDMENT.—Part B of subtitle V of title 49, United States Code, is amended by adding at the end the following new chapter:

## ''CHAPTER 229—PROJECT DEVELOPMENT AND REVIEW

''Sec.
''22901. Applicability.
''22902. Definitions.
''22903. Efficient environmental reviews for rail project decisionmaking.
''22904. Integration of planning and environmental review.
''22905. Program for eliminating duplication of environmental reviews.
''22906. Railroad corridor preservation.
''22907. Treatment of railroads for historic preservation.
''22908. Categorical exclusion.

''22909. State assumption of responsibility for categorical exclusions.
''22910. Rail project delivery program.
''22911. Exemption in emergencies.

**''§ 22901. Applicability**

''The provisions of this chapter—

''(1) shall be applicable to any freight or intercity passenger rail capital project that is carried out or planned to be carried out with the use of Federal funds administered by the Federal Railroad Administration through a grant, contract, loan, or other financing instrument;

''(2) shall be broadly construed; and

''(3) may be applied by the Secretary to any class or program of such projects.

**''§ 22902. Definitions**

''In this chapter, the following definitions apply:

''(1) AGENCY.—The term 'agency' means any agency, department, or other unit of Federal, State, local, or Indian tribal government.

''(2) ENVIRONMENTAL IMPACT STATEMENT.—The term 'environmental impact statement' means the detailed statement of environmental impacts required to be prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

''(3) ENVIRONMENTAL LAW.—The term 'environmental law' includes any law that provides procedural or substantive protection, as applicable, for the

natural or built environment with regard to the construction and operation of transportation projects.

"(4) ENVIRONMENTAL REVIEW PROCESS.—

"(A) IN GENERAL.—The term 'environmental review process' means the process for preparing for a rail project an environmental impact statement, environmental assessment, categorical exclusion, or other document prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(B) INCLUSIONS.—The term 'environmental review process' includes the process for and completion of any environmental permit, approval, review, or study required for a rail project under any Federal law other than the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(5) FEDERAL ENVIRONMENTAL LAWS.—The term 'Federal environmental laws' means Federal laws governing the review, including through the issuance of permits and other approvals of environmental impacts of, the construction and operation of transportation projects. Such term includes section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), section 404 of the

Federal Water Pollution Control Act (33 U.S.C. 1344), section 106 of the National Historic Preservation Act (16 U.S.C. 470f), and sections 7(a)(2), 9(a)(1)(B), and 10(a)(1)(B) of the Endangered Species Act of 1973 (16 U.S.C. 1536(a)(2), 1538(a)(1)(B), 1539(a)(1)(B)).

''(6) FEDERAL LEAD AGENCY.—The term 'Federal lead agency' means the Department of Transportation.

''(7) JOINT LEAD AGENCY.—The term 'joint lead agency' means an agency designated as a joint lead agency as described in paragraph (1) or (2) of section 22903(b).

''(8) LEAD AGENCY.—The term 'lead agency' means the Department of Transportation and, if applicable, any joint lead agency.

''(9) PLANNING PRODUCT.—The term 'planning product' means any decision, analysis, study, or other documented result of an evaluation or decisionmaking process carried out during rail and transportation planning.

''(10) PROJECT SPONSOR.—The term 'project sponsor' means the State agency or other entity, including any private or public-private entity, that seeks approval of the Secretary for a rail project.

"(11) RAIL PROJECT.—The term 'rail project' means any freight or intercity passenger rail capital project that is carried out or is planned to be carried out with the use of Federal funds administered by the Federal Railroad Administration through a grant, contract, loan, or other financing instrument.

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

"(13) STATE.—The term 'State' has the meaning given that term in section 22701(3).

"(14) STATE TRANSPORTATION DEPARTMENT.—The term 'State transportation department' means any statewide agency of a State with responsibility for one or more modes of transportation.

**"§ 22903. Efficient environmental reviews for rail project decisionmaking**

"(a) APPLICABILITY.—

"(1) IN GENERAL.—The project development procedures in this section are applicable to all rail projects for which an environmental impact statement is prepared under the National Environmental Policy Act of 1969 and may be applied, to the extent determined appropriate by the Secretary, to other rail projects for which an environmental document is prepared as part of an environmental review process.

"(2) FLEXIBILITY.—Any authorities granted in this section may be exercised, and any requirements established in this section may be satisfied, for a rail project, class of projects, or program of rail projects.

"(3) FUNDING THRESHOLD.—The Secretary's approval of a rail project involving Federal funds shall not be considered a Federal action for the purposes of the National Environmental Policy Act of 1969 if the Federal funding share—

"(A) constitutes 15 percent or less of the total estimated project costs; or

"(B) is less than $10,000,000.

"(4) PROGRAMMATIC COMPLIANCE.—At the request of a State, the Secretary may modify the procedures developed under this section to encourage programmatic approaches and strategies with respect to environmental programs and permits (in lieu of project-by-project reviews).

"(b) LEAD AGENCIES.—

"(1) IN GENERAL.—If the rail project requires approval from more than one modal administration within the Department of Transportation, the Secretary shall designate a single modal administration to serve as the Federal lead agency for the Depart-

ment in the environmental review process for the project.

"(2) JOINT LEAD AGENCIES.—Nothing in this section precludes another agency from being a joint lead agency in accordance with regulations under the National Environmental Policy Act of 1969.

"(3) PROJECT SPONSOR AS JOINT LEAD AGENCY.—Any project sponsor that is a State or local governmental entity applying to receive or receiving Federal funds for the rail project shall serve as a joint lead agency with the Department of Transportation for purposes of preparing any environmental document under the National Environmental Policy Act of 1969 and may prepare any such environmental document required in support of any action or approval by the Secretary if the Federal lead agency furnishes guidance in such preparation and independently evaluates such document and the document is approved and adopted by the Secretary prior to the Secretary taking any subsequent action or making any approval based on such document, whether or not the Secretary's action or approval results in Federal funding.

"(4) ENSURING COMPLIANCE.—The Secretary shall ensure that a project sponsor complies with all

design and mitigation commitments made jointly by the Secretary and the project sponsor in any environmental document prepared by the project sponsor in accordance with this subsection, and that such document is appropriately supplemented if rail project changes become necessary.

"(5) ADOPTION AND USE OF DOCUMENTS.—Any environmental document prepared in accordance with this subsection shall be adopted and used by any Federal agency in making any approval of a rail project as the document required to be completed under the National Environmental Policy Act of 1969.

"(6) ROLES AND RESPONSIBILITY OF LEAD AGENCY.—With respect to the environmental review process for any rail project, the lead agency shall have authority and responsibility—

"(A) to take such actions as are necessary and proper, within the authority of the lead agency, to facilitate the expeditious resolution of the environmental review process for the rail project; and

"(B) to prepare or ensure that any required environmental impact statement or other document required to be completed under the

National Environmental Policy Act of 1969 is completed in accordance with this section and other applicable Federal law.

''(c) PARTICIPATING AGENCIES.—

''(1) IN GENERAL.—The lead agency shall be responsible for inviting and designating participating agencies in accordance with this subsection.

''(2) INVITATION.—The lead agency shall identify, as early as practicable in the environmental review process for a rail project, any other Federal and non-Federal agencies that may have an interest in the rail project, and shall invite such agencies to become participating agencies in the environmental review process for the rail project. The invitation shall set a deadline for responses to be submitted. The deadline may be extended by the lead agency for good cause.

''(3) FEDERAL PARTICIPATING AGENCIES.—Any Federal agency that is invited by the lead agency to participate in the environmental review process for a rail project shall be designated as a participating agency by the lead agency unless the invited agency informs the lead agency, in writing, by the deadline specified in the invitation that the invited agency—

"(A) has no jurisdiction or authority with respect to the rail project;

"(B) has no expertise or information relevant to the rail project; and

"(C) does not intend to submit comments on the rail project.

"(4) EFFECT OF DESIGNATION.—

"(A) REQUIREMENT.—A participating agency shall comply with the requirements of this section and any schedule established under this section.

"(B) IMPLICATION.—Designation as a participating agency under this subsection shall not imply that the participating agency—

"(i) supports a proposed rail project; or

"(ii) has any jurisdiction over, or special expertise with respect to evaluation of, the rail project.

"(5) COOPERATING AGENCY.—A participating agency may also be designated by a lead agency as a 'cooperating agency' under the regulations contained in part 1500 of title 40, Code of Federal Regulations.

"(6) DESIGNATIONS FOR CATEGORIES OF RAIL PROJECTS.—The Secretary may exercise the authorities granted under this subsection for a rail project, class of rail projects, or program of rail projects.

"(7) CONCURRENT REVIEWS.—Each participating agency and cooperating agency shall—

"(A) carry out obligations of that agency under other applicable law concurrently, and in conjunction, with the review required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

"(B) formulate and implement administrative, policy, and procedural mechanisms to enable the agency to ensure completion of the environmental review process in a timely, coordinated, and environmentally responsible manner.

"(d) RAIL PROJECT INITIATION.—The project sponsor shall notify the Secretary of the type of work, length, and general location of the proposed rail project, together with a statement of any Federal approvals anticipated to be necessary for the proposed rail project, for the purpose of informing the Secretary that the environmental review process should be initiated. The project sponsor may satisfy this requirement by submitting to the Secretary a draft notice for publication in the Federal Register an-

nouncing the preparation of an environmental impact statement for the rail project.

"(e) PURPOSE AND NEED.—

"(1) PARTICIPATION.—As early as practicable during the environmental review process, the lead agency shall provide an opportunity for involvement by participating agencies and the public in defining the purpose and need for a rail project.

"(2) DEFINITION.—Following participation under paragraph (1), the lead agency shall define the rail project's purpose and need for purposes of any document which the lead agency is responsible for preparing for the rail project.

"(3) OBJECTIVES.—The statement of purpose and need shall include a clear statement of the objectives that the proposed action is intended to achieve, which may include—

"(A) achieving a transportation objective identified in an applicable rail or transportation plan;

"(B) supporting land use, economic development, or growth objectives established in applicable Federal, State, local, or tribal plans;

"(C) serving national defense, national security, or other national objectives, as established in Federal laws, plans, or policies; and

"(D) serving the purpose for which the applicable grant, contract, loan, or other financing program was established.

"(4) ALTERNATIVES ANALYSIS.—

"(A) PARTICIPATION.—As early as practicable during the environmental review process, the lead agency shall provide an opportunity for involvement by participating agencies and the public in determining the range of alternatives to be considered for a rail project.

"(B) RANGE OF ALTERNATIVES.—

"(i) IN GENERAL.—Following participation under paragraph (1), the lead agency shall determine the range of alternatives for consideration in any document which the lead agency is responsible for preparing for the rail project.

"(ii) RESTRICTION.—A Federal agency may not require the evaluation of any alternative that was evaluated, but not adopted—

"(I) in any prior State or Federal environmental document with regard to the applicable transportation or rail plan or program; or

"(II) after the preparation of a programmatic or tiered environmental document that evaluated alternatives to the rail project.

"(iii) LEGAL SUFFICIENCY.—The evaluation of the range of alternatives shall be deemed legally sufficient if the environmental document complies with the requirements of this paragraph.

"(C) METHODOLOGIES.—

"(i) IN GENERAL.—The lead agency also shall determine, after consultation with participating agencies as part of the scoping process, the methodologies to be used and the level of detail required in the analysis of each alternative for a rail project.

"(ii) COMMENTS.—Each participating agency shall limit comments on such methodologies to those issues that are within

the authority and expertise of such participating agency.

"(iii) STUDIES.—The lead agency may not conduct studies proposed by any participating agency that are not within the authority or expertise of such participating agency.

"(D) PREFERRED ALTERNATIVE.—At the discretion of the lead agency, the preferred alternative for a rail project, after being identified, may be developed to a higher level of detail than other alternatives in order to facilitate the development of mitigation measures or concurrent compliance with other applicable laws if the lead agency determines that the development of such higher level of detail will not prevent the lead agency from making an impartial decision as to whether to accept another alternative which is being considered in the environmental review process.

"(E) LIMITATIONS ON THE EVALUATION OF IMPACTS EVALUATED IN PRIOR ENVIRONMENTAL DOCUMENTS.—

"(i) IN GENERAL.—The lead agency may not reevaluate, and a Federal agency

may not require the reevaluation of, cumulative impacts or growth-inducing impacts where such impacts were previously evaluated in—

"(I) a rail transportation plan or program;

"(II) a prior environmental document approved by the Secretary; or

"(III) a prior State environmental document approved pursuant to a State law that is substantially equivalent to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

"(ii) LEGAL SUFFICIENCY.—The evaluation of cumulative impacts and growth inducing impacts shall be deemed legally sufficient if the environmental document complies with the requirements of this paragraph.

"(5) EFFECTIVE DECISIONMAKING.—

"(A) CONCURRENCE.—At the discretion of the lead agency, a participating agency shall be presumed to concur in the determinations made by the lead agency under this subsection unless

the participating agency submits an objection to the lead agency in writing within 30 days after receiving notice of the lead agency's determination and specifies the statutory basis for the objection.

"(B) ADOPTION OF DETERMINATION.—If the participating agency concurs or does not object within the 30-day period, the participating agency shall adopt the lead agency's determination for purposes of any reviews, approvals, or other actions taken by the participating agency as part of the environmental review process for the rail project.

"(f) COORDINATION AND SCHEDULING.—

"(1) COORDINATION PLAN.—

"(A) IN GENERAL.—The lead agency shall establish a rail plan for coordinating public and agency participation in and comment on the environmental review process for a rail project, category of rail projects, or program of rail projects. The coordination plan may be incorporated into a memorandum of understanding.

"(B) SCHEDULE.—

"(i) IN GENERAL.—The lead agency may establish as part of the coordination

plan, after consultation with each participating agency for the rail project and with each State in which the rail project is located (and, if the State is not the project sponsor, with the project sponsor), a schedule for completion of the environmental review process for the rail project.

''(ii) FACTORS FOR CONSIDERATION.—In establishing the schedule, the lead agency shall consider factors such as—

''(I) the responsibilities of participating agencies under applicable laws;

''(II) resources available to the cooperating agencies;

''(III) overall size and complexity of the rail project;

''(IV) the overall schedule for and cost of the rail project; and

''(V) the sensitivity of the natural and historic resources that could be affected by the rail project.

''(C) CONSISTENCY WITH OTHER TIME PERIODS.—A schedule under subparagraph (B)

shall be consistent with any other relevant time periods established under Federal law.

"(D) MODIFICATION.—The lead agency may—

"(i) lengthen a schedule established under subparagraph (B) for good cause; and

"(ii) shorten a schedule only with the concurrence of the affected cooperating agencies.

"(E) DISSEMINATION.—A copy of a schedule established under subparagraph (B), and of any modifications to the schedule, shall be—

"(i) provided to all participating agencies and to the State transportation department of each State in which the rail project is located (and, if the State is not the project sponsor, to the project sponsor); and

"(ii) made available to the public.

"(2) COMMENT DEADLINES.—The lead agency shall establish the following deadlines for comment during the environmental review process for a rail project:

"(A) For comments by agencies and the public on a draft environmental impact statement, a period of not more than 60 days after publication in the Federal Register of notice of the date of public availability of such document, unless—

"(i) a different deadline is established by agreement of the lead agency, the project sponsor, and all participating agencies; or

"(ii) the deadline is extended by the lead agency for good cause.

"(B) For all other comment periods established by the lead agency for agency or public comments in the environmental review process, a period of no more than 30 days from availability of the materials on which comment is requested, unless—

"(i) a different deadline is established by agreement of the lead agency, the project sponsor, and all participating agencies; or

"(ii) the deadline is extended by the lead agency for good cause.

"(3) DEADLINES FOR DECISIONS UNDER OTHER LAWS.—

"(A) PRIOR APPROVAL DEADLINE.—If a participating agency is required to make a determination regarding or otherwise approve or disapprove the rail project prior to the record of decision or finding of no significant impact of the lead agency, such participating agency shall make such determination or approval no later than 30 days after the lead agency publishes notice of the availability of a final environmental impact statement or other final environmental document, or no later than such other date that is otherwise required by law, whichever occurs first.

"(B) OTHER DEADLINES.—With regard to any determination or approval of a participating agency that is not subject to subparagraph (A), each participating agency shall make any required determination regarding or otherwise approve or disapprove the rail project no later than 90 days after the date that the lead agency approves the record of decision or finding of no significant impact for the rail project,

or not later than such other date that is otherwise required by law, whichever occurs first.

"(C) DEEMED APPROVED.—In the event that any participating agency fails to make a determination or approve or disapprove the rail project within the applicable deadline described in subparagraphs (A) and (B), the rail project shall be deemed approved by such participating agency and such approval shall be deemed to comply with the applicable requirements of Federal law.

"(D) JUDICIAL REVIEW.—

"(i) IN GENERAL.—An approval of a rail project under subparagraph (C) shall not be subject to judicial review.

"(ii) WRITTEN FINDING.—The Secretary may issue a written finding verifying the approval made in accordance with this paragraph.

"(g) ISSUE IDENTIFICATION AND RESOLUTION.—

"(1) COOPERATION.—The lead agency and the participating agencies shall work cooperatively in accordance with this section to identify and resolve issues that could delay completion of the environmental review process or could result in denial of

any approvals required for the rail project under applicable laws.

"(2) LEAD AGENCY RESPONSIBILITIES.—The lead agency shall make information available to the participating agencies as early as practicable in the environmental review process regarding the environmental and socioeconomic resources located within the rail project area and the general locations of the alternatives under consideration. Such information may be based on existing data sources, including geographic information systems mapping.

"(3) PARTICIPATING AGENCY RESPONSIBILITIES.—Based on information received from the lead agency, participating agencies shall identify, as early as practicable, any issues of concern regarding the rail project's potential environmental or socioeconomic impacts. In this paragraph, issues of concern include any issues that could substantially delay or prevent an agency from granting a permit or other approval that is needed for the rail project.

"(4) ISSUE RESOLUTION.—

"(A) MEETING OF PARTICIPATING AGENCIES.—At any time upon request of a project sponsor or the Governor of a State in which the rail project is located, the lead agency shall

promptly convene a meeting with the relevant participating agencies, the project sponsor, and the Governor (if the meeting was requested by the Governor) to resolve issues that could delay completion of the environmental review process or could result in denial of any approvals required for the rail project under applicable laws.

"(B) NOTICE THAT RESOLUTION CANNOT BE ACHIEVED.—If a resolution cannot be achieved within 30 days following such a meeting and a determination by the lead agency that all information necessary to resolve the issue has been obtained, the lead agency shall notify the heads of all participating agencies, the project sponsor, the Governor, the Committee on Environment and Public Works of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, and the Council on Environmental Quality, and shall publish such notification in the Federal Register.

"(C) RESOLUTION FINAL.—

"(i) IN GENERAL.—The lead agency and participating agencies may not recon-

sider the resolution of any issue agreed to by the relevant agencies in a meeting under subparagraph (A).

"(ii) COMPLIANCE WITH APPLICABLE LAW.—Any such resolution shall be deemed to comply with applicable law notwithstanding that the agencies agreed to such resolution prior to the approval of the environmental document.

"(h) STREAMLINED DOCUMENTATION AND DECISIONMAKING.—

"(1) IN GENERAL.—The lead agency in the environmental review process for a rail project, in order to reduce paperwork and expedite decisionmaking, shall prepare a condensed final environmental impact statement.

"(2) CONDENSED FORMAT.—A condensed final environmental impact statement for a rail project in the environmental review process shall consist only of—

"(A) an incorporation by reference of the draft environmental impact statement;

"(B) any updates to specific pages or sections of the draft environmental impact statement as appropriate; and

"(C) responses to comments on the draft environmental impact statement and copies of the comments.

"(3) TIMING OF DECISION.—Notwithstanding any other provision of law, in conducting the environmental review process for a rail project, the lead agency shall combine a final environmental impact statement and a record of decision for the rail project into a single document if—

"(A) the alternative approved in the record of decision is either a preferred alternative that was identified in the draft environmental impact statement or is a modification of such preferred alternative that was developed in response to comments on the draft environmental impact statement; and

"(B) the Secretary determines that the lead agency, participating agency, or the project sponsor has committed to implement the measures applicable to the approved alternative that are identified in the final environmental impact statement.

"(i) SUPPLEMENTAL ENVIRONMENTAL REVIEW AND RE-EVALUATION.—

"(1) SUPPLEMENTAL ENVIRONMENTAL REVIEW.—After the approval of a record of decision or finding of no significant impact with regard to a rail project, an agency may not require the preparation of a subsequent environmental document for such rail project unless the lead agency determines that—

"(A) changes to the rail project will result in new significant impacts that were not evaluated in the environmental document; or

"(B) new information has become available or changes in circumstances have occurred after the lead agency approval of the rail project that will result in new significant impacts that were not evaluated in the environmental document.

"(2) RE-EVALUATIONS.—The Secretary may only require the re-evaluation of a document prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) if—

"(A) the Secretary determines that the events in paragraph (1)(A) or (1)(B) apply; and

"(B) more than 5 years has elapsed since the Secretary's prior approval of the rail project or authorization of rail project funding.

"(3) CHANGE TO RECORD OF DECISIONS.—After the approval of a record of decision, the Sec-

retary may not require the record of decision to be changed based solely because of a change in the fiscal circumstances surrounding the rail project.

"(j) PERFORMANCE MEASUREMENT.—The Secretary shall establish a program to measure and report on progress toward improving and expediting the planning and environmental review processes.

"(k) ASSISTANCE TO AFFECTED STATE AND FEDERAL AGENCIES.—

"(1) IN GENERAL.—For a rail project that is subject to the environmental review process established under this section and for which funds are made available to a State under funding programs administered by the Federal Railroad Administration, the Secretary may approve a request by the State to provide such funds to affected Federal agencies (including the Department of Transportation), State agencies, and Indian tribes participating in the environmental review process for the rail projects in that State or participating in a State process that has been approved by the Secretary for that State. Such funds may be provided only to support activities that directly and meaningfully contribute to expediting and improving transportation

or rail project planning and delivery for rail projects in that State.

"(2) ACTIVITIES ELIGIBLE FOR FUNDING.—Activities for which funds may be provided under paragraph (1) include transportation planning activities that precede the initiation of the environmental review process, dedicated staffing, training of agency personnel, information gathering and mapping, and development of programmatic agreements.

"(3) AMOUNTS.—Requests under paragraph (1) may be approved only for the additional amounts that the Secretary determines are necessary for the Federal agencies, State agencies, or Indian tribes participating in the environmental review process to meet the time limits for environmental review.

"(4) CONDITION.—A request under paragraph (1) to expedite time limits for environmental review may be approved only if such time limits are less than the customary time necessary for such review.

"(l) REGULATIONS.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of the American Energy and Infrastructure Jobs Act of 2012, the Secretary, by regulation, shall—

"(A) implement this section; and

"(B) establish methodologies and procedures for evaluating the environmental impacts, including cumulative impacts and growth-inducing impacts, of rail projects subject to this section.

"(2) COMPLIANCE WITH APPLICABLE LAW.—Any environmental document that utilizes the methodologies and procedures established under this subsection shall be deemed to comply with the applicable requirements of—

"(A) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) or its implementing regulations; or

"(B) any other Federal environmental statute applicable to rail projects.

"(m) LIMITATIONS ON CLAIMS.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, a claim arising under Federal law seeking judicial review of a permit, license, or approval issued by a Federal agency for a rail project shall be barred unless it is filed within 90 days after publication of a notice in the Federal Register announcing that the permit, license, or approval is final pursuant to the law under which the agency action is taken, unless a shorter time is specified in

the Federal law pursuant to which judicial review is allowed. Nothing in this subsection shall create a right to judicial review or place any limit on filing a claim that a person has violated the terms of a permit, license, or approval.

''(2) NEW INFORMATION.—The preparation of a supplemental environmental impact statement or other environmental document when required by this section shall be considered a separate final agency action and the deadline for filing a claim for judicial review of such action shall be 90 days after the date of publication of a notice in the Federal Register announcing such action.

''(n) LIMITATIONS ON JUDICIAL RELIEF.—Notwithstanding any other provision of law, the following limitations shall apply to actions brought before a court in connection with a rail project under this section:

''(1) Venue for any action shall be where the rail project is located.

''(2) A specific property interest impacted by the rail project in question must exist in order to have standing to bring an action.

''(3) No action may be commenced by any person alleging a violation of—

"(A) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), chapters 5 and 7 of title 5, or any other Federal environmental law if such Federal law is identified in the draft environmental impact statement, unless such person provided written notice to the lead agency of the alleged violation of law, and the facts supporting such claim, during the public comment period on the draft environmental impact statement; or

"(B) any other law with regard to the rail project unless such person provided written notice to the applicable approving agency of the alleged violation of law, and the facts supporting such claim, during the public comment period on such agency approval.

"(4) Elected or appointed officials working for the Federal Government or a State government may not be named in their individual capacities in an action if they are acting within the scope of their official duties.

**"§ 22904. Integration of planning and environmental review**

"(a) ADOPTION OF PLANNING PRODUCTS FOR USE IN NEPA PROCEEDINGS.—

"(1) IN GENERAL.—Notwithstanding any other provision of law and subject to the conditions set forth in subsection (c), the Federal lead agency for a rail project, at the request of the project sponsors, may adopt and use a planning product in proceedings relating to any class of action in the environmental review process of the rail project.

"(2) PARTIAL ADOPTION OF PLANNING PRODUCTS.—The Federal lead agency may adopt a planning product under paragraph (1) in its entirety or may select portions for adoption.

"(3) TIMING.—A determination under paragraph (1) with respect to the adoption of a planning product shall be made at the time the lead agencies decide the appropriate scope of environmental review for the rail project.

"(b) APPLICABILITY.—

"(1) PLANNING DECISIONS.—Planning decisions that may be adopted pursuant to this section include—

"(A) a purpose and need or goals and objectives statement for the rail project, including with respect to whether private financial assistance or other special financial measures are necessary to implement the rail project;

"(B) a decision with respect to rail project location;

"(C) a decision with respect to the elimination of unreasonable alternatives and the selection of the range of reasonable alternatives for detailed study during the environmental review process;

"(D) a basic description of the environmental setting;

"(E) a decision with respect to methodologies for analysis; and

"(F) identifications of programmatic level mitigation for potential impacts that the Federal lead agency, in consultation with Federal, State, local, and tribal resource agencies, determines are most effectively addressed at a regional or national program level, including—

"(i) system-level measures to avoid, minimize, or mitigate impacts of proposed transportation and rail investments on environmental resources, including regional ecosystem and water resources; and

"(ii) potential mitigation activities, locations, and investments.

"(2) PLANNING ANALYSES.—Planning analyses that may be adopted pursuant to this section include studies with respect to—

"(A) freight and passenger rail needs and demands;

"(B) regional development and growth;

"(C) local land use, growth management, and development;

"(D) population and employment;

"(E) natural and built environmental conditions;

"(F) environmental resources and environmentally sensitive areas;

"(G) potential environmental effects, including the identification of resources of concern and potential cumulative effects on those resources, identified as a result of a statewide or regional cumulative effects assessment; and

"(H) mitigation needs for a proposed action, or programmatic level mitigation, for potential effects that the Federal lead agency determines are most effectively addressed at a regional or national program level.

"(c) CONDITIONS.—Adoption and use of a planning product under this section is subject to a determination

by the Federal lead agency, in consultation with joint lead agencies and project sponsors as appropriate, that the following conditions have been met:

"(1) The planning product was developed through a planning process conducted pursuant to applicable Federal law.

"(2) The planning process included broad consideration of freight and passenger rail needs and potential effects.

"(3) During the planning process, notice was provided, to the extent required by applicable law, through publication or other means to Federal, State, and local government agencies and tribal governments that might have an interest in the proposed rail project, and to members of the general public, of the planning products that the planning process might produce and that might be relied on during the environmental review process, and such entities have been provided an appropriate opportunity to participate in the planning process leading to such planning product.

"(4) Prior to determining the scope of environmental review for the rail project, the joint lead agencies have made documentation relating to the planning product available to Federal, State, and

local governmental agencies and tribal governments that may have an interest in the proposed action, and to members of the general public.

''(5) There is no significant new information or new circumstance that has a reasonable likelihood of affecting the continued validity or appropriateness of the planning product.

''(6) The planning product is based on reliable and reasonably current data and reasonable and scientifically acceptable methodologies.

''(7) The planning product is documented in sufficient detail to support the decision or the results of the analysis and to meet requirements for use of the information in the environmental review process.

''(8) The planning product is appropriate for adoption and use in the environmental review process for the rail project.

''(d) EFFECT OF ADOPTION.—Notwithstanding any other provision of law, any planning product adopted by the Federal lead agency in accordance with this section shall not be reconsidered or made the subject of additional interagency consultation during the environmental review process of the rail project unless the Federal lead agency, in consultation with joint lead agencies and project spon-

sors as appropriate, determines that there is significant new information or new circumstances that affect the continued validity or appropriateness of the adopted planning product. Any planning product adopted by the Federal lead agency in accordance with this section may be relied upon and used by other Federal agencies in carrying out reviews of the rail project.

''(e) RULE OF CONSTRUCTION.—This section may not be construed to make the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) process applicable to the transportation planning processes conducted under chapters 52 and 227 of this title, section 211 of the Passenger Rail Investment and Improvement Act of 2008, or section 26101 of this title. Initiation of the National Environmental Policy Act of 1969 process as a part of, or concurrently with, transportation planning activities does not subject transportation plans and programs to the National Environmental Policy Act of 1969 process. This section may not be construed to affect the use of planning products in the National Environmental Policy Act of 1969 process pursuant to other authorities under law or to restrict the initiation of the National Environmental Policy Act of 1969 process during planning.

**"§ 22905. Program for eliminating duplication of environmental reviews**

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—The Secretary shall establish a program to eliminate duplicative environmental reviews and approvals under State and Federal law of rail projects. Under this program, a State may use State laws and procedures to conduct reviews and make approvals in lieu of Federal environmental laws and regulations, consistent with the provisions of this section.

''(2) PARTICIPATING STATES.—All States are eligible to participate in the program.

''(3) SCOPE OF ALTERNATIVE REVIEW AND APPROVAL PROCEDURES.—For purposes of this section, alternative environmental review and approval procedures may include one or more of the following:

''(A) Substitution of one or more State environmental laws for one or more Federal environmental laws, if the Secretary determines in accordance with this section that the State environmental laws provide environmental protection and opportunities for public involvement that are substantially equivalent to the applicable Federal environmental laws.

"(B) Substitution of one or more State regulations for Federal regulations implementing one or more Federal environmental laws, if the Secretary determines in accordance with this section that the State regulations provide environmental protection and opportunities for public involvement that are substantially equivalent to the Federal regulations.

"(b) APPLICATION.—To participate in the program, a State shall submit to the Secretary an application containing such information as the Secretary may require, including—

"(1) a full and complete description of the proposed alternative environmental review and approval procedures of the State;

"(2) for each State law or regulation included in the proposed alternative environmental review and approval procedures of the State, an explanation of the basis for concluding that the law or regulation meets the requirements under subsection (a)(3); and

"(3) evidence of having sought, received, and addressed comments on the proposed application from the public and appropriate Federal environmental resource agencies.

1 ''(c) REVIEW OF APPLICATION.—The Secretary
2 shall—
3 ''(1) review an application submitted under sub-
4 section (b);
5 ''(2) approve or disapprove the application in
6 accordance with subsection (d) not later than 90
7 days after the date of the receipt of the application;
8 and
9 ''(3) transmit to the State notice of the ap-
10 proval or disapproval, together with a statement of
11 the reasons for the approval or disapproval.
12 ''(d) APPROVAL OF STATE PROGRAMS.—
13 ''(1) IN GENERAL.—The Secretary shall ap-
14 prove each such application if the Secretary finds
15 that the proposed alternative environmental review
16 and approval procedures of the State are substan-
17 tially equivalent to the applicable Federal environ-
18 mental laws and Federal regulations.
19 ''(2) EXCLUSION.—The National Environ-
20 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.)
21 and the Endangered Species Act of 1973 (16 U.S.C.
22 1531 et seq.) shall not apply to any decision by the
23 Secretary to approve or disapprove any application
24 submitted pursuant to this section.

"(e) COMPLIANCE WITH PERMITS.—Compliance with a permit or other approval of a rail project issued pursuant to a program approved by the Secretary under this section shall be deemed compliance with the Federal laws and regulations identified in the program approved by the Secretary pursuant to this section.

"(f) REVIEW AND TERMINATION.—

"(1) REVIEW.—All State alternative environmental review and approval procedures approved under this section shall be reviewed by the Secretary not less than once every 5 years.

"(2) PUBLIC NOTICE AND COMMENT.—In conducting the review process under paragraph (1), the Secretary shall provide notice and an opportunity for public comment.

"(3) EXTENSIONS AND TERMINATIONS.—At the conclusion of the review process, the Secretary may extend the State alternative environmental review and approval procedures for an additional 5-year period or terminate the State program.

"(g) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of this section, and annually thereafter, the Secretary shall submit to Congress a report that describes the administration of the program.

**"§ 22906. Railroad corridor preservation**

''(a) IN GENERAL.—The Secretary may assist an applicant to acquire railroad right-of-way and adjacent real property interests before the completion of the environmental reviews for any rail project that may use the right-of-way and the real property interests 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.

''(b) ENVIRONMENTAL REVIEWS.—Railroad right-of-way and real property interests acquired under this section may not be developed in anticipation of final approval of the rail project until all required environmental reviews for the rail project have been completed.

**"§ 22907. Treatment of railroads for historic preservation**

''Except for a railroad operated as a historic site with the purpose of preserving the railroad for listing in the National Register of Historic Places, a railroad subject to the safety regulation jurisdiction of the Federal Railroad Administration, or any portion of such railroad, or any property in current or former use by a railroad and intended to be restored to use by a railroad, shall not be considered a historic site, district, object, structure, or property of national, State, or local significance for purposes of section 303 of this title or section 106 or 110

of the National Historic Preservation Act (16 U.S.C. 470f or 470h–2) by virtue of being listed as a resource in, or eligible for listing in, the National Register of Historic Places. At the discretion of the Secretary, with the advice of the Department of the Interior, significant individual elements of a railroad such as depots and major bridges would be subject to such section 106 or 110.

**"§ 22908. Categorical exclusion**

''(a) TREATMENT OF RAIL PROJECTS.—The Secretary shall, for the purposes of this title, treat a rail project as a class of action categorically excluded from the requirements relating to the environmental assessment process or the preparation of environmental impact statements under the standards promulgated by the Council on Environmental Quality (40 C.F.R. 1508.4), if such rail project—

''(1) replaces or maintains existing railroad equipment; track and bridge structures; electrification, communication, signaling, or security facilities; stations; maintenance-of-way and maintenance-of-equipment bases; or other existing railroad-related facilities;

''(2) is a rail line addition of any length within an existing right of way;

"(3) is related to the implementation of positive train control systems, as required by section 20157 of title 49, United States Code; or

"(4) replaces, reconstructs, or rehabilitates an existing railroad bridge, including replacement of a culvert, that does not require the acquisition of a significant amount of right-of-way.

"(b) ADDITIONAL ACTIONS.—If a rail project qualifies for categorical exclusion under this section except for additional actions that do not fit in the relevant category, the rail project may be categorically excluded if the Secretary determines, based on information provided by the project sponsor, that the additional actions meet the standards for categorical exclusion promulgated by the Council on Environmental Quality (40 C.F.R. 1508.4).

"(c) OTHER OPERATING ADMINISTRATIONS' CATEGORICAL EXCLUSIONS.—If a rail project would be eligible for categorical exclusion from the requirements relating to the environmental assessment process or the preparation of environmental impact statements by another operating administration of the Department of Transportation, the Federal Railroad Administration may categorically exclude the rail project.

**"§ 22909. State assumption of responsibility for categorical exclusions**

''(a) CATEGORICAL EXCLUSION DETERMINATIONS.—

''(1) IN GENERAL.—The Secretary may assign, and a State may assume, responsibility for determining whether certain designated activities are included within classes of action identified by the Secretary that are categorically excluded from requirements for environmental assessments or environmental impact statements pursuant to regulations promulgated by the Council on Environmental Quality under part 1500 of title 40, Code of Federal Regulations (as in effect on October 1, 2003).

''(2) SCOPE OF AUTHORITY.—A determination described in paragraph (1) shall be made by a State in accordance with criteria established by the Secretary and for any type of activity for which a categorical exclusion classification is appropriate.

''(3) CRITERIA.—The criteria under paragraph (2) shall include provisions for public availability of information consistent with section 552 of title 5 and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

''(4) PRESERVATION OF FLEXIBILITY.—The Secretary shall not require a State, as a condition of assuming responsibility under this section, to forego

1 project delivery methods that are otherwise permis-
2 sible for rail projects.
3 ''(b) OTHER APPLICABLE FEDERAL LAWS.—
4 ''(1) IN GENERAL.—If a State assumes respon-
5 sibility under subsection (a), the Secretary may also
6 assign and the State may assume all or part of the
7 responsibilities of the Secretary for environmental
8 review, consultation, or other related actions re-
9 quired under any Federal environmental law applica-
10 ble to activities that are classified by the Secretary
11 as categorical exclusions, with the exception of gov-
12 ernment-to-government consultation with Indian
13 tribes, subject to the same procedural and sub-
14 stantive requirements as would be required if that
15 responsibility were carried out by the Secretary.
16 ''(2) SOLE RESPONSIBILITY.—A State that as-
17 sumes responsibility under paragraph (1) with re-
18 spect to a Federal law shall be solely responsible and
19 solely liable for complying with and carrying out
20 that law, and the Secretary shall have no such re-
21 sponsibility or liability.
22 ''(c) MEMORANDA OF UNDERSTANDING.—
23 ''(1) IN GENERAL.—The Secretary and the
24 State, after providing public notice and opportunity
25 for comment, shall enter into a memorandum of un-

1 derstanding setting forth the responsibilities to be
2 assigned under this section and the terms and condi-
3 tions under which the assignments are made, includ-
4 ing establishment of the circumstances under which
5 the Secretary would reassume responsibility for cat-
6 egorical exclusion determinations.
7 "(2) TERM.—A memorandum of under-
8 standing—
9 "(A) shall have a term of not more than
10 3 years; and
11 "(B) shall be renewable.
12 "(3) ACCEPTANCE OF JURISDICTION.—In a
13 memorandum of understanding, the State shall con-
14 sent to accept the jurisdiction of the Federal courts
15 for the compliance, discharge, and enforcement of
16 any responsibility of the Secretary that the State as-
17 sumes.
18 "(4) MONITORING.—The Secretary shall—
19 "(A) monitor compliance by the State with
20 the memorandum of understanding and the
21 provision by the State of financial resources to
22 carry out the memorandum of understanding;
23 and

"(B) take into account the performance by the State when considering renewal of the memorandum of understanding.

"(d) TERMINATION.—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.

"(e) STATE AGENCY DEEMED TO BE FEDERAL AGENCY.—A State agency that is assigned a responsibility under a memorandum of understanding shall be deemed to be a Federal agency for the purposes of the Federal law under which the responsibility is exercised.

**"§ 22910. Rail project delivery program**

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—The Secretary shall carry out a rail project delivery program (referred to in this section as the 'program').

"(2) ASSUMPTION OF RESPONSIBILITY.—

"(A) IN GENERAL.—Subject to the other provisions of this section, with the written agreement of the Secretary and a State, which may be in the form of a memorandum of understanding, the Secretary may assign, and the State may assume, the responsibilities of the

Secretary with respect to one or more rail projects within the State under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(B) ADDITIONAL RESPONSIBILITY.—If a State assumes responsibility under subparagraph (A)—

"(i) the Secretary may assign to the State, and the State may assume, all or part of the responsibilities of the Secretary for environmental review, consultation, or other action required under any Federal environmental law pertaining to the review or approval of a specific rail project; but

"(ii) the Secretary may not assign any responsibility imposed on the Secretary by chapter 227 of this title.

"(C) PROCEDURAL AND SUBSTANTIVE REQUIREMENTS.—A State shall assume responsibility under this section subject to the same procedural and substantive requirements as would apply if that responsibility were carried out by the Secretary.

"(D) FEDERAL RESPONSIBILITY.—Any responsibility of the Secretary not explicitly as-

sumed by the State by written agreement under this section shall remain the responsibility of the Secretary.

"(E) NO EFFECT ON AUTHORITY.—Nothing in this section preempts or interferes with any power, jurisdiction, responsibility, or authority of an agency, other than the Department of Transportation, under applicable law (including regulations) with respect to a rail project.

"(F) PRESERVATION OF FLEXIBILITY.—The Secretary may not require a State, as a condition of participation in the program, to forego project delivery methods that are otherwise permissible for rail projects.

"(b) STATE PARTICIPATION.—

"(1) PARTICIPATING STATES.—All States are eligible to participate in the program.

"(2) APPLICATION.—Not later than 270 days after the date of enactment of this section, the Secretary shall promulgate regulations that establish requirements relating to information required to be contained in any application of a State to participate in the program, including, at a minimum—

"(A) the rail projects or classes of projects for which the State anticipates exercising the authority that may be granted under the program;

"(B) verification of the financial resources necessary to carry out the authority that may be granted under the program; and

"(C) evidence of the notice and solicitation of public comment by the State relating to participation of the State in the program, including copies of comments received from that solicitation.

"(3) PUBLIC NOTICE.—

"(A) IN GENERAL.—Each State that submits an application under this subsection shall give notice of the intent of the State to participate in the program not later than 30 days before the date of submission of the application.

"(B) METHOD OF NOTICE AND SOLICITATION.—The State shall provide notice and solicit public comment under this paragraph by publishing the complete application of the State in accordance with the appropriate public notice law of the State.

"(4) SELECTION CRITERIA.—The Secretary may approve the application of a State under this section only if—

"(A) the regulatory requirements under paragraph (2) have been met;

"(B) the Secretary determines that the State has the capability, including financial and personnel, to assume the responsibility; and

"(C) the head of the State agency having primary jurisdiction over rail matters enters into a written agreement with the Secretary described in subsection (c).

"(5) OTHER FEDERAL AGENCY VIEWS.—If a State applies to assume a responsibility of the Secretary that would have required the Secretary to consult with another Federal agency, the Secretary shall solicit the views of the Federal agency before approving the application.

"(c) WRITTEN AGREEMENT.—A written agreement under this section shall—

"(1) be executed by the Governor or the top-ranking transportation official in the State who is charged with responsibility for rail construction;

"(2) be in such form as the Secretary may prescribe;

1 ''(3) provide that the State—
2 ''(A) agrees to assume all or part of the re-
3 sponsibilities of the Secretary described in sub-
4 section (a);
5 ''(B) expressly consents, on behalf of the
6 State, to accept the jurisdiction of the Federal
7 courts for the compliance, discharge, and en-
8 forcement of any responsibility of the Secretary
9 assumed by the State;
10 ''(C) certifies that State laws (including
11 regulations) are in effect that—
12 ''(i) authorize the State to take the
13 actions necessary to carry out the respon-
14 sibilities being assumed; and
15 ''(ii) are comparable to section 552 of
16 title 5, including providing that any deci-
17 sion regarding the public availability of a
18 document under those State laws is review-
19 able by a court of competent jurisdiction;
20 and
21 ''(D) agrees to maintain the financial re-
22 sources necessary to carry out the responsibil-
23 ities being assumed;
24 ''(4) shall have a term of not more than 5
25 years; and

1 ''(5) shall be renewable.

2 ''(d) JURISDICTION.—

3 ''(1) IN GENERAL.—The United States district
4 courts shall have exclusive jurisdiction over any civil
5 action against a State for failure to carry out any
6 responsibility of the State under this section.

7 ''(2) LEGAL STANDARDS AND REQUIRE-
8 MENTS.—A civil action under paragraph (1) shall be
9 governed by the legal standards and requirements
10 that would apply in such a civil action against the
11 Secretary had the Secretary taken the actions in
12 question.

13 ''(3) INTERVENTION.—The Secretary shall have
14 the right to intervene in any action described in
15 paragraph (1).

16 ''(e) EFFECT OF ASSUMPTION OF RESPONSI-
17 BILITY.—A State that assumes responsibility under sub-
18 section (a)(2) shall be solely responsible and solely liable
19 for carrying out, in lieu of the Secretary, the responsibil-
20 ities assumed under subsection (a)(2), until the program
21 is terminated as provided in subsection (j).

22 ''(f) LIMITATIONS ON AGREEMENTS.—Nothing in
23 this section permits a State to assume any rulemaking au-
24 thority of the Secretary under any Federal law.

25 ''(g) AUDITS.—

"(1) IN GENERAL.—To ensure compliance by a State with any agreement of the State under subsection (c) (including compliance by the State with all Federal laws for which responsibility is assumed under subsection (a)(2)), for each State participating in the program under this section, the Secretary shall conduct—

"(A) semiannual audits during each of the first 2 years of State participation; and

"(B) annual audits during each of the third and fourth years of State participation.

"(2) PUBLIC AVAILABILITY AND COMMENT.—

"(A) IN GENERAL.—An audit conducted under paragraph (1) shall be provided to the public for comment.

"(B) RESPONSE.—Not later than 60 days after the date on which the period for public comment ends, the Secretary shall respond to public comments received under subparagraph (A).

"(h) MONITORING.—After the fourth year of participation of the State in the program, the Secretary shall monitor compliance by the State with the written agreement, including the provision by the State of financial resources to carry out the written agreement.

"(i) REPORT TO CONGRESS.—The Secretary shall submit to Congress an annual report that describes the administration of the program.

"(j) TERMINATION.—The Secretary may terminate the participation of any State in the program if—

"(1) the Secretary determines that the State is not adequately carrying out the responsibilities assigned to the State;

"(2) the Secretary provides to the State—

"(A) notification of the determination of noncompliance; and

"(B) a period of at least 30 days during which to take such corrective action as the Secretary determines is necessary to comply with the applicable agreement; and

"(3) the State, after the notification and period provided under paragraph (2), fails to take satisfactory corrective action, as determined by Secretary.

**"§ 22911. Exemption in emergencies**

"Any railroad, track, bridge, or other facility that is in operation or under construction when damaged by an emergency declared by the Governor of the State and concurred in by the Secretary, or declared by the President pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121), and is pro-

1 posed to be reconstructed with Federal funds may be re-
2 constructed in the same location with the same capacity,
3 dimensions, and design as before the emergency and shall
4 be exempt from any environmental reviews, approvals, li-
5 censing, and permit requirements under—
6 ''(1) the National Environmental Policy Act of
7 1969 (42 U.S.C. 4321 et seq.);
8 ''(2) sections 402 and 404 of the Federal Water
9 Pollution Control Act (33 U.S.C. 1342, 1344);
10 ''(3) the National Historic Preservation Act (16
11 U.S.C. 470 et seq.);
12 ''(4) the Migratory Bird Treaty Act (16 U.S.C.
13 703 et seq.);
14 ''(5) the Wild and Scenic Rivers Act (16 U.S.C.
15 1271 et seq.);
16 ''(6) the Fish and Wildlife Coordination Act (16
17 U.S.C. 661 et seq.);
18 ''(7) the Endangered Species Act of 1973 (16
19 U.S.C. 1531 et seq.), except when the reconstruction
20 occurs in designated critical habitat for threatened
21 and endangered species;
22 ''(8) Executive Order 11990 (42 U.S.C. 4321
23 note; relating to the protection of wetlands); and
24 ''(9) any Federal law (including regulations) re-
25 quiring no net loss of wetlands.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for subtitle V of title 49, United States Code, is amended by inserting after the item relating to chapter 227 the following:

**"229. Project development and review .....22901".**

# Subtitle D—Railroad Rehabilitation and Improvement Financing

**SEC. 8301. RAILROAD REHABILITATION AND IMPROVEMENT FINANCING.**

(a) PURPOSE AND REGULATIONS.—

(1) PURPOSE.—The amendments made by this section are intended to encourage a higher level of participation in the railroad rehabilitation and improvement financing program under section 502 of the Railroad Revitalization and Regulatory Reform Act of 1976 and to make the loan process under that program faster, more efficient, and more predictable.

(2) REGULATIONS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall issue regulations implementing the amendments made by this section in a manner that achieves the purpose stated in paragraph (1).

(b) HIGH-SPEED RAIL.—Section 502(b)(1)(C) of such Act (45 U.S.C. 822(b)(1)(C)) is amended by insert-

ing ", including high-speed rail (as defined in section 26101(6)) of title 49, United States Code) facilities" after "railroad facilities".

(c) PRIVATE INSURANCE.—Section 502(f)(1) of such Act (45 U.S.C. 822(f)(1)) is amended—

(1) by striking "under this section a commitment" and inserting "under this section private insurance, including bond insurance, or any other commitment"; and

(2) by inserting "or private insurance, including bond insurance," after "authority and credit risk premiums".

(d) FINANCING OF CREDIT RISK PREMIUM.—Section 502(f)(3) of such Act (45 U.S.C. 822(f)(3)) is amended by inserting ", or, at the discretion of the Secretary, in a series of payments over the term of the loan. If private insurance, including bond insurance, is used, the policy premium shall be paid before the loan is disbursed" after "of loan amounts".

(e) COLLATERAL.—

(1) FULL VALUE.—Section 502(h)(2) of such Act (45 U.S.C. 822(h)(2)) is amended by inserting "Such collateral shall be valued at 100 percent of the liquidated asset valuation, or going concern valu-

ation when applicable.'' after ''operation of the project.''.

(2) DEDICATED REVENUE AND SUBORDINATION.—Such section 502(h)(2) is further amended—

(A) by striking ''(2) The Secretary'' and inserting ''(2)(A) The Secretary'';

(B) by adding at the end of subparagraph (A) the following: ''The Secretary may subordinate rights of the Secretary under any provision of title 49 or title 23 of the United States Code, to the rights of the Secretary under this section and section 503''; and

(C) by adding at the end the following new subparagraph:

''(B) In the case of an applicant that is a State, an Interstate compact, a local government authority as defined in section 5302 of title 49, United States Code, or a high-speed rail system as defined in section 26101 of title 49, United States Code, the Secretary shall, for purposes of making a finding under subsection (g)(4), accept the net present value on a future stream of State or local subsidy income or dedicated revenue as collateral offered to secure the loan.''.

(f) OFFICE OF MANAGEMENT AND BUDGET.—Section 502(i) of such Act (45 U.S.C. 822(i)) is amended by inserting "In order to enable compliance with such time limit, the Office of Management and Budget shall take any actions required with respect to the application within such 90-day period." after "disapprove the application.".

(g) COMPLETION OF APPLICATION.—Section 502(i) of such Act (45 U.S.C. 822(i)) is further amended—

(1) by striking "DISAPPROVAL.—Not later than 90 days after receiving" and inserting "DISAPPROVAL.—

"(1) IN GENERAL.—Not later than 90 days after an application is determined pursuant to paragraph (2) to be"; and

(2) by adding at the end the following new paragraph:

"(2) COMPLETION OF APPLICATION.—The Secretary shall establish procedures for making a determination not later than 45 days after submission of an application under this section whether the application is complete. Such procedures shall—

"(A) provide for a checklist of the required components of a complete application;

"(B) provide that an independent financial analyst be assigned within 45 days of submittal to review the application;

"(C) require the Secretary to provide to the applicant a description of the specific components of the application that remain incomplete or unsatisfactory if an application is determined to be incomplete; and

"(D) permit reapplication without prejudice for applications determined to be incomplete or unsatisfactory.".

(h) REPAYMENT DEFERRAL.—Section 502(j) of such Act (45 U.S.C. 822(j)) is amended by adding at the end the following new paragraph:

"(3) TREATMENT OF COSTS ASSOCIATED WITH DEFERRAL.—Any additional costs associated with a deferred repayment schedule under paragraph (1) may be financed over the remaining term of the loan beginning at the time the payments begin, or may be included in the credit risk premium determined under subsection (f)(2).".

(i) POSITIVE TRAIN CONTROL.—

(1) PRIORITY.—Section 502(c)(1) of such Act (45 U.S.C. 822(c)(1)) is amended by inserting ", including projects for the installation of positive train

control systems as defined in section 20157(a) of title 49, United States Code'' after ''public safety''.

(2) COLLATERAL.—Section 502(h)(2) of such Act (45 U.S.C. 822(h)(2)), as amended by this section, is further amended by adding at the end the following new subparagraph:

''(C) For purposes of making a finding under subsection (g)(4) with respect to an application for a project for the installation of positive train control systems, the collateral value of that asset shall be deemed to be equal to the total cost of the labor and materials associated with installing the positive train control systems.''.

(j) REPORT TO CONGRESS.—Section 502 of such Act (45 U.S.C. 822) is amended by adding at the end the following new subsection:

''(k) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of the American Energy and Infrastructure Jobs Act of 2012, and annually thereafter, the Secretary shall transmit to the Congress a report on the program under this section that summarizes the number of loans approved and disapproved by the Secretary during the previous year. Such report shall not disclose the identity of loan or loan guarantee recipients. The report shall describe—

"(1) the number of preapplication meetings with potential applicants;

"(2) the number of applications received and determined complete under subsection (i)(2), including the requested loan amounts;

"(3) the dates of receipt of applications;

"(4) the dates applications were determined complete under subsection (i)(2);

"(5) the number of applications determined incomplete under subsection (i)(2);

"(6) the final decision dates for both approvals and denials of applications;

"(7) the number of applications withdrawn from consideration; and

"(8) the annual loan portfolio asset quality.".

(k) AUTHORIZATION OF APPROPRIATIONS.—Section 502 of such Act (45 U.S.C. 822) is amended by adding at the end the following new subsection:

"(l) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for purposes of carrying out subsections (f)(3) and (j)(3), $50,000,000 for fiscal year 2013.".

# Subtitle E—Positive Train Control

**SEC. 8401. POSITIVE TRAIN CONTROL.**

(a) RAILROAD SAFETY RISK REDUCTION PROGRAM.—Section 20156(e)(4) of title 49, United States Code, is amended to read as follows:

"(4) POSITIVE TRAIN CONTROL.—Except as required by section 20157 (relating to the requirements for implementation of positive train control systems), the Secretary shall ensure that each railroad carrier's technology implementation plan required under paragraph (1) that includes a schedule for implementation of a positive train control system complies with that schedule. Nothing in this section shall be construed as requiring the installation of positive train control on railroad tracks if positive train control is not required on those tracks by section 20157 and positive train control on those tracks is not chosen by the railroad as a technology to be implemented under this section.".

(b) IMPLEMENTATION OF POSITIVE TRAIN CONTROL SYSTEMS.—Section 20157 of title 49, United States Code, is amended—

(1) in subsection (a)(1)—

(A) by striking "December 31, 2015" and inserting "December 31, 2020";

(B) by inserting ''and'' after the semicolon at the end of subparagraph (A);

(C) by striking ''; and'' at the end of subparagraph (B) and inserting ''on or after December 31, 2020.''; and

(D) by striking subparagraph (C);

(2) by adding at the end of subsection (a) the following new paragraph:

''(3) ALTERNATIVE STRATEGY.—A plan submitted under this subsection may provide that, in lieu of installing positive train control on all or some of the tracks on which positive train control is otherwise required to be installed pursuant to paragraph (1)(B), the railroad carrier will utilize an alternative risk reduction strategy that would reduce the risk of release of poison- or toxic-by-inhalation hazardous materials to the same extent the risk of a release of poison- or toxic-by-inhalation hazardous materials would be reduced if positive train control were installed on those tracks. An alternative risk reduction strategy may only be used pursuant to this paragraph on tracks for which positive train control is not required pursuant to paragraph (1)(A).'';

(3) in subsection (c)—

(A) by striking ''APPROVAL.—Not later than 90 days after the Secretary receives a plan'' and inserting ''APPROVAL.—

''(1) IN GENERAL.—Not later than 90 days after the Secretary receives a plan or revision of a plan under this section''; and

(B) by adding at the end the following new paragraph:

''(2) REVISION OF PLAN.—A railroad carrier may revise a plan under this section as necessary to reflect rail lines that are added or removed, or to reflect alternative risk reduction strategies proposed pursuant to subsection (a)(3).'';

(4) in subsection (d)—

(A) by striking ''December 31, 2012'' and inserting ''December 31, 2015''; and

(B) by inserting ''and alternative risk reduction strategies. Such report shall include any recommendations for improving the ability of rail carriers to implement positive train control systems or alternative risk reduction strategies in accordance with this section'' after ''positive train control systems'';

(5) in subsection (e), by inserting ''and alternative risk reduction strategies'' after ''positive train control''; and

(6) in subsection (f), by striking ''or section 20156'' the first place it appears.

# Subtitle F—Regulatory Reform

**SEC. 8501. FEDERAL RAILROAD ADMINISTRATION REGULATIONS.**

(a) AMENDMENT.—Section 103 of title 49, United States Code, is amended by adding at the end the following new subsection:

''(l) IMPROVING REGULATION AND REGULATORY REVIEW.—

''(1) IN GENERAL.—Before any final regulation within the jurisdiction of the Administration is issued, the Administrator shall make all preliminary and final determinations based on evidence and consider, in addition to other applicable considerations, the following:

''(A) The legal authority under which a rule may be proposed, including whether a rulemaking is required by statute, and if so, whether by a specific date, or whether the agency has discretion to commence a rulemaking.

"(B) Other statutory considerations applicable to whether the agency can or should propose a rule or undertake other agency action.

"(C) The specific nature and significance of the problem the agency may address with a rule (including the degree and nature of risks the problem poses and the priority of addressing those risks compared to other matters or activities within the agency's jurisdiction), whether the problem warrants new agency action, and the countervailing risks that may be posed by alternatives for new agency action.

"(D) Whether existing rules have created or contributed to the problem the agency may address with a rule and whether those rules could be amended or rescinded to address the problem in whole or part.

"(E) The best reasonably obtainable scientific, technical, and other information related to the need for, and consequences of, the rule.

"(F) The potential costs and benefits, including direct, indirect, and cumulative costs and benefits and estimated impacts on jobs, economic growth, innovation, and economic competitiveness.

"(G) Means to increase the cost-effectiveness of any Federal response.

"(H) Incentives for innovation, consistency, predictability, lower costs of enforcement and compliance (to government entities, regulated entities, and the public), and flexibility.

"(I) Any reasonable alternatives for a new rule or other response identified by the agency or interested persons, including not only responses that mandate particular conduct or manners of compliance, but also—

"(i) the alternative of no Federal response;

"(ii) amending or rescinding existing rules;

"(iii) potential regional, State, local, or tribal regulatory action or other responses that could be taken in lieu of agency action; and

"(iv) potential responses that—

"(I) specify performance objectives rather than conduct or manners of compliance;

"(II) establish economic incentives to encourage desired behavior;

1 "(III) provide information upon
2 which choices can be made by the
3 public; or
4 "(IV) incorporate other innova-
5 tive alternatives rather than agency
6 actions that specify conduct or man-
7 ners of compliance.
8 "(2) PUBLIC COMMENT.—The Administrator
9 shall solicit and take into consideration public com-
10 ment on the subjects described in subparagraphs (A)
11 through (I) of paragraph (1) before issuance of a
12 final regulation described in paragraph (1).
13 "(3) AGENCY STATEMENTS.—
14 "(A) IN GENERAL.—The Administrator
15 shall follow applicable rulemaking procedures
16 under section 553 of title 5 before issuing a
17 binding obligation applicable to recipients of
18 Federal assistance.
19 "(B) BINDING OBLIGATION DEFINED.—In
20 this paragraph, the term 'binding obligation'
21 means a substantive policy statement, rule, or
22 guidance document issued by the Administra-
23 tion that grants rights, imposes obligations,
24 produces significant effects on private interests,

or effects a significant change in existing policy.''.

(b) EFFECTIVE DATE.—Paragraphs (1) and (2) of the subsection (l) added by the amendment made by subsection (a) of this section shall be effective only with respect to regulations with respect to which no notice of proposed rulemaking has been issued before the date of enactment of this Act.

# Subtitle G—Technical Corrections

## SEC. 8601. MISCELLANEOUS CORRECTIONS, REVISIONS, AND REPEALS.

(a) TECHNICAL CORRECTIONS TO PROVISIONS OF THE UNITED STATES CODE ENACTED IN, OR AMENDED BY, THE RAIL SAFETY IMPROVEMENT ACT OF 2008.—(1) Section 1139 of title 49, United States Code, is amended—

(A) in subsection (a)(1) by striking ''phone number'' and inserting ''telephone number'';

(B) in subsection (a)(2) by striking ''post trauma communication with families'' and inserting ''post-trauma communication with families''; and

(C) in subsection (j)(2) by striking ''railroad passenger accident'' and inserting ''rail passenger accident''.

(2) Section 10909 of title 49, United States Code, is amended—

(A) in subsection (b), by striking ''Clean Railroad Act of 2008,'' and inserting ''Clean Railroads Act of 2008,''; and

(B) in subsection (e), by striking ''Upon the granting of petition from the State'' and inserting ''Upon the granting of a petition from the State''.

(3) Section 20116 of title 49, United States Code, is amended—

(A) by inserting ''(1)'' after ''unless''; and

(B) by inserting ''(2)'' before ''the code, rule, standard, requirement, or practice has been subject to notice and comment under a rule or order issued under this part.''.

(4) Section 20120(a) of title 49, United States Code, is amended—

(A) by striking ''website'' and inserting ''Web site'';

(B) in paragraph (1), by striking ''accident and incidence reporting'' and inserting ''accident and incident reporting'';

(C) in paragraph (2)(G), by inserting ''and'' at the end; and

(D) in paragraph (5)(B), by striking ''Administrative Hearing Officer or Administrative Law Judge'' and inserting ''administrative hearing officer or administrative law judge''.

(5) Section 20156 of title 49, United States Code, 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 inserting a comma after ''good faith'' and by striking ''non-profit'' and inserting ''nonprofit''.

(6) Section 20157(a)(1)(B) of title 49, United States Code, is amended by striking ''parts 171.8, 173.115, and 173.132'' and inserting ''sections 171.8, 173.115, and 173.132''.

(7) Section 20159 of title 49, United States Code, is amended by striking ''the Secretary'' and inserting ''the Secretary of Transportation''.

(8) Section 20160 of title 49, United States Code, is amended—

(A) in subsection (a)(1), by striking ''or with'' and inserting ''with''; and

(B) in subsection (b)(1)(A), by striking ''or with'' and inserting ''with''.

(9) Section 20162(a)(3) of title 49, United States Code, is amended by striking ''railroad compliance with Federal standards'' and inserting ''railroad carrier compliance with Federal standards''.

(10) Section 20164(a) of title 49, United States Code, is amended by striking ''after enactment of the Railroad Safety Enhancement Act of 2008'' and inserting ''after the enactment of the Rail Safety Improvement Act of 2008''.

(11) Section 22106(b) of title 49, United States Code, is amended by striking ''interest thereof'' and inserting ''interest thereon''.

(12) The item relating to section 24316 in the chapter analysis for chapter 243 of title 49, United States Code, is amended by striking ''to assist families of passengers'' and inserting ''to address needs of families of passengers''.

(b) TECHNICAL CORRECTIONS TO RAIL SAFETY IMPROVEMENT ACT OF 2008.—(1) The table of contents in section 1(b) of the Rail Safety Improvement Act of 2008 is amended—

(A) in the item relating to section 307, by striking ''website'' and inserting ''Web site'';

(B) in the item relating to section 403, by striking ''Track inspection time study'' and inserting

"Study and rulemaking on track inspection time; rulemaking on concrete cross ties";

(C) in the item relating to section 408, by striking "Conrail" and inserting "Consolidated Rail Corporation";

(D) in the item relating to title VI, by striking "Solid waste facilities" and inserting "Solid waste rail transfer facilities"; and

(E) in the item relating to section 602 by striking "solid waste transfer facilities" and inserting "solid waste rail transfer facilities".

(2) Section 2(a)(1) of the Rail Safety Improvement Act of 2008 is amended by inserting a comma after "tracks at grade".

(3) Section 102(a)(6) of the Rail Safety Improvement Act of 2008 is amended 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 206(a) of the Rail Safety Improvement Act of 2008 is amended by striking "Public Service Announcements" and inserting "public service announcements".

(5) Section 307 of the Rail Safety Improvement Act of 2008 is amended—

(A) in the section heading, by striking ''**WEBSITE**'' and inserting ''**WEB SITE**'';

(B) in subsection (a), by striking ''website'' and inserting ''Web site''; and

(C) in subsection (b), by striking ''website's'' and inserting ''Web site's''.

(6) Section 403 of the Rail Safety Improvement Act of 2008 is amended in the section heading by striking ''**TRACK INSPECTION TIME STUDY**'' and inserting ''**STUDY AND RULEMAKING ON TRACK INSPECTION TIME; RULEMAKING ON CONCRETE CROSS TIES**''.

(7) Section 405 of the Rail Safety Improvement Act of 2008 is amended—

(A) in subsection (a), by striking ''cell phones'' and inserting ''cellular telephones''; and

(B) in subsection (d), by striking ''Secretary of Transportation'' and inserting ''Secretary''.

(8) Section 408 of the Rail Safety Improvement Act of 2008 is amended in the section heading by striking ''**CONRAIL**'' and inserting ''**CONSOLIDATED RAIL CORPORATION**''.

(9) Section 412 of the Rail Safety Improvement Act of 2008 is amended by striking ''Secretary of Transportation'' and inserting ''Secretary''.

(10) Section 414 of the Rail Safety Improvement Act of 2008 is amended—

(A) by striking ''parts 171.8, 173.115,'' and inserting ''sections 171.8, 173.115,''; and

(B) by striking ''part 1520.5'' and inserting ''section 1520.5''.

(11) Section 416 of the Rail Safety Improvement Act of 2008 is amended—

(A) by striking ''Secretary of Transportation'' and inserting ''Secretary''; and

(B) in paragraph (4), by striking ''subsection'' and inserting ''section''.

(12) Section 417(c) of the Rail Safety Improvement Act of 2008 is amended by striking ''each railroad'' and inserting ''each railroad carrier''.

(13) Section 503 of the Rail Safety Improvement Act of 2008 is amended—

(A) in subsection (b)—

(i) in paragraph (1), by striking ''passenger rail accidents'' and inserting ''rail passenger accidents'';

(ii) by striking ''passenger rail accident'' each place it appears and inserting ''rail passenger accident''; and

(iii) in paragraph (4), by striking ''a count of the number of passengers onboard the train'' and inserting ''a count of the number of passengers aboard the train''; and

(B) by adding at the end a new subsection (d) to read as follows:

''(d) DEFINITIONS.—In this section, the terms 'passenger' and 'rail passenger accident' have the meaning given those terms by section 1139 of this title.''.

(14) The heading title VI of the Rail Safety Improvement Act of 2008 is amended by striking ''**SOLID WASTE FACILITIES**'' and inserting ''**SOLID WASTE RAIL TRANSFER FACILITIES**''.

(15) The heading of section 602 of the Rail Safety Improvement Act of 2008 is amended by striking ''**SOLID WASTE TRANSFER FACILITIES**'' and inserting ''**SOLID WASTE RAIL TRANSFER FACILITIES**''.

(c) TECHNICAL CORRECTIONS TO PROVISIONS OF THE UNITED STATES CODE ENACTED IN, OR AMENDED BY, THE PASSENGER RAIL INVESTMENT AND IMPROVEMENT ACT OF 2008.—

(1) ALTERNATE PASSENGER RAIL SERVICE PILOT.—Section 24711 of title 49, United States Code, is amended—

(A) in subsection (a)(1) by striking ''a period not to exceed 5 years after the date of enactment of the Passenger Rail Investment and Improvement Act of 2008'' and inserting ''an operations period of 5 years, renewable for a second 5-year operations period at the discretion of the Administrator''; and

(B) by inserting after subsection (e) the following new subsection:

''(f) TRANSFER AUTHORITY.—The Secretary of Transportation may provide directly to a winning bidder selected under this section any portion of appropriations for Amtrak operations necessary to cover the operating subsidy described in subsection (a)(5)(B).''.

(2) COMPETITIVE GRANT SELECTION AND CRITERIA FOR GRANTS.—Section 26106(e)(2) of title 49, United States Code, is amended—

(A) in subparagraph (A)(v), by striking ''that if an applicant has selected the proposed operator of its service, that the applicant provide'', and inserting ''that the applicant shall select the proposed operator of its service com-

petitively, and that the applicant shall provide''; and

(B) in subparagraph (B)(ii)—

(i) by inserting ''and'' at the end of subclause (I);

(ii) by inserting ''and'' at the end of subclause (II); and

(iii) by striking subclauses (III) and (IV).

(d) STATE-SUPPORTED ROUTES.—Section 209(c) of the Passenger Rail Investment and Improvement Act of 2008 (Public Law 110–432, 122 Stat. 4918) is amended by striking ''within 1 year after the Board's determination'' and inserting ''by the first day of the first fiscal year beginning at least 1 year after the Board's determination''.

# TITLE IX—HAZARDOUS MATERIAL TRANSPORTATION

**SEC. 9001. SHORT TITLE.**

This title may be cited as the ''Hazardous Material Transportation Safety, Efficiency, and Accountability Act of 2012''.

**SEC. 9002. AMENDMENT OF TITLE 49, UNITED STATES CODE.**

Except as otherwise provided, whenever in this Act 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. 9003. FINDINGS.**

Congress finds the following:

(1) There are annually 2.2 billion tons of hazardous material shipments by all modes across the United States totaling more than $1.4 trillion.

(2) The number of fatalities and serious injuries caused by the transportation of hazardous material has been historically low, averaging 4.2 fatalities per 100 million shipments – meaning an American is about 4 times more likely to be killed by lightning than a hazardous material in transportation. In fiscal year 2010, there was the lowest number of hazardous material incidents on record.

(3) It is critical to the economic health of the Nation that the laws and regulations governing the transportation of hazardous material maintain a high level of safety, while balancing the need for economic growth, innovation, competitiveness, and job creation.

(4) The individuals involved in the transportation stream and the public benefit from a regulatory regime that is certain, uniform, cost-efficient, and science-based.

(5) Because of the potential risks to life, property, and the environment posed by an unintentional release of hazardous material, consistency and uniformity in laws and regulation regarding the transportation of hazardous material is necessary and desirable.

**SEC. 9004. PURPOSES.**

Section 5101 is amended by striking ''that are inherent''.

**SEC. 9005. DEFINITIONS.**

(a) HAZMAT EMPLOYER.—Section 5102(4)(A)(i)(I) is amended by striking ''or uses''.

(b) TRANSPORTS.—Section 5102(13) is amended to read as follows:

''(13) 'transports' or 'transportation'—

''(A) means the movement of property and loading, unloading, handling, or storage incidental to the movement;

''(B) includes all activities related to—

''(i) loading or unloading packaged or containerized hazardous material, such as

portable tanks, cylinders, and intermediate bulk containers, onto a transport vehicle, rail car, aircraft, or vessel at its origin, during en route movement, or at its destination; or

''(ii) loading or unloading a hazardous material into or from a bulk packaging with a capacity greater than 3,000 liters, such as a portable tank, cargo tank, or rail tank car, at its origin, during en route movement, or at its destination; and

''(C) includes storage of a hazardous material from the time the hazardous material is loaded for purposes of movement until the hazardous material is unloaded at its destination, including during en route movement.''.

**SEC. 9006. GENERAL REGULATORY AUTHORITY.**

(a) REGULATIONS FOR SAFE TRANSPORTATION.—Section 5103(b)(1)(A) is amended—

(1) in clause (vi) by striking ''or'' at the end;

(2) by redesignating clause (vii) as clause (viii);

(3) by inserting after clause (vi) the following:

''(vii) provides hazardous material transportation emergency response information services required or governed by

regulations prescribed under this chapter; or''; and

(4) in clause (viii) (as redesignated by paragraph (2) of this section) by striking ''(vi); and'' and inserting ''(vii);''.

(b) FITNESS DETERMINATIONS.—

(1) IN GENERAL.—Section 5103(b)(1) is amended—

(A) in subparagraph (B) by striking the period at the end and inserting ''; and''; and

(B) by adding at the end the following:

''(C) shall govern the procedures and criteria used by the Secretary for determining the fitness of a person applying for an approval under the regulations.''.

(2) REGULATION REQUIRED.—In accordance with section 5103(b)(2) of title 49, United States Code, not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall take all actions necessary to finalize a regulation pursuant to section 5103(b)(1)(C) of such title.

(c) IMPROVING REGULATIONS AND REGULATORY REVIEW.—

(1) IN GENERAL.—Section 5103(b) is amended by adding at the end the following:

1 ''(3) Before any final regulation within the jurisdic-
2 tion of the Secretary is issued, the Secretary shall make
3 all preliminary and final determinations based on evidence
4 and consider, in addition to other applicable consider-
5 ations, the following:

6 ''(A) The legal authority under which a rule
7 may be proposed, including whether a rulemaking is
8 required by statute, and if so, whether by a specific
9 date, or whether the agency has discretion to com-
10 mence a rulemaking.

11 ''(B) Other statutory considerations applicable
12 to whether the agency can or should propose a rule
13 or undertake other agency action.

14 ''(C) The specific nature and significance of the
15 problem the agency may address with a rule (includ-
16 ing the degree and nature of risks the problem poses
17 and the priority of addressing those risks compared
18 to other matters or activities within the agency's ju-
19 risdiction), whether the problem warrants new agen-
20 cy action, and the countervailing risks that may be
21 posed by alternatives for new agency action.

22 ''(D) Whether existing rules have created or
23 contributed to the problem the agency may address
24 with a rule and whether those rules could be amend-

ed or rescinded to address the problem in whole or part.

''(E) The best reasonably obtainable scientific, technical, and other information related to the need for, and consequences of, the rule.

''(F) The potential costs and benefits, including direct, indirect, and cumulative costs and benefits and estimated impacts on jobs, economic growth, innovation, and economic competitiveness.

''(G) Means to increase the cost-effectiveness of any Federal response.

''(H) Incentives for innovation, consistency, predictability, lower costs of enforcement and compliance (to government entities, regulated entities, and the public), and flexibility.

''(I) Any reasonable alternatives for a new rule or other response identified by the agency or interested persons, including not only responses that mandate particular conduct or manners of compliance, but also—

''(i) the alternative of no Federal response;

''(ii) amending or rescinding existing rules;

''(iii) potential regional, State, local, or tribal regulatory action or other responses that could be taken in lieu of agency action; and

1 ''(iv) potential responses that—
2 ''(I) specify performance objectives
3 rather than conduct or manners of compli-
4 ance;
5 ''(II) establish economic incentives to
6 encourage desired behavior;
7 ''(III) provide information upon which
8 choices can be made by the public; or
9 ''(IV) incorporate other innovative al-
10 ternatives rather than agency actions that
11 specify conduct or manners of compliance.
12 ''(4) The Secretary shall solicit and take into consid-
13 eration public comment on the subjects described in sub-
14 paragraphs (A) through (I) of paragraph (3) before
15 issuance of a final regulation described in paragraph (3).
16 ''(5) The Secretary shall follow applicable rulemaking
17 procedures under section 553 of title 5 before issuing a
18 binding obligation applicable to recipients of Federal as-
19 sistance. In this paragraph, the term 'binding obligation'
20 means a substantive policy statement, rule, or guidance
21 document issued by the Secretary that grants rights, im-
22 poses obligations, produces significant effects on private
23 interests, or effects a significant change in existing pol-
24 icy.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) of this subsection shall apply to regulations for which the notice of proposed rulemaking is published after the date of enactment of this Act.

(d) INCORPORATION BY REFERENCE.—Section 5103(b) is further amended by adding after paragraph (5) (as added by subsection (c)(1) of this section) the following:

''(6) In considering whether to incorporate by reference any publication in prescribing regulations, the Secretary shall—

''(A) consider—

''(i) the cost of such publication;

''(ii) the broadness of its applicability;

''(iii) the cost imposed on the public in acquiring such publication; and

''(iv) other alternatives to incorporation by reference; and

''(B) either incorporate by reference the publication or use the alternative that meets the Department of Transportation's safety objectives in the most cost-effective manner.''.

**SEC. 9007. INSPECTIONS OF MOTOR VEHICLES TRANSPORTING RADIOACTIVE MATERIAL.**

Section 5105(d) is amended to read as follows:

"(d) INSPECTIONS OF MOTOR VEHICLES TRANSPORTING CERTAIN MATERIAL.—

"(1) REQUIREMENT.—The Secretary shall require by regulation that before each use of a motor vehicle to transport a highway-route-controlled quantity of radioactive material in commerce, the vehicle shall be inspected and certified as complying with this chapter and applicable United States motor carrier safety laws and regulations.

"(2) TYPE OF INSPECTOR.—In carrying out paragraph (1), the Secretary may—

"(A) require that the inspection be carried out by an authorized United States Government inspector or according to appropriate State procedures; or

"(B) allow a person, transporting or causing to be transported a highway-route-controlled quantity of radioactive material, to inspect the motor vehicle used to transport the material and to certify that the vehicle complies with this chapter.

"(3) QUALIFICATION REQUIREMENTS.—An individual conducting an inspection under paragraph

(2)(B) shall be in compliance with the inspector qualification requirements the Secretary prescribes for an individual inspecting a motor vehicle.

''(4) PREEMPTION.—Each State that a motor vehicle transporting a highway-route-controlled quantity of radioactive material in commerce enters shall recognize the inspection and certification required by paragraph (1) and may not require a new inspection at an equivalent level and certification except as provided in paragraph (5).

''(5) CHANGED CONDITION.—If an en route change to the condition of the cargo, the driver, the motor vehicle, or the operation of the motor vehicle invalidates the certification under paragraph (1), the State where such change is discovered may require a new inspection and certification under such paragraph.''.

**SEC. 9008. HAZMAT EMPLOYEE TRAINING REQUIREMENTS AND GRANTS.**

(a) TRAINING GRANTS.—Section 5107 is amended—

(1) by striking subsections (e) and (h); and

(2) by redesignating subsections (f) and (g) as subsections (e) and (f), respectively.

(b) SAFE LOADING, UNLOADING, AND HANDLING.—Section 5107(f)(2), as redesignated by subsection (a)(2) of this section, is amended by striking ''and section 5106''.

**SEC. 9009. FEES.**

Section 5108(g)(2) is amended—

(1) in subparagraph (A)—

(A) in the matter before clause (i) by striking ''be at least $250 but not more than'' and inserting ''not exceed''; and

(B) in clause (viii) by striking ''sections 5108(g)(2), 5115,'' and inserting ''this paragraph and sections 5115''; and

(2) by adding at the end the following:

''(D) In establishing and collecting a fee under subparagraph (A), the Secretary may not consider whether a person has or is likely to apply for a special permit or approval, nor is the Secretary authorized to establish a separate fee in order to apply for or receive a special permit or approval.''.

**SEC. 9010. MOTOR CARRIER SAFETY PERMITS.**

(a) APPLICABLE TRANSPORTATION.—Section 5109(b)(1) is amended by striking ''class A or B'' and inserting ''division 1.1, 1.2, or 1.3''.

(b) OFFEROR RESPONSIBILITY.—The heading for subsection (f) of section 5109 is amended by striking ''SHIPPER'' and inserting ''OFFEROR''.

(c) TECHNICAL AMENDMENT.—Section 5109 is amended by striking subsection (h).

(d) PROGRAM REVIEW AND REPORT.—

(1) PROGRAM REVIEW.—

(A) IN GENERAL.—Not later than 9 months after the date of enactment of this Act, the Secretary of Transportation shall conduct a proceeding, using notice and comment procedures in accordance with section 553 of title 5, United States Code, to examine the implementation of the hazardous material safety permit program established by section 5109 of title 49 of such Code, including—

(i) safety concerns related to former permit holders that have re-applied for a permit after being out of the program for a year or longer; and

(ii) fairness of the program for carriers whose total number of inspections over the course of the fiscal year cycle may create a disadvantage.

(B) CONSULTATION.—In carrying out subparagraph (A), the Secretary shall consult with motor carriers, persons offering hazardous material for transportation in commerce, the Commercial Vehicle Safety Alliance, and others that have direct experience with the implementation of the program.

(2) REPORT.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the implementation of the hazardous material safety permit program established by section 5109 of title 49, United States Code.

(B) CONTENTS.—The report shall include—

(i) an identification of the number of permits that have been issued, denied, revoked, or suspended for each registration cycle since the inception of the program by

the type of covered hazardous material transported;

(ii) an explanation of the reason for each denial, revocation, and suspension, including administrative denials, revocations, and suspensions;

(iii) a record and analysis of the types of implementation issues identified in the proceeding under paragraph (1)(A); and

(iv) a description of the Secretary's actions—

(I) to simplify the permit application process;

(II) to minimize the number of administrative denials, revocations, and suspensions;

(III) to address the issues identified under clause (iii); and

(IV) to ensure a consistent standard of safety fitness that does not fluctuate over time.

(e) REGULATION.—Not later than 2 years after the date of enactment of this Act, the Secretary of Transportation shall take such actions as are necessary to ensure that regulations prescribed to carry out the program under

section 5109 of title 49, United States Code, ensure a consistent standard of safety fitness that does not fluctuate over time and address issues identified in the proceeding in subsection (d)(1)(A).

**SEC. 9011. PLANNING AND TRAINING GRANTS, MONITORING, AND REVIEW.**

(a) TRAINING GRANTS.—Section 5116(b)(4) is amended—

(1) in the matter preceding subparagraph (A)—

(A) by inserting ''and subsection (a)'' after ''this subsection''; and

(B) by inserting ''planning and'' after ''emergency response''; and

(2) in subparagraph (E) by inserting ''and subsection (a)'' before the period at the end.

(b) COMPLIANCE WITH CERTAIN LAWS.—Section 5116(c) is amended to read as follows:

''(c) COMPLIANCE WITH CERTAIN LAW.—The Secretary may make a grant to a State or Indian tribe under this section in a fiscal year only if—

''(1) the State certifies that the State complies with sections 301 and 303 of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11001, 11003); and

"(2) the State or Indian tribe certifies to the Secretary that such State or Indian tribe is in compliance with section 5125(f).".

(c) SUPPLEMENTAL TRAINING GRANTS.—Section 5116(j) is amended—

(1) in paragraph (1) by striking "funds," and all that follows through "fighting fires for" and inserting "funds and through a competitive process, make grants to national nonprofit fire service organizations for";

(2) in paragraph (3)(A) by striking "train" and inserting "provide portable training for"; and

(3) in paragraph (4)—

(A) by striking "train" and inserting "provide portable training for"; and

(B) by inserting after "training courses shall" the following: "comply with national consensus standards for hazardous material response and".

(d) REPORTS.—Section 5116(k) is amended—

(1) in the first sentence by striking "planning grants" and all that follows through "and under section 5107" and inserting "grants allocated under subsections (a), (b), and (j)";

(2) in the second sentence—

(A) by inserting ''planning and'' before ''training grants''; and

(B) by inserting ''planning and'' before ''training programs''.''.

**SEC. 9012. SPECIAL PERMITS AND EXCLUSIONS.**

Section 5117 is amended—

(1) in subsection (a)—

(A) by striking ''(a) AUTHORITY TO ISSUE SPECIAL PERMITS.—(1) As provided under procedures prescribed by regulation,'' and inserting the following:

''(a) AUTHORITY TO ISSUE SPECIAL PERMITS.—

''(1) IN GENERAL.—As provided under procedures and criteria prescribed by regulation in accordance with section 553 of title 5, United States Code,'';

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

''(2) REQUIREMENTS.—The Secretary shall ensure that the procedures and criteria prescribed under paragraph (1) provide adequate consistency, predictability, and transparency in making the determinations to issue, modify, or terminate a special permit.''; and

(C) by striking ''(2) A special permit'' and inserting the following:

''(3) EFFECTIVE PERIOD.—A special permit''; and

(2) by adding at the end the following:

''(f) LIMITATION ON DENIAL.—The Secretary may not deny an application for a modification or renewal of a special permit or an application for party status to an existing special permit for the sole reason that the applicant has a hazardous material out-of-service percentage of greater than the national average, according to the safety and fitness records maintained by the Federal Motor Carrier Safety Administration.

''(g) INCORPORATION INTO REGULATION.—

''(1) IN GENERAL.—Not later than 1 year after the date on which a special permit has been in continuous effect for a 6-year period, the Secretary shall develop and implement a rulemaking pursuant to section 5103 to incorporate the special permit into regulation if the special permit—

''(A) concerns a matter of general applicability;

''(B) has future effect; and

''(C) is consistent with hazardous material safety.

"(2) INTENT.—Nothing in paragraph (1) limits the Secretary from incorporating a special permit into regulation at any time before the deadline set by paragraph (1).

"(3) OLDER SPECIAL PERMITS.—Not later than 3 years after the date of enactment of this subsection, the Secretary shall finalize a rulemaking pursuant to section 5103 to incorporate into regulation any special permit that concerns a matter of general applicability, has future effect, is consistent with hazardous material safety, and has been in continuous effect for more than a 6-year period as of the date of enactment of this subsection.".

**SEC. 9013. HAZARDOUS MATERIAL UNIFORM MOTOR CARRIER PERMIT PROGRAM.**

Section 5119 is amended by striking subsection (a) and all that follows and inserting the following:

"(a) UNIFORM MOTOR CARRIER PERMIT PROGRAM DEFINED.—In this section, the term 'Uniform Motor Carrier Permit Program' means the State-based, reciprocal program of uniform forms and procedures for registering and permitting persons who transport hazardous material by motor vehicle developed and recommended by the Alliance for Uniform Hazmat Transportation Procedures, in-

1 cluding any superseding amendments or revisions adopted
2 by the Secretary pursuant to subsection (b).
3 ''(b) REGULATIONS.—
4 ''(1) IN GENERAL.—Not later than 1 year after
5 the date of enactment of the Hazardous Material
6 Transportation Safety, Efficiency, and Account-
7 ability Act of 2012, the Secretary shall issue regula-
8 tions to implement the Uniform Motor Carrier Per-
9 mit Program.
10 ''(2) REVISIONS.—The Secretary may modify
11 the regulations issued under paragraph (1) only as
12 necessary to promote safety, efficiency, and uni-
13 formity.
14 ''(c) FINANCIAL AND TECHNICAL ASSISTANCE AND
15 SUPPORT.—
16 ''(1) IN GENERAL.—The Secretary may provide
17 planning and transition assistance to States to facili-
18 tate the adoption of the Uniform Motor Carrier Per-
19 mit Program.
20 ''(2) USE OF FUNDS.—A State shall use assist-
21 ance awarded under this subsection only to transi-
22 tion existing State registration and permitting pro-
23 grams to the Uniform Motor Carrier Permit Pro-
24 gram.

"(3) TERMINATION OF AUTHORITY.—The authority to provide assistance to States under this subsection shall terminate 6 years after the date of enactment of the Hazardous Material Transportation Safety, Efficiency, and Accountability Act of 2012.

"(d) COOPERATIVE AGREEMENT.—The Secretary may enter into a cooperative agreement for outreach, data management, and other centralized functions supporting implementation of the Uniform Motor Carrier Permit Program.

"(e) RELATED EXPENSES.—For purposes of section 5125(f)(1), a fee used for a purpose related to transporting hazardous material may include the costs incurred in implementing and administering the Uniform Motor Carrier Permit Program, including the costs of establishing or modifying forms, procedures, and systems.

"(f) TRANSITION OF STATE PROGRAMS.—Not later than 6 years after the date of enactment of the Hazardous Material Transportation Safety, Efficiency, and Accountability Act of 2012, a State may enforce registration and permitting requirements for motor carriers that transport hazardous material in commerce only in accordance with the Uniform Motor Carrier Permit Program.

"(g) LIMITATION.—Nothing in this section shall define or limit the amount of a fee a State may impose or collect for registration and permitting.".

**SEC. 9014. INTERNATIONAL UNIFORMITY OF STANDARDS AND REQUIREMENTS.**

Section 5120 is amended—

(1) in subsection (a) by striking "State, the Secretary of Transportation shall participate" and inserting "State and the Secretary of Transportation, the Administrator of the Pipelines and Hazardous Materials Safety Administration, or the Administrator's designee, shall represent the United States and serve as the United States competent authority"; and

(2) in subsection (b)—

(A) by striking "The Secretary" and inserting "The Administrator"; and

(B) by striking "sections 5103(b), 5104, 5110, and 5112 of this title" and inserting "this chapter".

**SEC. 9015. INVESTIGATIONS.**

(a) INSPECTIONS AND INVESTIGATIONS.—Section 5121(c)(1) is amended—

(1) in subparagraph (B) by striking "may contain a hazardous material;" and inserting "may con-

tain an undeclared hazardous material and such activity takes place at a properly equipped facility designated by the Secretary for this purpose;'';

(2) in subparagraph (C), in the matter preceding clause (i), by striking ''or related packages'' and inserting ''suspected of containing undeclared hazardous material'';

(3) in subparagraph (E) by striking ''may order'' and all that follows through ''; and'' and inserting ''may order the offeror, after giving notice to the carrier, to have the package transported to, opened, and the contents examined and analyzed at a properly equipped facility designated by the Secretary for this purpose;'';

(4) in subparagraph (F) by striking the period at the end and inserting ''; and''; and

(5) by adding at the end the following:

''(G) shall provide contemporaneous notice to the affected offeror and carrier of its decision to exercise its authority under subparagraphs (B), (C), (D), or (E).''.

(b) REGULATIONS.—

(1) IN GENERAL.—Section 5121(e) is amended to read as follows:

"(e) REGULATIONS.—To carry out subsections (c) and (d), the Secretary shall issue regulations in accordance with section 553 of title 5 that address, at a minimum, the following:

"(1) Avoidance of delay in the transportation of time-sensitive materials, such as medical products, perishables, and other packages that are not the subject of the inspection.

"(2) Appropriate training and equipment for inspectors.

"(3) Restoration of the properly certified status of the inspected package before resumption of transportation of that package.

"(4) Consideration of the costs and damages that might occur as a result of an inspection.".

(2) REGULATION REQUIRED.—In accordance with section 5103(b)(2) of title 49, United States Code, not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall take all actions necessary to finalize a regulation pursuant to section 5121(e) of such title.

**SEC. 9016. BUILDING PARTNERSHIPS FOR IMPROVED SAFETY AND SYSTEM PERFORMANCE.**

Section 5121(g) is amended—

(1) in paragraph (3) by striking ''or'' after the semicolon;

(2) by redesignating paragraph (4) as paragraph (5); and

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

''(4) to work with State enforcement personnel with information and training relating to the uniform enforcement of the regulations governing the transportation of hazardous material; or''.

**SEC. 9017. SAFETY REPORTING.**

Section 5121(h) is amended—

(1) in the heading by inserting ''BIENNIAL'' before ''REPORT'';

(2) in the matter before paragraph (1) by striking ''materials during'' and inserting ''material in all modes of transportation during'';

(3) by redesignating paragraphs (2) through (6) as paragraphs (3) through (7), respectively;

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

''(2) a summary of the hazardous material transported during the period covered by the report, set forth by the type and quantity of hazardous material and by mode;'';

(5) in paragraph (4), as redesignated by paragraph (3) of this section, by striking ''permit'' and inserting ''permit issued'';

(6) in paragraph (5), as redesignated by paragraph (3) of this section, by striking ''activities'' and inserting ''activities, including activities conducted under subsections (c) and (d),''; and

(7) in paragraph (7), as redesignated by paragraph (3) of this section, by striking ''appropriate legislation'' and inserting ''legislative action that the Secretary considers appropriate''.

**SEC. 9018. CIVIL PENALTIES.**

(a) PENALTY.—Section 5123(a) is amended—

(1) in paragraph (1) by striking ''at least $250 but'';

(2) by striking paragraph (3) and redesignating paragraph (4) as paragraph (3); and

(3) by adding at the end the following:

''(4) A carrier shall not be liable for violations of this chapter, or a regulation issued under this chapter, stemming from pre-transportation functions, as defined in section 171.1 of title 49, Code of Federal Regulations, that are performed by another person unless the carrier has actual knowledge of a violation.''.

(b) PENALTY FOR FAILURE TO MAINTAIN RECORDS, REPORTS, AND INFORMATION.—Section 5123 is amended by adding at the end the following:

''(h) PENALTY FOR FAILURE TO MAINTAIN RECORDS, REPORTS, AND INFORMATION.—The Secretary may impose a penalty on a person who fails to comply with section 5121(b).''.

**SEC. 9019. PREEMPTION.**

(a) BURDEN ON COMMERCE.—Section 5125(a) is amended—

(1) in paragraph (1) by striking ''or'' after the semicolon;

(2) in paragraph (2) by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(3) the requirement of the State, political subdivision, or Indian tribe, as applied or enforced, is an unreasonable burden on commerce.''.

(b) SUBSTANTIVE DIFFERENCES.—Section 5125(b)(1)(D) is amended by striking ''written''.

(c) ROUTE REGISTRY.—Section 5125(c)(1) is amended by striking the period at the end and inserting ''and is published in the Department's hazardous material route registry under section 5112(c).''.

(d) FEES.—Section 5125(f)(2) is amended by striking ", upon the Secretary's request," and inserting "biennially".

(e) NON-FEDERAL ENFORCEMENT STANDARDS.—Section 5125 is amended by striking subsection (h).

(f) CONFORMING CHANGE.—Section 5125 is further amended—

(1) in subsections (d)(1) and (e) by striking "or section 5119(f)"; and

(2) in subsection (g) by striking ", and in section 5119(f),".

**SEC. 9020. AUTHORIZATION OF APPROPRIATIONS.**

Section 5128 is amended to read as follows:

**"§ 5128. Authorization of appropriations**

"(a) IN GENERAL.—In order to carry out this chapter (except sections 5108(g)(2), 5113, 5115, 5116, and 5119), there are authorized to be appropriated to the Secretary $39,000,000 for each of fiscal years 2012 through 2016.

"(b) HAZARDOUS MATERIAL EMERGENCY PREPAREDNESS FUND.—For each of the fiscal years 2012 through 2016, there shall be available to the Secretary, from the account established pursuant to section 5116(i), the following:

"(1) To carry out section 5115, $188,000.

1 ''(2) To carry out subsections (a) and (b) of
2 section 5116, $21,800,000.
3 ''(3) To carry out section 5116(f), $150,000.
4 ''(4) To publish and distribute the Emergency
5 Response Guidebook under section 5116(j)(3),
6 $625,000.
7 ''(5) To carry out section 5116(j), $1,000,000.
8 ''(c) ISSUANCE OF HAZMAT LICENSES.—There are
9 authorized to be appropriated to the Secretary such
10 amounts as may be necessary to carry out section 5103a.
11 ''(d) CREDITS TO APPROPRIATIONS.—The Secretary
12 may credit to any appropriation to carry out this chapter
13 an amount received from a State, Indian tribe, or other
14 public authority or private entity for expenses the Sec-
15 retary incurs in providing training to the State, tribe, au-
16 thority, or entity.
17 ''(e) UNIFORM FORMS AND PROCEDURES.—There
18 are authorized to be appropriated to the Secretary
19 $1,000,000 to carry out section 5119. This amount shall
20 remain available to be expended by the Secretary for the
21 6-year period that begins on the date of enactment of this
22 section.
23 ''(f) AVAILABILITY OF AMOUNTS.—Amounts made
24 available by or under this section, except for the amount

under subsection (e), shall remain available until expended.''.

**SEC. 9021. ELECTRONIC SHIPPING PAPERS PILOT PROGRAM.**

(a) IN GENERAL.—The Secretary of Transportation shall establish pilot projects, at least one of which shall be in a rural area, to evaluate the feasibility and cost effectiveness of electronic shipping paper systems that facilitate the exchange of shipping paper information between offerors of hazardous material under chapter 51 of title 49, United States Code, carriers, and emergency responders.

(b) REPORT.—

(1) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the pilot projects carried out under this section.

(2) CONTENTS.—The report shall contain, at a minimum—

(A) an evaluation of each pilot project, including an evaluation of the impacts on safety and the performance of each system evaluated

under that project and a cost-benefit analysis for each mode of transportation; and

(B) based on the results of the cost-benefit analyses, a recommendation on whether electronic shipping papers systems described in subsection (a) should be incorporated into the Federal hazardous material safety program under chapter 51 of title 49, United States Code, on a permanent basis.

**SEC. 9022. WETLINES.**

(a) STUDY.—

(1) IN GENERAL.—The Secretary of Transportation shall enter into an arrangement with an objective non-profit organization to conduct a peer-reviewed study of the transportation of flammable liquids in the external product piping of cargo tank motor vehicles (commonly referred to as ''wetlines'').

(2) CONTENTS.—The study shall—

(A) accurately quantify the number of wetlines incidents over a 10-year period;

(B) identify various alternatives to loading and transporting flammable liquids in cargo tank wetlines;

(C) examine the costs and benefits of each alternative; and

(D) identify existing obstacles to implementing each alternative.

(3) TRANSMITTAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a copy of the study.

(b) REGULATORY RESTRICTION.—The Secretary may not issue a final rule regulating the transportation of flammable liquids in the external product piping of cargo tank motor vehicles.

**SEC. 9023. PRODUCT STUDY.**

(a) IN GENERAL.—The Secretary shall conduct a study on whether it is necessary to continue to designate any amount or form of finished pharmaceutical, finished cosmetic, or similar product containing ethyl alcohol as a hazardous material under section 5103(a) of title 49, United States Code.

(b) CONTENTS.—The study conducted under subsection (a) shall include, at a minimum—

(1) an evaluation of the history, severity, and costs of any incidents in transporting such products;

(2) an evaluation of the risk posed by such products in commercial packaging in current use in

1 transportation and the risk associated in trans-
2 porting the products without any specific packaging
3 required by any applicable special permit or regula-
4 tion;

5 (3) the costs to the industry of designating the
6 products as hazardous material, including the cost of
7 regulation, as compared with the costs of incidents
8 that have occurred or are probable with regard to
9 the products; and

10 (4) a summary of comments from industry
11 stakeholders and the public on whether there is a
12 need for continued designation of such products as
13 hazardous material.

14 (c) TRANSMITTAL.—Not later than 1 year after the
15 date of enactment of this Act, the Secretary shall transmit
16 to the Committee on Transportation and Infrastructure
17 of the House of Representatives and the Committee on
18 Commerce, Science, and Transportation of the Senate a
19 report on the results of the study conducted under sub-
20 section (a) and any proposed actions to be taken by the
21 Secretary resulting from the study.

# TITLE X—WATERBORNE TRANSPORTATION

## SEC. 10001. SENSE OF CONGRESS ON HARBOR MAINTENANCE.

(a) FINDINGS.—Congress finds the following:

(1) There are 926 ports served by federally maintained channels which handle more than 2.2 billion tons of cargo annually, and this figure is expected to increase.

(2) More than $1.1 trillion in foreign commerce enters the United States through the Nation's ports annually, and this figure is expected to increase.

(3) Expansion of the Panama Canal system in Central America will likely be completed in 2014, and this will present opportunities and challenges for the Nation's economic well-being.

(4) Insufficient maintenance dredging of the Nation's navigation channels results in inefficient water transportation and harmful economic consequences.

(5) In 1986, Congress created the Harbor Maintenance Trust Fund to provide funds for the operation and maintenance of the Nation's navigation channels.

(6) The fiscal year 2011, Harbor Maintenance Trust Fund equity grew by 13.7 percent from fiscal year 2010 (to $6.42 billion) and total annual receipts increased 17.3 percent (to $1.6 billion).

(7) Despite growth of the Harbor Maintenance Trust Fund, expenditures from the Harbor Maintenance Trust Fund continue to decline.

(8) Despite growth of the Harbor Maintenance Trust Fund, federally maintained channels are only at their authorized widths or depths 35 percent of the time, thereby restricting access to the Nation's ports for both imports and exports.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Harbor Maintenance Trust Fund is not being used for its intended purpose and charging maritime commerce a harbor maintenance tax while failing to provide the service for which it was established is unfair and places the Nation at economic risk;

(2) the Administration should request full use of the Harbor Maintenance Trust Fund for operating and maintaining the Nation's navigation system; and

(3) Congress should fully expend the amounts in the Harbor Maintenance Trust Fund to operate and maintain the Nation's navigation system.

# TITLE XI—REAUTHORIZATION AND AMENDMENTS TO THE SPORT FISH RESTORATION AND BOATING TRUST FUND

**SEC. 11001. SHORT TITLE.**

This title may be cited as the "Sportfishing and Recreational Boating Safety Act of 2012".

**SEC. 11002. REAUTHORIZATION AND AMENDMENTS TO THE SPORT FISH RESTORATION AND BOATING TRUST FUND.**

(a) DINGELL-JOHNSON SPORT FISH RESTORATION ACT.—Section 4 of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777c) is amended—

(1) in subsection (a) in the matter preceding paragraph (1), by striking "For each of" and all that follows through "the balance of each annual" and inserting "For each fiscal year through fiscal year 2016, the balance of each annual";

(2) in subsection (b)(1)(A), by striking "From the annual" and all that follows through "the Secretary" and inserting "From the annual appropriation made in accordance with section 3 for each fis-

cal year through fiscal year 2016, the Secretary''; and

(3) in subsection (b)(1)(B)—

(A) by striking ''The available amount'' and all that follows through ''the sum of—'' and inserting ''The available amount referred to in subparagraph (A) is, for each fiscal year, the sum of—''; and

(B) by redesignating subitems (aa) and (bb) as clauses (i) and (ii), and moving them 4 ems to the left.

(b) EXTENSION OF EXPENDITURE AUTHORITY FROM THE SPORT FISH RESTORATION AND BOATING TRUST FUND.—Section 9504 of the Internal Revenue Code of 1986 is amended—

(1) in subsection (b)(2), by striking ''(as in effect on'' each place it appears and all that follows through the next closed parenthesis and inserting ''(as in effect on the date of enactment of the Sportfishing and Recreational Boating Safety Act of 2012)'', and

(2) in subsection (d)(2), by striking ''before'' and all that follows through ''in accordance'' and inserting ''before October 1, 2016, in accordance''.

(c) AUTHORIZATION OF APPROPRIATIONS.—Chapter 131 of title 46, United States Code, is amended—

(1) in section 13107(a)(2), by striking ''two'' and inserting ''1.5''; and

(2) in section 13107(c), by striking so much as precedes paragraph (2) and inserting the following:

''(c)(1) Of the amount transferred to the Secretary under section 4(a)(2) of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777c(a)(2))—

''(A) $6,000,000 is available to the Secretary for the payment of expenses of the Coast Guard for personnel and activities directly related to coordinating and carrying out the national recreational boating safety program under this title, of which not less than $2,000,000 shall be available to the Secretary only to ensure compliance with chapter 43 of this title; and

''(B) $100,000 is available to fund the activities of the National Boating Safety Advisory Council established under this chapter.''.

# TITLE XII—EXTENSION OF SURFACE TRANSPORTATION PROGRAMS

**SEC. 12001. SHORT TITLE; EFFECTIVE DATE.**

(a) SHORT TITLE.—This title may be cited as the ''Surface Transportation Extension Act of 2012''.

(b) EFFECTIVE DATE.—The amendments made by this title take effect on April 1, 2012.

## Subtitle A—Federal-Aid Highways

**SEC. 12101. EXTENSION OF FEDERAL-AID HIGHWAY PROGRAMS.**

(a) IN GENERAL.—Section 111 of the Surface Transportation Extension Act of 2011, Part II (Public Law 112–30; 125 Stat. 343) is amended—

(1) by striking ''the period beginning on October 1, 2011, and ending on March 31, 2012,'' each place it appears and inserting ''fiscal year 2012'';

(2) by striking ''½ of'' each place it appears; and

(3) in subsection (a) by striking ''March 31, 2012'' and inserting ''September 30, 2012''.

(b) USE OF FUNDS.—Section 111(c) of the Surface Transportation Extension Act of 2011, Part II (125 Stat. 343) is amended—

(1) in paragraph (3)—

(A) in subparagraph (A) by striking ", except that during such period" and all that follows before the period at the end; and

(B) in subparagraph (B)(ii) by striking "$319,500,000" and inserting "$639,000,000"; and

(2) by striking paragraph (4).

(c) EXTENSION OF AUTHORIZATIONS UNDER TITLE V OF SAFETEA–LU.—Section 111(e)(2) of the Surface Transportation Extension Act of 2011, Part II (125 Stat. 343) is amended by striking "the period beginning on October 1, 2011, and ending on March 31, 2012." and inserting "fiscal year 2012.".

(d) ADMINISTRATIVE EXPENSES.—Section 112(a) of the Surface Transportation Extension Act of 2011, Part II (125 Stat. 346) is amended by striking "$196,427,625 for the period beginning on October 1, 2011, and ending on March 31, 2012." and inserting "$392,855,250 for fiscal year 2012.".

# Subtitle B—Extension of Highway Safety Programs

**SEC. 12201. EXTENSION OF NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION HIGHWAY SAFETY PROGRAMS.**

(a) CHAPTER 4 HIGHWAY SAFETY PROGRAMS.—Section 2001(a)(1) of SAFETEA–LU (119 Stat. 1519) is amended by striking ''$235,000,000 for fiscal year 2009'' and all that follows through the period at the end and inserting ''and $235,000,000 for each of fiscal years 2009 through 2012.''.

(b) HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.—Section 2001(a)(2) of SAFETEA–LU (119 Stat. 1519) is amended by striking ''$108,244,000 for fiscal year 2011'' and all that follows through the period at the end and inserting ''and $108,244,000 for each of fiscal years 2011 and 2012.''.

(c) OCCUPANT PROTECTION INCENTIVE GRANTS.—Section 2001(a)(3) of SAFETEA–LU (119 Stat. 1519) is amended by striking '', $25,000,000 for fiscal year 2006'' and all that follows through the period at the end and inserting ''and $25,000,000 for each of fiscal years 2006 through 2012.''.

(d) SAFETY BELT PERFORMANCE GRANTS.—Section 2001(a)(4) of SAFETEA–LU (119 Stat. 1519) is amend-

ed by striking ''and $24,250,000 for the period beginning on October 1, 2011, and ending on March 31, 2012.'' and inserting ''and $48,500,000 for fiscal year 2012.''.

(e) STATE TRAFFIC SAFETY INFORMATION SYSTEM IMPROVEMENTS.—Section 2001(a)(5) of SAFETEA–LU (119 Stat. 1519) is amended by striking ''for fiscal year 2006'' and all that follows through the period at the end and inserting ''for each of fiscal years 2006 through 2012.''.

(f) ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES INCENTIVE GRANT PROGRAM.—Section 2001(a)(6) of SAFETEA–LU (119 Stat. 1519) is amended by striking ''$139,000,000 for fiscal year 2009'' and all that follows through the period at the end and inserting ''and $139,000,000 for each of fiscal years fiscal years 2009 through 2012.''.

(g) NATIONAL DRIVER REGISTER.—Section 2001(a)(7) of SAFETEA–LU (119 Stat. 1520) is amended by striking ''and $2,058,000 for the period beginning on October 1, 2011, and ending on March 31, 2012.'' and inserting ''and $4,000,000 for fiscal year 2012.''.

(h) HIGH VISIBILITY ENFORCEMENT PROGRAM.—Section 2001(a)(8) of SAFETEA–LU (119 Stat. 1520) is amended by striking ''for fiscal year 2006'' and all that

follows through the period at the end and inserting ''for each of fiscal years 2006 through 2012.''.

(i) MOTORCYCLIST SAFETY.—Section 2001(a)(9) of SAFETEA–LU (119 Stat. 1520) is amended by striking ''$7,000,000 for fiscal year 2009'' and all that follows through the period at the end and inserting ''and $7,000,000 for each of fiscal years 2009 through 2012.''.

(j) CHILD SAFETY AND CHILD BOOSTER SEAT SAFETY INCENTIVE GRANTS.—Section 2001(a)(10) of SAFETEA–LU (119 Stat. 1520) is amended by striking ''$7,000,000 for fiscal year 2009'' and all that follows through the period at the end and inserting ''and $7,000,000 for each of fiscal years 2009 through 2012.''.

(k) ADMINISTRATIVE EXPENSES.—Section 2001(a)(11) of SAFETEA–LU (119 Stat. 1520) is amended by striking ''$25,328,000 for fiscal year 2011'' and all that follows through the period at the end and inserting ''and $25,328,000 for each of fiscal years 2011 and 2012.''.

**SEC. 12202. EXTENSION OF FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION PROGRAMS.**

(a) MOTOR CARRIER SAFETY GRANTS.—Section 31104(a)(8) of title 49, United States Code, is amended to read as follows:

''(8) $212,000,000 for fiscal year 2012.''.

(b) ADMINISTRATIVE EXPENSES.—Section 31104(i)(1)(H) of title 49, United States Code, is amended to read as follows:

"(H) $244,144,000 for fiscal year 2012.".

(c) GRANT PROGRAMS.—Section 4101(c) of SAFETEA–LU (119 Stat. 1715) is amended—

(1) in paragraph (1) by striking "and $15,000,000 for the period beginning on October 1, 2011, and ending on March 31, 2012." and inserting "and $30,000,000 for fiscal year 2012.";

(2) in paragraph (2) by striking "2011 and $16,000,000 for the period beginning on October 1, 2011, and ending on March 31, 2012." and inserting "2012.";

(3) in paragraph (3) by striking "2011 and $2,500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012." and inserting "2012.";

(4) in paragraph (4) by striking "2011 and $12,500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012." and inserting "2012."; and

(5) in paragraph (5) by striking "2011 and $1,500,000 for the period beginning on October 1,

2011, and ending on March 31, 2012.'' and inserting ''2012.''.

(d) HIGH-PRIORITY ACTIVITIES.—Section 31104(k)(2) of title 49, United States Code, is amended by striking ''2011 and $7,500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,'' and inserting ''2012''.

(e) NEW ENTRANT AUDITS.—Section 31144(g)(5)(B) of title 49, United States Code, is amended by striking ''and up to $14,500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,''.

(f) OUTREACH AND EDUCATION.—Section 4127(e) of SAFETEA–LU (119 Stat. 1741) is amended by striking ''and 2011 (and $500,000 to the Federal Motor Carrier Safety Administration, and $1,500,000 to the National Highway Traffic Safety Administration, for the period beginning on October 1, 2011, and ending on March 31, 2012)'' and inserting ''2011, and 2012''.

(g) GRANT PROGRAM FOR COMMERCIAL MOTOR VEHICLE OPERATORS.—Section 4134(c) of SAFETEA–LU (119 Stat. 1744) is amended by striking ''2011 and $500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,'' and inserting ''2012''.

(h) MOTOR CARRIER SAFETY ADVISORY COMMITTEE.—Section 4144(d) of SAFETEA–LU (119 Stat. 1748) is amended by striking ''March 31, 2012'' and inserting ''September 30, 2012''.

(i) WORKING GROUP FOR DEVELOPMENT OF PRACTICES AND PROCEDURES TO ENHANCE FEDERAL-STATE RELATIONS.—Section 4213(d) of SAFETEA–LU (49 U.S.C. 14710 note; 119 Stat. 1759) is amended by striking ''March 31, 2012'' and inserting ''September 30, 2012''.

**SEC. 12203. ADDITIONAL PROGRAMS.**

(a) HAZARDOUS MATERIALS RESEARCH PROJECTS.—Section 7131(c) of SAFETEA–LU (119 Stat. 1910) is amended by striking ''2011 and $580,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,'' and inserting ''2012''.

(b) DINGELL-JOHNSON SPORT FISH RESTORATION ACT.—Section 4 of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777c) is amended—

(1) in subsection (a) by striking ''2011 and for the period beginning on October 1, 2011, and ending on March 31, 2012,'' and inserting ''2012,''; and

(2) in the first sentence of subsection (b)(1)(A) by striking ''2011 and for the period beginning on

October 1, 2011, and ending on March 31, 2012,'' and inserting ''2012,''.

# Subtitle C—Public Transportation Programs

**SEC. 12301. ALLOCATION OF FUNDS FOR PLANNING PROGRAMS.**

Section 5305(g) of title 49, United States Code, is amended by striking ''2011 and for the period beginning on October 1, 2011, and ending on March 31, 2012'' and inserting ''2012''.

**SEC. 12302. SPECIAL RULE FOR URBANIZED AREA FORMULA GRANTS.**

Section 5307(b)(2) of title 49, United States Code, is amended—

(1) by striking the paragraph heading and inserting ''SPECIAL RULE FOR FISCAL YEARS 2005 THROUGH 2012.—'';

(2) in subparagraph (A) by striking ''2011 and the period beginning on October 1, 2011, and ending on March 31, 2012,'' and inserting ''2012,'' ; and

(3) in subparagraph (E)—

(A) by striking the subparagraph heading and inserting ''MAXIMUM AMOUNTS IN FISCAL YEARS 2008 THROUGH 2012.—''; and

(B) in the matter preceding clause (i) by striking "2011 and during the period beginning on October 1, 2011, and ending on March 31, 2012" and inserting "2012".

**SEC. 12303. ALLOCATING AMOUNTS FOR CAPITAL INVESTMENT GRANTS.**

Section 5309(m) of title 49, United States Code, is amended—

(1) in paragraph (2)—

(A) by striking the paragraph heading and inserting "FISCAL YEARS 2006 THROUGH 2012.—";

(B) in the matter preceding subparagraph (A) by striking "2011 and the period beginning on October 1, 2011, and ending on March 31, 2012," and inserting "2012"; and

(C) in subparagraph (A)(i) by striking "2011 and $100,000,000 for the period beginning on October 1, 2011, and ending on March 31, 2012," and inserting "2012";

(2) in paragraph (6)—

(A) in subparagraph (B) by striking "2011 and $7,500,000 shall be available for the period beginning on October 1, 2011, and ending on March 31, 2012," and inserting "2012"; and

(B) in subparagraph (C) by striking ''2011 and $2,500,000 shall be available for the period beginning on October 1, 2011, and ending on March 31, 2012,'' and inserting ''2012''; and

(3) in paragraph (7)—

(A) in subparagraph (A)—

(i) in the matter preceding clause (i)—

(I) in the first sentence by striking ''2011 and $5,000,000 shall be available for the period beginning on October 1, 2011, and ending on March 31, 2012,'' and inserting ''2012''; and

(II) in the second sentence by inserting ''each fiscal year'' before the colon;

(ii) in clause (i) by striking ''for each fiscal year and $1,250,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,'';

(iii) in clause (ii) by striking ''for each fiscal year and $1,250,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,'';

(iv) in clause (iii) by striking ''for each fiscal year and $500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,'';

(v) in clause (iv) by striking ''for each fiscal year and $500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,'';

(vi) in clause (v) by striking ''for each fiscal year and $500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,'';

(vii) in clause (vi) by striking ''for each fiscal year and $500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,'';

(viii) in clause (vii) by striking ''for each fiscal year and $325,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,''; and

(ix) in clause (viii) by striking ''for each fiscal year and $175,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,'';

(B) in subparagraph (B) by striking clause (vii) and inserting the following:

"(vii) $13,500,000 for fiscal year 2012.";

(C) in subparagraph (C) by striking "and during the period beginning on October 1, 2011, and ending on March 31, 2012,";

(D) in subparagraph (D) by striking "and not less than $17,500,000 shall be available for the period beginning on October 1, 2011, and ending on March 31, 2012,"; and

(E) in subparagraph (E) by striking "and $1,500,000 shall be available for the period beginning on October 1, 2011, and ending on March 31, 2012,".

**SEC. 12304. APPORTIONMENT OF FORMULA GRANTS FOR OTHER THAN URBANIZED AREAS.**

Section 5311(c)(1)(G) of title 49, United States Code, is amended to read as follows:

"(G) $15,000,000 for fiscal year 2012.".

**SEC. 12305. APPORTIONMENT BASED ON FIXED GUIDEWAY FACTORS.**

Section 5337 of title 49, United States Code, is amended by striking subsection (g).

**SEC. 12306. AUTHORIZATIONS FOR PUBLIC TRANSPORTATION.**

(a) FORMULA AND BUS GRANTS.—Section 5338(b) of title 49, United States Code, is amended—

(1) in paragraph (1) by striking subparagraph (G) and inserting the following:

"(G) $8,360,565,000 for fiscal year 2012."; and

(2) in paragraph (2)—

(A) in subparagraph (A) by striking "$113,500,000 for each of fiscal years 2009 and 2010, $113,500,000 for fiscal year 2011, and $56,750,000 for the period beginning on October 1, 2011, and ending on March 31, 2012," and inserting "and $113,500,000 for each of fiscal years 2009 through 2012";

(B) in subparagraph (B) by striking "$4,160,365,000 for each of fiscal years 2009 and 2010, $4,160,365,000 for fiscal year 2011, and $2,080,182,500 for the period beginning on October 1, 2011, and ending on March 31, 2012," and inserting "and $4,160,365,000 for each of fiscal years 2009 through 2012";

(C) in subparagraph (C) by striking "$51,500,000 for each of fiscal years 2009 and 2010, $51,500,000 for fiscal year 2011, and

$25,750,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,'' and inserting ''and $51,500,000 for each of fiscal years 2009 through 2012'';

(D) in subparagraph (D) by striking ''$1,666,500,000 for each of fiscal years 2009 and 2010, $1,666,500,000 for fiscal year 2011, and $833,250,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,'' and inserting ''and $1,666,500,000 for each of fiscal years 2009 through 2012'';

(E) in subparagraph (E) by striking ''$984,000,000 for each of fiscal years 2009 and 2010, $984,000,000 for fiscal year 2011, and $492,000,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,'' and inserting ''and $984,000,000 for each of fiscal years 2009 through 2012'';

(F) in subparagraph (F) by striking ''$133,500,000 for each of fiscal years 2009 and 2010, $133,500,000 for fiscal year 2011, and $66,750,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,'' and inserting ''and $133,500,000 for each of fiscal years 2009 through 2012'';

(G) in subparagraph (G) by striking "$465,000,000 for each of fiscal years 2009 and 2010, $465,000,000 for fiscal year 2011, and $232,500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012," and inserting "and $465,000,000 for each of fiscal years 2009 through 2012";

(H) in subparagraph (H) by striking "$164,500,000 for each of fiscal years 2009 and 2010, $164,500,000 for fiscal year 2011, and $82,250,000 for the period beginning on October 1, 2011, and ending on March 31, 2012," and inserting "and $164,500,000 for each of fiscal years 2009 through 2012";

(I) in subparagraph (I) by striking "$92,500,000 for each of fiscal years 2009 and 2010, $92,500,000 for fiscal year 2011, and $46,250,000 for the period beginning on October 1, 2011, and ending on March 31, 2012," and inserting "and $92,500,000 for each of fiscal years 2009 through 2012";

(J) in subparagraph (J) by striking "$26,900,000 for each of fiscal years 2009 and 2010, $26,900,000 for fiscal year 2011, and $13,450,000 for the period beginning on Octo-

ber 1, 2011, and ending on March 31, 2012,'' and inserting ''and $26,900,000 for each of fiscal years 2009 through 2012'';

(K) in subparagraph (K) by striking ''in fiscal year 2006'' and all that follows through ''March 31, 2012,'' and inserting ''for each of fiscal years 2006 through 2012'';

(L) in subparagraph (L) by striking ''in fiscal year 2006'' and all that follows through ''March 31, 2012,'' and inserting ''for each of fiscal years 2006 through 2012'';

(M) in subparagraph (M) by striking ''$465,000,000 for each of fiscal years 2009 and 2010, $465,000,000 for fiscal year 2011, and $232,500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,'' and inserting ''and $465,000,000 for each of fiscal years 2009 through 2012''; and

(N) in subparagraph (N) by striking ''$8,800,000 for each of fiscal years 2009 and 2010, $8,800,000 for fiscal year 2011, and $4,400,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,'' and inserting ''and $8,800,000 for each of fiscal years 2009 through 2012''.

(b) CAPITAL INVESTMENT GRANTS.—Section 5338(c)(7) of title 49, United States Code, is amended to read as follows:

"(7) $1,600,000,000 for fiscal year 2012.".

(c) RESEARCH AND UNIVERSITY RESEARCH CENTERS.—Section 5338(d) of title 49, United States Code, is amended—

(1) in paragraph (1), in the matter preceding subparagraph (A), by striking "and 2010, $69,750,000 for fiscal year 2011, and $29,500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012," and inserting "through 2011 and $44,000,000 for fiscal year 2012"; and

(2) by striking paragraph (3) and inserting the following:

"(3) ADDITIONAL AUTHORIZATIONS.—

"(A) RESEARCH.—Of amounts authorized to be appropriated under paragraph (1) for fiscal year 2012, the Secretary shall allocate for each of the activities and projects described in subparagraphs (A) through (F) of paragraph (1) an amount equal to 63 percent of the amount allocated for fiscal year 2009 under each such subparagraph.

"(B) UNIVERSITY CENTERS PROGRAM.—

"(i) FISCAL YEAR 2012.—Of the amounts allocated under subparagraph (A)(i) for the university centers program under section 5506 for fiscal year 2012, the Secretary shall allocate for each program described in clauses (i) through (iii) and (v) through (viii) of paragraph (2)(A) an amount equal to 63 percent of the amount allocated for fiscal year 2009 under each such clause.

"(ii) FUNDING.—If the Secretary determines that a project or activity described in paragraph (2) received sufficient funds in fiscal year 2011, or a previous fiscal year, to carry out the purpose for which the project or activity was authorized, the Secretary may not allocate any amounts under clause (i) for the project or activity for fiscal year 2012 or any subsequent fiscal year.".

(d) ADMINISTRATION.—Section 5338(e)(7) of title 49, United States Code, is amended to read as follows:

"(7) $98,713,000 for fiscal year 2012.".

**SEC. 12307. AMENDMENTS TO SAFETEA–LU.**

(a) CONTRACTED PARATRANSIT PILOT.—Section 3009(i)(1) of SAFETEA–LU (119 Stat. 1572) is amended by striking ''2011 and the period beginning on October 1, 2011, and ending on March 31, 2012,'' and inserting ''2012,''.

(b) PUBLIC-PRIVATE PARTNERSHIP PILOT PROGRAM.—Section 3011 of SAFETEA–LU (49 U.S.C. 5309 note; 119 Stat. 1588) is amended—

(1) in subsection (c)(5) by striking ''2011 and the period beginning on October 1, 2011, and ending on March 31, 2012'' and inserting ''2012''; and

(2) in the second sentence of subsection (d) by striking ''2011 and the period beginning on October 1, 2011, and ending on March 31, 2012,'' and inserting ''2012''.

(c) ELDERLY INDIVIDUALS AND INDIVIDUALS WITH DISABILITIES PILOT PROGRAM.—Section 3012(b)(8) of SAFETEA–LU (49 U.S.C. 5310 note; 119 Stat. 1593) is amended by striking ''March 31, 2012'' and inserting ''September 30, 2012''.

(d) OBLIGATION CEILING.—Section 3040(8) of SAFETEA–LU (119 Stat. 1639) is amended to read as follows:

"(8) $10,458,278,000 for fiscal year 2012, of which not more than $8,360,565,000 shall be from the Mass Transit Account.".

(e) PROJECT AUTHORIZATIONS FOR NEW FIXED GUIDEWAY CAPITAL PROJECTS.—Section 3043 of SAFETEA–LU (119 Stat. 1640) is amended—

(1) in subsection (b), in the matter preceding paragraph (1), by striking "2011 and the period beginning on October 1, 2011, and ending on March 31, 2012," and inserting "2012"; and

(2) in subsection (c), in the matter preceding paragraph (1), by striking "2011 and the period beginning on October 1, 2011, and ending on March 31, 2012," and inserting "2012".

(f) ALLOCATIONS FOR NATIONAL RESEARCH AND TECHNOLOGY PROGRAMS.—Section 3046 of SAFETEA–LU (49 U.S.C. 5338 note; 119 Stat. 1706) is amended—

(1) in subsection (b) by striking "fiscal year or period" and inserting "fiscal year"; and

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

"(2) for fiscal year 2012, in amounts equal to 63 percent of the amounts allocated for fiscal year 2009 under each of paragraphs (2), (3), (5), and (8) through (25) of subsection (a).".