

[COMMITTEE PRINT]

111TH CONGRESS
1ST SESSION

H. R. _____

To transform Federal surface transportation to a performance-based framework to reduce fatalities and injuries on our Nation's highways, address the mobility and access needs of people and goods, improve the condition, performance, and connectivity of the United States intermodal surface transportation system, provide transportation choices for commuters and travelers, promote environmental sustainability, public health, and the livability of communities, support robust investment in surface transportation, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. OBERSTAR introduced the following bill; which was referred to the
Committee on _____

A BILL

To transform Federal surface transportation to a performance-based framework to reduce fatalities and injuries on our Nation's highways, address the mobility and access needs of people and goods, improve the condition, performance, and connectivity of the United States intermodal surface transportation system, provide transportation choices for commuters and travelers, promote environmental sustainability, public health, and the livability of communities, support robust investment in surface transportation, and for other purposes.

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

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

4 (a) **SHORT TITLE.**—The Act may be cited as the
5 “Surface Transportation Authorization Act of 2009”.

6 (b) **TABLE OF CONTENTS.**—

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

TITLE I—FEDERAL-AID HIGHWAYS

Sec. 1001. Amendments to title 23, United States Code.

Subtitle A—Programs and Funding Authorizations

- Sec. 1101. Authorization of appropriations.
- Sec. 1102. Obligation ceiling.
- Sec. 1103. Apportionment.
- Sec. 1104. Equity adjustment.
- Sec. 1105. Freight improvement program.
- Sec. 1106. Surface transportation program.
- Sec. 1107. Ferry program.
- Sec. 1108. Highway safety improvement program.
- Sec. 1109. Congestion mitigation and air quality improvement program.
- Sec. 1110. Critical asset investment program.
- Sec. 1111. Safe routes to school program.
- Sec. 1112. National scenic byways program.
- Sec. 1113. Federal and tribal lands, Puerto Rico, and territorial highway program.
- Sec. 1114. Recreational trails program.
- Sec. 1115. Nonmotorized transportation pilot program.
- Sec. 1116. Appalachian development highway system.
- Sec. 1117. Delta Region transportation development program.
- Sec. 1118. Grant program to prohibit racial profiling.
- Sec. 1119. Technical amendments.

Subtitle B—Intermodal and Organizational Innovations

- Sec. 1201. Intermodalism.
- Sec. 1202. Office of Expedited Project Delivery.
- Sec. 1203. Office of Livability.
- Sec. 1204. Office of Public Benefit.
- Sec. 1205. Metropolitan mobility and access program.
- Sec. 1206. Projects of national significance.
- Sec. 1207. National transportation strategic plan.

Subtitle C—Finance

Sec. 1301. Toll roads, bridges, tunnels, and ferries.

- Sec. 1302. Transportation Infrastructure Finance and Innovation Act amendments.
- Sec. 1303. State infrastructure banks.
- Sec. 1304. Metropolitan infrastructure banks.

Subtitle D—High Priority Projects

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- Sec. 1402. Project authorizations.
- Sec. 1403. Technical amendments to transportation projects.
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Subtitle E—Miscellaneous

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- Sec. 1503. Revenue aligned budget authority.
- Sec. 1504. Public-private partnership agreements.
- Sec. 1505. Prevailing rate of wage.
- Sec. 1506. Emergency relief.
- Sec. 1507. Highway-rail crossings.
- Sec. 1508. Metropolitan planning.
- Sec. 1509. Statewide planning.
- Sec. 1510. Project delivery.
- Sec. 1511. Disadvantaged business enterprise program.
- Sec. 1512. Highway bridge inventories, standards, and inspections.
- Sec. 1513. National tunnel inspection program.
- Sec. 1514. Safety provisions.
- Sec. 1515. HOV facilities.
- Sec. 1516. Enforcement of primary seat belt laws.
- Sec. 1517. Use of ignition interlock devices to prevent repeat intoxicated driving.
- Sec. 1518. Buy America.
- Sec. 1519. Workforce development.
- Sec. 1520. Roadway, bicycle and pedestrian, work zone, and highway-rail grade crossing safety.
- Sec. 1521. Budget justification.
- Sec. 1522. Extension of public transit vehicle exemption from axle weight restrictions.
- Sec. 1523. Technical amendments.
- Sec. 1524. Definitions.

TITLE II—HIGHWAY SAFETY

- Sec. 2001. Amendments to title 23, United States Code.
- Sec. 2002. Authorization of appropriations.
- Sec. 2003. Highway safety programs.
- Sec. 2004. High visibility enforcement program.
- Sec. 2005. National Driver Register.

TITLE III—PUBLIC TRANSPORTATION

- Sec. 3001. Short title; amendments to title 49, United States Code.
- Sec. 3002. Policies and purposes.
- Sec. 3003. Definitions.
- Sec. 3004. Metropolitan planning.
- Sec. 3005. Statewide planning.

- Sec. 3006. Urbanized area formula grants.
- Sec. 3007. Intermodal and energy efficient transit facilities grants.
- Sec. 3008. Capital investment grants.
- Sec. 3009. Coordinated access and mobility program formula grants.
- Sec. 3010. Rural area formula grants.
- Sec. 3011. Transit research grants.
- Sec. 3012. Bus testing facility.
- Sec. 3013. Transit in the parks grants.
- Sec. 3014. Workforce development programs.
- Sec. 3015. General provisions.
- Sec. 3016. Contract requirements.
- Sec. 3017. Office of Expedited Project Delivery.
- Sec. 3018. Program.
- Sec. 3019. National Transit Database.
- Sec. 3020. Apportionment of appropriations for formula grants.
- Sec. 3021. Fixed guideway modernization formula grants.
- Sec. 3022. Authorizations.
- Sec. 3023. Repeals.
- Sec. 3024. Over-the-road bus accessibility program.
- Sec. 3025. Obligation limits.
- Sec. 3026. Transportation fringe benefits.
- Sec. 3027. Streetcar categorical exclusion.
- Sec. 3028. SAFETEA-LU repeals.

TITLE IV—COMMERCIAL MOTOR VEHICLE SAFETY

- Sec. 4001. Short title.
- Sec. 4002. Amendments to title 49, United States Code.

Subtitle A—Authorization of Appropriations

- Sec. 4011. Motor carrier safety grants.
- Sec. 4012. Grant programs.

Subtitle B—General Authority and State Grants

- Sec. 4021. Motor carrier safety assistance program.
- Sec. 4022. Commercial driver's license program.
- Sec. 4023. National clearinghouse for records relating to alcohol and controlled substances testing of commercial motor vehicle operators.
- Sec. 4024. Performance and registration information systems management program.
- Sec. 4025. Commercial vehicle information systems and networks deployment grants.
- Sec. 4026. Amendments to compliance review process.
- Sec. 4027. New entrant carriers.
- Sec. 4028. Motor carrier registration.
- Sec. 4029. Reincarnated carriers.
- Sec. 4030. Commercial motor vehicle operator training.
- Sec. 4031. Improved oversight of motor carriers of passengers.
- Sec. 4032. Commercial driver's license passenger endorsement requirements.
- Sec. 4033. Commercial motor vehicle safety inspection programs.
- Sec. 4034. Driver medical qualifications.
- Sec. 4035. Requirement for registration and USDOT number.
- Sec. 4036. Electronic on-board recorders.
- Sec. 4037. Motor Carrier Safety Advisory Committee.

TITLE V—RESEARCH

- Sec. 5001. Amendments to title 23, United States Code.
- Sec. 5002. Authorization of appropriations.

TITLE VI—RAIL TRANSPORTATION

- Sec. 6001. High-speed rail assistance.
- Sec. 6002. Capital grants for rail line relocation projects.
- Sec. 6003. Technical corrections to Public Law 110-432.
- Sec. 6004. Capital grants for class II and class III railroads.
- Sec. 6005. Railroad rehabilitation and improvement financing.
- Sec. 6006. Amtrak domestic buying preference.
- Sec. 6007. Separation requirements.
- Sec. 6008. Reports on railroad conditions and performance.

TITLE VII—HAZARDOUS MATERIAL TRANSPORTATION

- Sec. 7001. Short title.
- Sec. 7002. Amendment of title 49, United States Code.

Subtitle A—Strengthening Emergency Response Capabilities and Information

- Sec. 7003. Minimum standards for emergency response information services.
- Sec. 7004. Training for emergency responders.
- Sec. 7005. Assessment of volunteer firefighter training capabilities.
- Sec. 7006. National Hazardous Materials Fusion Center.
- Sec. 7007. Emergency response to accidents and incidents involving alternative technologies.
- Sec. 7008. Collection and sharing of commodity flow data.
- Sec. 7009. Paperless hazard communications pilot program.

Subtitle B—Strengthening Hazardous Material Safety

- Sec. 7010. Transportation of lithium cells and batteries.
- Sec. 7011. Requirements relating to external product piping on cargo tanks transporting hazardous material.
- Sec. 7012. Commercial motor vehicle operators registered to operate in Mexico or Canada.
- Sec. 7013. Improving data collection, analysis, and reporting.

Subtitle C—Strengthening Enforcement

- Sec. 7020. Hazardous material enforcement training program.
- Sec. 7021. Inspections and investigations.
- Sec. 7022. Civil penalties for denial of entry.
- Sec. 7023. Inspector staffing.

Subtitle D—Miscellaneous

- Sec. 7030. Hazardous material research and development program.
- Sec. 7031. Uniform hazardous material State registration and permit program.
- Sec. 7032. Implementation of the Hazardous Material Safety Permit Program.
- Sec. 7033. Authorization of appropriations.

TITLE VIII—TRANSPORTATION DISCRETIONARY SPENDING
GUARANTEE

- Sec. 8001. Discretionary spending limits for the highway and mass transit categories.
- Sec. 8002. Adjustments to align highway spending with revenues.
- Sec. 8003. Level of obligation limitations.
- Sec. 8004. Enforcement of guarantee.

TITLE IX—MISCELLANEOUS

Sec. 9001. Denali Commission.

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

2 In this Act, the following definitions apply:

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

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

7 **SEC. 3. EFFECTIVE DATE.**

8 Except as otherwise expressly provided, this Act and
9 any amendment or repeal made by this Act shall apply
10 only to fiscal years beginning after September 30, 2009.

11 **TITLE I—FEDERAL-AID**
12 **HIGHWAYS**

13 **SEC. 1001. AMENDMENTS TO TITLE 23, UNITED STATES**
14 **CODE.**

15 Except as otherwise expressly provided, whenever in
16 this title an amendment or repeal is expressed in terms
17 of an amendment to, or a repeal of, a section or other
18 provision, the reference shall be considered to be made to
19 a section or other provision of title 23, United States
20 Code.

1 **Subtitle A—Programs and Funding**
2 **Authorizations**

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

4 The following sums are authorized to be appropriated
5 out of the Highway Trust Fund (other than the Mass
6 Transit Account):

7 (1) **CRITICAL ASSET INVESTMENT PROGRAM.—**

8 For the critical asset investment program under sec-
9 tion 150 of title 23, United States Code—

10 (A) **[\$]** for fiscal year 2010;

11 (B) **[\$]** for fiscal year 2011;

12 (C) **[\$]** for fiscal year 2012;

13 (D) **[\$]** for fiscal year 2013;

14 (E) **[\$]** for fiscal year 2014; and

15 (F) **[\$]** for fiscal year 2015.

16 (2) **SURFACE TRANSPORTATION PROGRAM.—**

17 For the surface transportation program under sec-
18 tion 133 of such title—

19 (A) **[\$]** for fiscal year 2010;

20 (B) **[\$]** for fiscal year 2011;

21 (C) **[\$]** for fiscal year 2012;

22 (D) **[\$]** for fiscal year 2013;

23 (E) **[\$]** for fiscal year 2014; and

24 (F) **[\$]** for fiscal year 2015.

1 (3) CONGESTION MITIGATION AND AIR QUALITY
2 IMPROVEMENT PROGRAM.—For the congestion miti-
3 gation and air quality improvement program under
4 section 149 of such title—

5 (A) **[\$]** for fiscal year 2010;

6 (B) **[\$]** for fiscal year 2011;

7 (C) **[\$]** for fiscal year 2012;

8 (D) **[\$]** for fiscal year 2013;

9 (E) **[\$]** for fiscal year 2014; and

10 (F) **[\$]** for fiscal year 2015.

11 (4) HIGHWAY SAFETY IMPROVEMENT PRO-
12 GRAM.—For the highway safety improvement pro-
13 gram under section 148 of such title—

14 (A) **[\$]** for fiscal year 2010;

15 (B) **[\$]** for fiscal year 2011;

16 (C) **[\$]** for fiscal year 2012;

17 (D) **[\$]** for fiscal year 2013;

18 (E) **[\$]** for fiscal year 2014; and

19 (F) **[\$]** for fiscal year 2015.

20 (5) FREIGHT IMPROVEMENT PROGRAM.—For
21 the freight improvement program under section 119
22 of such title—

23 (A) **[\$]** for fiscal year 2010;

24 (B) **[\$]** for fiscal year 2011;

25 (C) **[\$]** for fiscal year 2012;

1 (D) **[\$]** for fiscal year 2013;

2 (E) **[\$]** for fiscal year 2014; and

3 (F) **[\$]** for fiscal year 2015.

4 (6) APPALACHIAN DEVELOPMENT HIGHWAY
5 SYSTEM PROGRAM.—For the Appalachian develop-
6 ment highway system program under subtitle IV of
7 title 40, United States Code—

8 (A) **[\$]** for fiscal year 2010;

9 (B) **[\$]** for fiscal year 2011;

10 (C) **[\$]** for fiscal year 2012;

11 (D) **[\$]** for fiscal year 2013;

12 (E) **[\$]** for fiscal year 2014; and

13 (F) **[\$]** for fiscal year 2015.

14 (7) RECREATIONAL TRAILS PROGRAM.—For the
15 recreational trails program under section 206 of title
16 23, United States Code—

17 (A) **[\$]** for fiscal year 2010;

18 (B) **[\$]** for fiscal year 2011;

19 (C) **[\$]** for fiscal year 2012;

20 (D) **[\$]** for fiscal year 2013;

21 (E) **[\$]** for fiscal year 2014; and

22 (F) **[\$]** for fiscal year 2015.

23 (8) FEDERAL AND TRIBAL LANDS, PUERTO
24 RICO, AND TERRITORIAL HIGHWAY PROGRAM.—

1 (A) INDIAN RESERVATION ROADS.—For
2 Indian reservation roads under section 204 of
3 such title—

- 4 (i) **[\$]** for fiscal year 2010;
5 (ii) **[\$]** for fiscal year 2011;
6 (iii) **[\$]** for fiscal year 2012;
7 (iv) **[\$]** for fiscal year 2013;
8 (v) **[\$]** for fiscal year 2014; and
9 (vi) **[\$]** for fiscal year 2015.

10 (B) PARK ROADS AND PARKWAYS.—

11 (i) IN GENERAL.—For park roads and
12 parkways under section 204 of such title—

- 13 (I) **[\$]** for fiscal year 2010;
14 (II) **[\$]** for fiscal year 2011;
15 (III) **[\$]** for fiscal year 2012;
16 (IV) **[\$]** for fiscal year 2013;
17 (V) **[\$]** for fiscal year 2014; and
18 (VI) **[\$]** for fiscal year 2015.

19 (ii) MINIMUM ALLOCATION TO CER-
20 TAIN STATES.—A State containing more
21 than 50 percent of the total acreage of the
22 National Park System shall receive not less
23 than 3 percent of any funds appropriated
24 under this subparagraph.

1 (C) REFUGE ROADS.—For refuge roads
2 under section 204 of such title—

- 3 (i) **[\$]** for fiscal year 2010;
4 (ii) **[\$]** for fiscal year 2011;
5 (iii) **[\$]** for fiscal year 2012;
6 (iv) **[\$]** for fiscal year 2013;
7 (v) **[\$]** for fiscal year 2014; and
8 (vi) **[\$]** for fiscal year 2015.

9 (D) FOREST HIGHWAYS.—For forest high-
10 ways under section 204 of such title—

- 11 (i) **[\$]** for fiscal year 2010;
12 (ii) **[\$]** for fiscal year 2011;
13 (iii) **[\$]** for fiscal year 2012;
14 (iv) **[\$]** for fiscal year 2013;
15 (v) **[\$]** for fiscal year 2014; and
16 (vi) **[\$]** for fiscal year 2015.

17 (E) PUERTO RICO HIGHWAYS.—For Puer-
18 to Rico highways under section 204 of such
19 title—

- 20 (i) **[\$]** for fiscal year 2010;
21 (ii) **[\$]** for fiscal year 2011;
22 (iii) **[\$]** for fiscal year 2012;
23 (iv) **[\$]** for fiscal year 2013;
24 (v) **[\$]** for fiscal year 2014; and
25 (vi) **[\$]** for fiscal year 2015.

1 (F) TERRITORIAL HIGHWAYS.—For terri-
2 torial highways under section 204 of such
3 title—

- 4 (i) **[\$]** for fiscal year 2010;
5 (ii) **[\$]** for fiscal year 2011;
6 (iii) **[\$]** for fiscal year 2012;
7 (iv) **[\$]** for fiscal year 2013;
8 (v) **[\$]** for fiscal year 2014; and
9 (vi) **[\$]** for fiscal year 2015.

10 (G) NATIONAL FOREST SYSTEM ROADS.—
11 For national forest system roads under section
12 204 of such title—

- 13 (i) **[\$]** for fiscal year 2010;
14 (ii) **[\$]** for fiscal year 2011;
15 (iii) **[\$]** for fiscal year 2012;
16 (iv) **[\$]** for fiscal year 2013;
17 (v) **[\$]** for fiscal year 2014; and
18 (vi) **[\$]** for fiscal year 2015.

19 (H) BUREAU OF LAND MANAGEMENT
20 ROADS.—For Bureau of Land Management
21 Roads under section 204 of such title—

- 22 (i) **[\$]** for fiscal year 2010;
23 (ii) **[\$]** for fiscal year 2011;
24 (iii) **[\$]** for fiscal year 2012;
25 (iv) **[\$]** for fiscal year 2013;

1 (v) **[\$]** for fiscal year 2014; and

2 (vi) **[\$]** for fiscal year 2015.

3 (9) NATIONAL SCENIC BYWAYS PROGRAM.—For
4 the national scenic byways program under section
5 162 of such title—

6 (A) **[\$]** for fiscal year 2010;

7 (B) **[\$]** for fiscal year 2011;

8 (C) **[\$]** for fiscal year 2012;

9 (D) **[\$]** for fiscal year 2013;

10 (E) **[\$]** for fiscal year 2014; and

11 (F) **[\$]** for fiscal year 2015.

12 (10) FERRY PROGRAM.—For the ferry program
13 under section 147 of such title—

14 (A) **[\$]** for fiscal year 2010;

15 (B) **[\$]** for fiscal year 2011;

16 (C) **[\$]** for fiscal year 2012;

17 (D) **[\$]** for fiscal year 2013;

18 (E) **[\$]** for fiscal year 2014; and

19 (F) **[\$]** for fiscal year 2015.

20 (11) HIGH PRIORITY PROJECTS PROGRAM.—
21 For the high priority projects program under section
22 117 of such title, **[\$]** for each of fiscal years 2010
23 through 2015.

1 (12) SAFE ROUTES TO SCHOOL PROGRAM.—For
2 the safe routes to school program under section 152
3 of such title—

4 (A) **[\$]** for fiscal year 2010;

5 (B) **[\$]** for fiscal year 2011;

6 (C) **[\$]** for fiscal year 2012;

7 (D) **[\$]** for fiscal year 2013;

8 (E) **[\$]** for fiscal year 2014; and

9 (F) **[\$]** for fiscal year 2015.

10 **SEC. 1102. OBLIGATION CEILING.**

11 **[to be supplied]**

12 **SEC. 1103. APPORTIONMENT.**

13 (a) IN GENERAL.—Section 104 is amended to read
14 as follows:

15 **“§ 104. Apportionment**

16 “(a) ADMINISTRATIVE EXPENSES.—

17 “(1) IN GENERAL.—There are authorized to be
18 appropriated from the Highway Trust Fund (other
19 than the Mass Transit Account) to be made avail-
20 able to the Secretary for administrative expenses of
21 the Federal Highway Administration—

22 “(A) **[\$]** for fiscal year 2010;

23 “(B) **[\$]** for fiscal year 2011;

24 “(C) **[\$]** for fiscal year 2012;

25 “(D) **[\$]** for fiscal year 2013;

1 “(E) **【\$】** for fiscal year 2014; and

2 “(F) **【\$】** for fiscal year 2015.

3 “(2) PURPOSES.—The funds authorized by this
4 subsection shall be used—

5 “(A) to administer the provisions of law to
6 be financed from appropriations for the Fed-
7 eral-aid highway program and programs au-
8 thorized under chapter 2; and

9 “(B) to make transfers of such sums as
10 the Secretary determines to be appropriate to
11 the Appalachian Regional Commission for ad-
12 ministrative activities associated with the Appa-
13 lachian development highway system.

14 “(3) AVAILABILITY.—The funds made available
15 under paragraph (1) shall remain available until ex-
16 pended.

17 “(b) APPORTIONMENTS.—On October 1 of each fiscal
18 year, the Secretary, after making the set-asides authorized
19 by subsection (d) and section 130(e), shall apportion the
20 remainder of the sums authorized to be appropriated for
21 expenditure on the programs identified in this subsection,
22 for that fiscal year, among the several States in the fol-
23 lowing manner:

24 “(1) CRITICAL ASSET INVESTMENT PRO-
25 GRAM.—For the critical asset investment program

1 under section 150, in accordance with the following
2 formula:

【to be supplied】

3 “(2) CONGESTION MITIGATION AND AIR QUALITY
4 IMPROVEMENT PROGRAM.—

5 “(A) IN GENERAL.—For the congestion
6 mitigation and air quality improvement pro-
7 gram under section 149, in the ratio that—

【to be supplied】

8 “(3) SURFACE TRANSPORTATION PROGRAM.—

9 For the surface transportation program under sec-
10 tion 133, in accordance with the following formula:

【to be supplied】

11 “(4) FREIGHT IMPROVEMENT PROGRAM.—For
12 the freight improvement program under section 119,
13 in accordance with the following formula:

【to be supplied】

14 “(5) HIGHWAY SAFETY IMPROVEMENT PRO-
15 GRAM.—For the highway safety improvement pro-
16 gram under section 148, in accordance with the fol-
17 lowing formula:

【to be supplied】

18 “(6) FERRY PROGRAM.—

19 “(A) APPORTIONMENT FORMULA.—For
20 the ferry program under section 147, in accord-

1 ance with the following formula, based on the
2 information provided in accordance with section
3 147(d):

【to be supplied】

4 “(7) SAFE ROUTES TO SCHOOLS PROGRAM.—

5 “(A) IN GENERAL.—For the safe routes to
6 schools program under section 152, in the ratio
7 that—

【to be supplied】

8 “(B) SET-ASIDE FOR ADMINISTRATIVE EX-
9 PENSES.—Before making an apportionment
10 under this paragraph, the Secretary shall set
11 aside not more than **【\$】** of funds authorized to
12 be appropriated for the safe routes to schools
13 program for the administrative expenses of the
14 Secretary in carrying out such program.

15 “(C) DETERMINATION OF STUDENT EN-
16 ROLLMENTS.—Determinations under this sub-
17 section concerning student enrollments shall be
18 made by the Secretary using the definitions
19 contained in section 152.

20 “(c) CERTIFICATION OF APPORTIONMENTS.—

21 “(1) IN GENERAL.—On October 1 of each fiscal
22 year the Secretary shall certify to each of the State
23 transportation departments the sums which the Sec-

1 retary has apportioned under this section to each
2 State for such fiscal year. To permit the States to
3 develop adequate plans for the utilization of appor-
4 tioned sums, the Secretary shall advise each State of
5 the amount that will be apportioned each year under
6 this section not later than 90 days before the begin-
7 ning of the fiscal year for which the sums to be ap-
8 portioned are authorized.

9 “(2) NOTICE TO STATES.—If the Secretary has
10 not made an apportionment under section 104, or an
11 allocation or apportionment under section 105, by
12 the 21st day of a fiscal year, the Secretary shall
13 transmit, by such 21st day, to the Committee on
14 Transportation and Infrastructure of the House of
15 Representatives and the Committee on Environment
16 and Public Works of the Senate a written statement
17 of the reason for not making such apportionment or
18 allocation in a timely manner.

19 “(d) METROPOLITAN PLANNING.—

20 “(1) SET-ASIDE.—On October 1 of each fiscal
21 year, the Secretary shall set aside [__] percent of
22 the funds authorized to be appropriated for the crit-
23 ical asset investment, surface transportation, conges-
24 tion mitigation and air quality improvement, high-
25 way safety improvement, freight improvement, and

1 **【to be supplied】** programs authorized under this
2 title to carry out the requirements of section 134.

3 “(2) APPORTIONMENT TO STATES OF SET-
4 ASIDE FUNDS.—The funds set aside under para-
5 graph (1) shall be apportioned to the States in the
6 ratio that—

【to be supplied】

7 “(3) USE OF FUNDS.—

8 “(A) IN GENERAL.—The funds appor-
9 tioned to any State under paragraph (2) shall
10 be made available by the State to the metropoli-
11 tan planning organizations responsible for car-
12 rying out the provisions of section 134; except
13 that States receiving the minimum apportion-
14 ment under paragraph (2) may use, in addition,
15 subject to the approval of the Secretary, the
16 funds apportioned to finance transportation
17 planning outside of urbanized areas.

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

23 “(4) DISTRIBUTION OF FUNDS WITHIN
24 STATES.—

1 “(A) IN GENERAL.—【to be supplied】.

2 “(B) REIMBURSEMENT.—Not later than
3 30 days after the date of receipt by a State of
4 a request for reimbursement of expenditures
5 made by a metropolitan planning organization
6 for carrying out section 134, the State shall re-
7 imburse, from funds distributed under this
8 paragraph to the metropolitan planning organi-
9 zation by the State, the metropolitan planning
10 organization for those expenditures.

11 “(5) DETERMINATION OF POPULATION FIG-
12 URES.—For the purposes of determining population
13 figures under this subsection, the Secretary shall use
14 the most recent estimate published by the Secretary
15 of Commerce.

16 “(e) RECREATIONAL TRAILS PROGRAM.—

17 “(1) ADMINISTRATIVE COSTS.—Before appor-
18 tioning sums authorized to be appropriated to carry
19 out the recreational trails program under section
20 206, the Secretary shall deduct for administrative,
21 research, technical assistance, and training expenses
22 for such program 【\$】 for each of fiscal years 2010
23 through 2015. The Secretary may enter into con-
24 tracts with for-profit organizations or contracts,
25 partnerships, or cooperative agreements with other

1 government agencies, institutions of higher learning,
2 or nonprofit organizations to perform these tasks.

3 “(2) APPORTIONMENT TO THE STATES.—The
4 Secretary shall apportion the sums authorized to be
5 appropriated for expenditure on the recreational
6 trails program for each fiscal year, among the States
7 in the following manner:

【to be supplied】

8 “(3) ELIGIBLE STATE DEFINED.—In this sec-
9 tion, the term ‘eligible State’ means a State that
10 meets the requirements of section 206(e).

11 “(f) AUDITS OF HIGHWAY TRUST FUND.—From ad-
12 ministrative funds made available under subsection (a),
13 the Secretary may reimburse the Office of Inspector Gen-
14 eral of the Department of Transportation for the conduct
15 of annual audits of financial statements in accordance
16 with section 3521 of title 31.

17 “(g) REPORT TO CONGRESS.—The Secretary shall
18 submit to Congress a report, and also make such report
19 available to the public in a user-friendly format via the
20 Internet, for each fiscal year on—

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

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

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

7 “(4) the rates of obligation of funds appor-
8 tioned or set aside under this section and section
9 133, according to—

10 “(A) program;

11 “(B) funding category or subcategory;

12 “(C) type of improvement;

13 “(D) State; and

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

17 “(h) TRANSFER OF HIGHWAY AND TRANSIT
18 FUNDS.—

19 “(1) TRANSFER OF HIGHWAY FUNDS FOR
20 TRANSIT PROJECTS.—

21 “(A) IN GENERAL.—Subject to subpara-
22 graph (B), funds made available for transit
23 projects or transportation planning under this
24 title may be transferred to and administered by

1 the Secretary in accordance with chapter 53 of
2 title 49.

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

7 “(2) TRANSFER OF TRANSIT FUNDS FOR HIGH-
8 WAY PROJECTS.—

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

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

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

21 “(A) IN GENERAL.—Subject to subpara-
22 graphs (B) and (C), the Secretary may trans-
23 fer, at the request of a State, funds apportioned
24 or allocated under this title to the State to an-
25 other State, or to the Federal Highway Admin-

1 istration, for the purpose of funding one or
2 more projects that are eligible for assistance
3 with funds so apportioned or allocated.

4 “(B) APPORTIONMENT.—The transfer
5 shall have no effect on any apportionment of
6 funds to a State under this section or section
7 105.

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

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

22 (b) CONFORMING AMENDMENTS.—

23 (1) METROPOLITAN TRANSPORTATION PLAN-
24 NING.—Section 134(o) is amended by striking
25 “104(f)” and inserting “104(d)”.

1 (2) STATEWIDE PLANNING.—Section 135(h) is
2 amended by striking “104(f)” and inserting
3 “104(d)”.

4 (3) STATE ASSUMPTION OF RESPONSIBILITIES
5 FOR CERTAIN PROGRAMS AND PROJECTS.—Section
6 325(a)(2)(A) is amended by striking “104(h)” and
7 inserting “104(e)”.

8 (4) STATE PLANNING AND RESEARCH.—Section
9 505(a) is amended—

10 (A) by striking “104(f)” and inserting
11 “104(d)”;

12 (B) by striking “104(h)” and inserting
13 “104(e)”.

14 (5) METROPOLITAN TRANSPORTATION PLAN-
15 NING.—Section 5303(o) of title 49 is amended by
16 striking “104(f)” and inserting “104(d)”.

17 **SEC. 1104. EQUITY ADJUSTMENT.**

18 Section 105 is amended to read as follows: **【to be**
19 **supplied】**

20 **SEC. 1105. FREIGHT IMPROVEMENT PROGRAM.**

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

1 **“§ 119. Freight improvement program**

2 “(a) ESTABLISHMENT.—The Secretary shall estab-
3 lish and implement a freight improvement program in ac-
4 cordance with this section.

5 “(b) PURPOSES.—The purposes of the freight im-
6 provement program shall be to—

7 “(1) improve the operations of the existing
8 freight transportation system;

9 “(2) add physical capacity to the freight trans-
10 portation system in places where investment makes
11 economic sense;

12 “(3) strengthen the ability of rural communities
13 to access national and international trade markets;
14 and

15 “(4) support regional economic development.

16 “(c) FREIGHT IMPROVEMENT PROJECTS.—

17 “(1) USE OF APPORTIONED FUNDS.—A State
18 may obligate funds apportioned to the State under
19 section 104(b)(4) for publicly owned highway freight
20 transportation projects that provide community and
21 highway benefits by addressing economic, conges-
22 tion, security, and safety issues associated with
23 freight transportation.

24 “(2) ELIGIBLE PROJECTS.—To be eligible for
25 funding under this section, a project shall—

1 “(A) be a project to construct, reconstruct,
2 or make operational improvements to—

3 “(i) a highway that provides for local,
4 interregional, interstate, or international
5 freight movement;

6 “(ii) a highway that improves access
7 to freight-related facilities, including inter-
8 modal access to ports and distribution cen-
9 ters;

10 “(iii) a highway that improves freight
11 transportation to or from an international
12 gateway, including ports, airports, and bor-
13 der crossings;

14 “(iv) a highway that provides or im-
15 proves access, continuity, and emergency
16 capabilities for movements of military per-
17 sonnel and equipment; or

18 “(v) a facility that provides for long-
19 term truck parking;

20 “(B) be located on—

21 “(i) the National Highway System;

22 “(ii) the National Network; or

23 “(iii) a secondary freight route des-
24 ignated under subsection (h); and

1 “(C) be consistent with the freight plan of
2 the State in which the project is located, as re-
3 quired under subsection (e).

4 “(3) OTHER ELIGIBLE COSTS.—In addition to
5 funding projects eligible under paragraph (2), a
6 State may obligate, in the aggregate, up to **[____]**
7 percent of the funds apportioned to the State under
8 section 104(b)(4) for a fiscal year for—

9 “(A) freight-related transportation plan-
10 ning in accordance with sections 134 and 135;

11 “(B) environmental restoration and pollu-
12 tion abatement activities related to a project eli-
13 gible for funding under this section in accord-
14 ance with section 328;

15 “(C) establishing an advisory committee
16 under subsection (d);

17 “(D) developing a freight plan under sub-
18 section (e); and

19 “(E) conducting inventories and assess-
20 ments of secondary freight routes under sub-
21 section (h).

22 “(d) FREIGHT ADVISORY COMMITTEE.—

23 “(1) ESTABLISHMENT OF COMMITTEE.—Not
24 later than one year after the date of enactment of
25 this section, each State shall establish a freight advi-

1 sory committee consisting of a representative cross-
2 section of public and private sector freight stake-
3 holders, such as ports, shippers, carriers, freight-re-
4 lated associations, the State’s transportation depart-
5 ment, local governments, and representatives of em-
6 ployee organizations.

7 “(2) ROLE OF COMMITTEE.—The freight advi-
8 sory committee of a State shall—

9 “(A) advise the State on freight-related
10 priorities, issues, projects, and funding needs;

11 “(B) serve as a forum for discussion for
12 State transportation decisions affecting freight
13 mobility;

14 “(C) communicate and coordinate regional
15 priorities with other organizations;

16 “(D) promote the cross-sharing of informa-
17 tion between private and public sectors on
18 freight issues; and

19 “(E) participate in the development of the
20 State’s freight plan described in subsection (e).

21 “(e) STATE FREIGHT PLAN.—

22 “(1) IN GENERAL.—Each State shall develop a
23 freight plan that provides a comprehensive overview
24 of the State’s current and long-range freight plan-
25 ning activities and investments.

1 “(2) PLAN CONTENTS.—A State’s freight plan
2 shall include, at a minimum—

3 “(A) an identification of significant freight
4 system trends, needs, and issues within the
5 State;

6 “(B) a description of the freight policies,
7 strategies, and performance measures that will
8 guide the State’s freight-related transportation
9 investment decisions;

10 “(C) evidence of consideration of—

11 “(i) the State’s network of secondary
12 freight routes designated under subsection
13 (h);

14 “(ii) the current and projected future
15 condition of such routes, as assessed under
16 subsection (h)(2); and

17 “(iii) for routes on which travel by
18 heavy vehicles, such as mining, agricul-
19 tural, and timber vehicles, is projected to
20 substantially deteriorate the condition of
21 roadways, any improvements that may be
22 required in order to reduce or impede such
23 deterioration; and

1 “(D) a description of the State’s plan for
2 achieving the performance targets established
3 for the State under subsection (f).

4 “(3) RELATIONSHIP TO LONG-RANGE PLAN.—A
5 State’s freight plan may be either separate from or
6 incorporated within the statewide transportation
7 plan required by section 135.

8 “(f) PERFORMANCE MANAGEMENT.—

9 “(1) PERFORMANCE MEASURES.—

10 “(A) IN GENERAL.—To maximize the re-
11 turn on funds apportioned under this section, a
12 State shall measure and document the speed
13 and reliability of freight movement along facili-
14 ties eligible for funding under this section (as
15 described in subsection (c)(2)(B)) and the de-
16 gree of access that such facilities provide to
17 broader trade markets.

18 “(B) ESTABLISHMENT OF MEASURES.—
19 Not later than 6 months after the date of en-
20 actment of this section, the Secretary shall es-
21 tablish quantifiable performance measures to
22 provide for consistent measurement and docu-
23 mentation of freight movement as required by
24 subparagraph (A).

1 “(2) PERFORMANCE TARGETS.—Not later than
2 one year after the date of enactment of this section,
3 the Secretary, in coordination with a State, shall es-
4 tablish a target level of performance for the State—

5 “(A) in relation to each of the performance
6 measures established under paragraph (1)(B);
7 and

8 “(B) against which the State will measure
9 improvement in the performance of facilities on
10 which projects are eligible for funding under
11 this section, except that the State shall not be
12 required to measure improvement in the per-
13 formance of secondary freight routes designated
14 under subsection (h).

15 “(3) REPORTING REQUIREMENTS.—A State re-
16 ceiving funding under this section shall submit to
17 the Secretary, and publish annually, a report docu-
18 menting the degree of progress that the State has
19 made with respect to the performance targets estab-
20 lished under paragraph (2).

21 “(g) APPLICABILITY OF PLANNING REQUIRE-
22 MENTS.—Programming and expenditure of funds for
23 projects under this section shall be consistent with the re-
24 quirements of sections 134 and 135.

1 “(h) INVENTORY AND ASSESSMENT OF SECONDARY
2 FREIGHT ROUTES.—

3 “(1) INVENTORY AND DESIGNATION.—

4 “(A) ELIGIBILITY.—To be eligible to be
5 designated as a secondary freight route under
6 this paragraph, a road located in a State shall
7 be—

8 “(i) a public road that is not located
9 on the National Highway System; and

10 “(ii) certified by the State’s depart-
11 ment of transportation, at the request of
12 local officials, as being of substantial eco-
13 nomic or freight-related significance.

14 “(B) SUBMISSION.—Not later than one
15 year after the date of enactment of this section,
16 each State shall—

17 “(i) in cooperation with counties and
18 other local governments, inventory all those
19 public roads that are not located on the
20 National Highway System and are of sub-
21 stantial economic or freight-related signifi-
22 cance, including roads that serve the min-
23 ing, agricultural, timber, and tourism in-
24 dustries; and

1 “(ii) submit the results of the inven-
2 tory to the Secretary.

3 “(C) REVIEW AND DESIGNATION.—

4 “(i) IN GENERAL.—Not later than 3
5 months after the date on which a State
6 submits the results of an inventory to the
7 Secretary under subparagraph (B), the
8 Secretary shall review the State’s submis-
9 sion and designate, based on the review,
10 public roads as secondary freight routes
11 for purpose of this section.

12 “(ii) STANDARD FOR DESIGNATION.—
13 The Secretary shall designate as secondary
14 freight routes only those public roads that
15 are of substantial economic or freight sig-
16 nificance, including roads that serve the
17 mining, agricultural, timber, and tourism
18 industries.

19 “(iii) MAXIMUM MILEAGE.—The mile-
20 age of public roads designated as sec-
21 ondary freight routes in a State under this
22 paragraph shall not exceed the total mile-
23 age of the Federal-aid highways located in
24 the State (excluding National Highway
25 System Routes).

1 “(D) REMOVAL OF DESIGNATION.—

2 “(i) IN GENERAL.—A State at any
3 time may petition the Secretary to remove
4 the designation of a public road as a sec-
5 ondary freight route. The Secretary may
6 remove the designation only with the writ-
7 ten agreement of the local officials with ju-
8 risdiction over the public road.

9 “(ii) EFFECT OF REMOVAL.—A public
10 road that is no longer a secondary freight
11 route due to the removal of its designation
12 under clause (i) shall not be considered in
13 calculating the maximum mileage of sec-
14 ondary freight routes in a State under sub-
15 paragraph (C)(iii).

16 “(E) FINANCIAL RESPONSIBILITY.—Ex-
17 cept as provided in this title, the designation of
18 a public road as a secondary freight route
19 under this paragraph shall not create any addi-
20 tional Federal financial responsibility with re-
21 spect to the public road.

22 “(2) ASSESSMENT OF CONDITION.—Not later
23 than one year after the date of the Secretary’s des-
24 ignation of secondary freight routes under para-

1 graph (1), and every 5 years thereafter, each State
2 shall—

3 “(A) inspect each secondary freight route
4 that is located in the State;

5 “(B) analyze and evaluate the condition of
6 the route; and

7 “(C) evaluate the degree to which the con-
8 dition of the route is likely to change over the
9 next 5 years, based on a consideration of—

10 “(i) the physical and engineering
11 characteristics of the route;

12 “(ii) the route’s likely traffic volume;

13 “(iii) the degree to which the route is
14 likely to be used by heavy vehicles, such as
15 mining, agricultural, and timber vehicles;
16 and

17 “(iv) the legal load limits, if any, im-
18 posed by local governments, State govern-
19 ments, or the Federal Government upon
20 the route.

21 “(i) FREIGHT CORRIDOR COALITIONS AND PLANS.—

22 “(1) IN GENERAL.—The Secretary may des-
23 ignate and make grants to freight corridor coalitions
24 in accordance with this subsection.

1 “(2) COMPOSITION OF COALITIONS.—A freight
2 corridor coalition shall be composed of, at a min-
3 imum, one or more individuals representing each of
4 the following:

5 “(A) The State department of transpor-
6 tation for each of the States in which a portion
7 of the corridor is located.

8 “(B) The metropolitan planning organiza-
9 tion for each transportation management area
10 in which a portion of the corridor is located.

11 “(C) Each major mode of freight-related
12 surface transportation that operates within the
13 corridor.

14 “(D) Any major public port located within
15 the corridor.

16 “(E) A representative cross-section of pri-
17 vate sector freight stakeholders, such as ship-
18 pers, carriers, and freight-related associations.

19 “(3) APPLICATIONS.—

20 “(A) IN GENERAL.—To be eligible to re-
21 ceive a designation as a freight corridor coal-
22 ition, an organization shall submit to the Sec-
23 retary an application that meets the require-
24 ments of this paragraph.

1 “(B) CORRIDOR ANALYSIS.—The applica-
2 tion shall provide a detailed description of the
3 corridor and its related surface transportation
4 network, including—

5 “(i) a description of the role that the
6 corridor plays in supporting the national
7 freight transportation system and the na-
8 tional economy;

9 “(ii) a description of all relevant
10 modes of transportation that currently op-
11 erate within the corridor, the major trans-
12 portation facilities on which such modes
13 operate, and the interaction of passenger
14 and freight movement along major facili-
15 ties within the corridor;

16 “(iii) a description of the current and
17 projected future performance of such
18 modes and such facilities, including infor-
19 mation on the speed and reliability of trav-
20 el within the corridor;

21 “(iv) a description of any economic,
22 environmental, or other costs due to traffic
23 congestion or other travel delay within the
24 corridor; and

1 “(v) such additional information as
2 the Secretary may require.

3 “(C) COMPOSITION OF ORGANIZATION.—
4 The application shall describe the proposed
5 composition of the organization applying for the
6 designation, including the degree to which the
7 organization represents each of the entities re-
8 ferred to in paragraph (2).

9 “(D) FUNCTIONS AND AUTHORITIES.—The
10 application shall describe the proposed func-
11 tions and authorities of the organization apply-
12 ing for the designation, including, at a min-
13 imum, analysis, consensus-building, and plan-
14 ning.

15 “(E) CAPACITY AND SUPPORT.—The appli-
16 cation shall demonstrate, to the satisfaction of
17 the Secretary, that the organization applying
18 for the designation has or will have any legal,
19 financial, and technical capacity and sufficient
20 political, organizational, and institutional sup-
21 port from relevant organizations in the corridor
22 (including both public and private sector orga-
23 nizations) to carry out the functions described
24 in subparagraph (D), as well as any other func-

1 tions that the Secretary considers necessary for
2 the purposes of this subsection.

3 “(F) BUDGET.—The application shall pro-
4 vide a proposed budget for the organization ap-
5 plying for the designation, including—

6 “(i) a staffing plan;

7 “(ii) a spending plan; and

8 “(iii) a description of any sources of
9 funding (or in-kind financial support) for
10 the organization apart from grant funding
11 provided under this subsection.

12 “(4) DESIGNATION.—

13 “(A) IN GENERAL.—Not later than one
14 year after the date of enactment of this section,
15 the Secretary may designate up to 10 freight
16 corridor coalitions based on the applications
17 submitted in accordance with paragraph (3).

18 “(B) CONSENT OF GOVERNOR.—The Sec-
19 retary may not designate an organization as a
20 freight corridor coalition without the consent of
21 the Governor of each State in which a portion
22 of the corridor is located.

23 “(C) LOCATION OF CORRIDOR.—In deter-
24 mining the location of a corridor for purpose of
25 eligibility decisions under this subsection the

1 Secretary shall rely on the description of the
2 corridor provided in the application described in
3 paragraph (3).

4 “(D) CONSIDERATIONS.—The Secretary
5 may designate a freight corridor coalition after
6 consideration of—

7 “(i) the importance of the corridor to
8 the national transportation system and
9 economy, including the volume of pas-
10 senger movement and the volume and
11 value of freight movement within the cor-
12 ridor;

13 “(ii) the economic, environmental, and
14 other costs arising from traffic congestion
15 or other travel delay in the corridor;

16 “(iii) the degree to which transpor-
17 tation improvements in the corridor are
18 likely to generate regional or national eco-
19 nomic benefits, including creating or sus-
20 taining jobs, expanding business opportuni-
21 ties, and impacting the gross domestic
22 product;

23 “(iv) whether the organization apply-
24 ing for the designation has or will have the
25 legal, financial, and technical capacity to

1 carry out the functions described in para-
2 graph (3)(D); and

3 “(v) whether the organization apply-
4 ing for designation has sufficient political,
5 organization, and institutional support
6 from relevant corridor stakeholders (in-
7 cluding both public and private sector or-
8 ganizations) to carry out such functions.

9 “(5) REMOVAL OF DESIGNATION.—

10 “(A) IN GENERAL.—If an organization
11 designated as a freight corridor coalition under
12 paragraph (4) fails to complete a freight cor-
13 ridor plan that meets the requirements of para-
14 graph (7), the Secretary may remove the des-
15 igation of the organization as a freight cor-
16 ridor coalition.

17 “(B) EFFECT OF REMOVAL.—In deter-
18 mining whether to provide Federal assistance
19 under section 701 or 702, the Secretary shall
20 not consider any freight corridor plan developed
21 by an organization that has lost its designation
22 as a freight corridor coalition under subpara-
23 graph (A) unless and until the organization is
24 redesignated as a freight corridor coalition
25 under subparagraph (C).

1 “(C) REDESIGNATION.—If an organization
2 that has lost its designation as a freight cor-
3 ridor coalition under subparagraph (A) subse-
4 quently demonstrates, to the satisfaction of the
5 Secretary, that the organization is likely to
6 complete a freight corridor plan that meets the
7 requirements of paragraph (7), the Secretary
8 may redesignate the organization as a freight
9 corridor coalition.

10 “(6) GRANTS.—

11 “(A) IN GENERAL.—In each of fiscal years
12 2011 through 2015, the Secretary may make a
13 grant to each organization that has in effect for
14 the fiscal year a designation as a freight cor-
15 ridor coalition.

16 “(B) ELIGIBLE USES OF FUNDING.—A
17 grant received by an organization under sub-
18 paragraph (A) may be used to fund the ex-
19 penses of the organization in carrying out this
20 section, including any activities required under
21 paragraph (7).

22 “(C) FEDERAL SHARE.—The Federal
23 share of the cost of any activity funded by a
24 grant under subparagraph (A) shall not exceed
25 80 percent.

1 “(D) AMOUNT OF GRANTS.—The Secretary
2 may not make grants to a freight corridor coali-
3 tion under subparagraph (A) in an aggregate
4 amount that exceeds **【\$】** for a fiscal year.

5 “(7) FREIGHT CORRIDOR PLANS.—

6 “(A) DEVELOPMENT OF PLANS.—Not later
7 than one year after the date of the designation
8 of a freight corridor coalition, the coalition shall
9 develop a freight corridor plan that meets the
10 requirements of this subsection.

11 “(B) PLAN CONTENTS.—A freight corridor
12 plan shall be modeled after the statewide stra-
13 tegic long-range plans developed under section
14 135(f), and shall meet each of the following re-
15 quirements:

16 “(i) IDENTIFICATION OF PROJECTS.—

17 “(I) IN GENERAL.—The freight
18 corridor plan shall be based on a
19 multimodal analysis of the freight
20 transportation needs of the corridor,
21 and shall, based on that analysis,
22 identify freight transportation projects
23 that facilitate the development of an
24 integrated freight corridor transpor-
25 tation system, giving emphasis to

1 those projects that serve important
2 national and regional transportation
3 functions. The projects included in the
4 freight corridor plan shall be a subset
5 of the projects included in each
6 State's long-range transportation plan
7 developed under section 135.

8 “(II) TYPES OF PROJECTS.—The
9 plan shall include, as appropriate,
10 based on the transportation needs of
11 the corridor—

12 “(aa) roadway projects,
13 freight rail projects, projects for
14 multimodal and intermodal facili-
15 ties, and intermodal connector
16 projects; and

17 “(bb) projects to maintain
18 existing transportation facilities,
19 projects to improve the oper-
20 ations of such facilities, and
21 projects to construct new freight
22 capacity where the capacity is
23 needed.

24 “(III) SHORT SEA SHIPPING
25 PROJECTS.—The freight corridor plan

1 may include transportation projects
2 related to short sea shipping routes if
3 the geographic, transportation, and
4 economic characteristics of the cor-
5 ridor make short sea shipping routes
6 operationally and financially viable.

7 “(ii) RANKING OF PROJECTS.—The
8 freight corridor plan shall provide a rank-
9 ing of all projects identified in the plan,
10 based on estimated benefits, feasible sched-
11 ule, and most effective sequence of imple-
12 mentation of the projects.

13 “(iii) COST ESTIMATES FOR
14 PROJECTS.—The freight corridor plan shall
15 include estimates of the cost of each
16 project identified in the plan and a total
17 cost for all of the projects identified in the
18 plan.

19 “(iv) FUNDING FOR PROJECTS.—The
20 freight corridor plan shall identify plans
21 for funding and financing each project
22 identified in the plan, including, for each
23 project—

1 “(I) a description of sources and
2 amounts of Federal, State, local, and
3 private funding; and

4 “(II) a description of how the
5 project will be financed.

6 “(v) ROLES AND RESPONSIBIL-
7 ITIES.—The freight corridor plan shall
8 identify the roles and responsibilities that
9 each of the entities represented within the
10 freight corridor coalition will play in car-
11 rying out the plan.

12 “(vi) CONSISTENCY AND
13 INTERCONNECTIVITY.—The freight cor-
14 ridor plan shall provide for
15 interconnectivity among transportation fa-
16 cilities at State borders and shall be con-
17 sistent with—

18 “(I) for each State in which a
19 portion of the corridor is located, the
20 freight plan required by subsection (e)
21 and the long-range statewide trans-
22 portation plan and statewide transpor-
23 tation improvement program required
24 by section 135;

1 “(II) for each metropolitan plan-
2 ning area in which a portion of the
3 corridor is located, the transportation
4 plan and transportation improvement
5 program required by section 134; and

6 “(III) for any urbanized area for
7 which the Secretary has approved a
8 metropolitan mobility plan under sec-
9 tion 701, the metropolitan mobility
10 plan.

11 “(8) LIMITATION ON STATUTORY CONSTRUC-
12 TION.—Nothing in this section shall be construed to
13 interfere with the authority, under any State or Fed-
14 eral law in effect on the date of enactment of this
15 section, of a public agency with multimodal trans-
16 portation responsibilities to—

17 “(A) develop the transportation plan and
18 transportation improvement program for a met-
19 ropolitan planning area as required by section
20 134;

21 “(B) develop the long-range statewide
22 transportation plan and statewide transpor-
23 tation improvement program required by sec-
24 tion 135;

1 “(C) develop the State freight plan re-
2 quired by subsection (e); or

3 “(D) develop long-range capital plans, co-
4 ordinate transit services and projects, and carry
5 out other activities pursuant to State law.

6 “(9) FUNDING.—Before making an apporportion-
7 ment under section 104(b)(4) for fiscal years 2011
8 through 2015, the Secretary shall set aside **[\$]** for
9 that fiscal year for making grants to freight corridor
10 coalitions in accordance with paragraph (7).

11 “(j) DEFINITIONS.—In this section, the following
12 definitions apply:

13 “(1) DATE OF ENACTMENT OF THIS SEC-
14 TION.—The term ‘date of enactment of this section’
15 means the date of enactment of the Surface Trans-
16 portation Authorization Act of 2009.

17 “(2) FREIGHT CORRIDOR COALITION.—The
18 term ‘freight corridor coalition’ means a freight cor-
19 ridor coalition designated under subsection (i)(4).

20 “(3) FREIGHT CORRIDOR PLAN.—The term
21 ‘freight corridor plan’ means a freight corridor plan
22 developed under subsection (i)(7).

23 “(4) NATIONAL NETWORK.—The term ‘Na-
24 tional Network’ means the national network author-

1 ized by the Surface Transportation Assistance Act of
2 1982 (Public Law 97–424).

3 “(5) SHORT SEA SHIPPING.—The term ‘short
4 sea shipping’ means the transportation of freight by
5 water between domestic ports, either along the coast
6 or on inland waterways.

7 “(6) TRUCK.—The term ‘truck’ means any self-
8 propelled or towed motor vehicle that is used on a
9 highway in interstate commerce to transport prop-
10 erty and that—

11 “(A) has a gross vehicle weight rating or
12 gross vehicle weight of at least 10,001 pounds,
13 whichever is greater; or

14 “(B) is used in transporting material
15 found by the Secretary to be hazardous under
16 section 5103 of title 49 and transported in a
17 quantity requiring placarding under regulations
18 prescribed by the Secretary under section 5103
19 of title 49.”.

20 (b) CLERICAL AMENDMENT.—The analysis for chap-
21 ter 1 is amended by striking the item relating to section
22 119 and inserting the following:

 “Sec. 119. Freight improvement program.”.

23 **SEC. 1106. SURFACE TRANSPORTATION PROGRAM.**

24 (a) ELIGIBLE PROJECTS.—Section 133(b) is amend-
25 ed—

1 (1) in paragraph (1)—

2 (A) by inserting “, tunnels that are eligible
3 for assistance under this title (including safety
4 inspections of such tunnels),” before “and
5 bridges”; and

6 (B) by striking “including any” and all
7 that follows through “mitigation of” and insert-
8 ing “including any bridge activity eligible for
9 assistance under section 150(d)(1) (without re-
10 gard to whether the activity is for an eligible fa-
11 cility as defined in section 150(d)(2)), and con-
12 struction or reconstruction necessary to accom-
13 modate other transportation modes or to miti-
14 gate”;

15 (2) in paragraph (4)—

16 (A) by inserting “(including any safety ac-
17 tivity eligible for assistance under section 148)”
18 after “infrastructure improvements and pro-
19 grams”; and

20 (B) by striking “railway-highway” and in-
21 sserting “highway-rail”; and

22 (3) by striking paragraph (12) and redesign-
23 ating paragraphs (13) through (15) as paragraphs
24 (12) through (14), respectively.

25 (b) ALLOCATIONS OF APPORTIONED FUNDS.—

1 (1) TRANSPORTATION ENHANCEMENT ACTIVI-
2 TIES.—Section 133(d)(2) is amended to read as fol-
3 lows:

4 “(2) FOR TRANSPORTATION ENHANCEMENT AC-
5 TIVITIES.—For each fiscal year, 10 percent of the
6 funds to be obligated in an area of a State under
7 paragraph (3)(A) shall be available only for trans-
8 portation enhancement activities.”.

9 (2) DISTRIBUTION BY POPULATION AND TO
10 THE STATE.—Section 133(d)(3) is amended—

11 (A) by striking the paragraph heading and
12 inserting “DISTRIBUTION BY POPULATION AND
13 TO THE STATE”;

14 (B) in subparagraph (A)—

15 (i) by striking “62.5 percent of the re-
16 maining 90 percent” and inserting “80
17 percent”; and

18 (ii) by striking “37.5 percent” and in-
19 serting “20 percent”;

20 (C) in subparagraph (D) by striking the
21 subparagraph heading and inserting “DIS-
22 TRIBUTION BY POPULATION”; and

23 (D) by adding at the end the following:

24 “(E) COORDINATION WITH RURAL PLAN-
25 NING ORGANIZATIONS.—For purposes of sub-

1 paragraph (A)(ii), before obligating funding at-
2 tributed to an area with a population greater
3 than 5,000 and less than 200,000, a State shall
4 consult with the rural planning organizations
5 that represent the area, if any.”.

6 (c) OBLIGATION AUTHORITY.—Section 133(f)(1) is
7 amended—

8 (1) in the matter preceding subparagraph (A)
9 by striking “during the period of fiscal years 2004
10 through 2006 and the period of fiscal year 2007
11 through 2009” and inserting “for each fiscal year”;
12 and

13 (2) in subparagraphs (A) and (B) by striking
14 “the period” each place it appears and inserting
15 “the fiscal year”.

16 (d) MINOR COLLECTORS.—Section 1108(f)(1) of the
17 Transportation Equity Act for the 21st Century (23
18 U.S.C. 133 note; 112 Stat. 141) is amended by striking
19 “2009” and inserting “2015”.

20 (e) ADMINISTRATION OF TRANSPORTATION EN-
21 HANCEMENTS.—

22 (1) IN GENERAL.—The Secretary may use
23 amounts made available to carry out this subsection
24 for—

1 (A) assessing and documenting the use of
2 transportation enhancement funding under sec-
3 tion 133(d)(2);

4 (B) providing technical assistance and best
5 practices related to the use of transportation
6 enhancement funding under such section;

7 (C) conducting research and data collection
8 related to transportation enhancements under
9 such section; and

10 (D) conducting outreach, information-shar-
11 ing, and training related to transportation en-
12 hancements under such section.

13 (2) FUNDING.—

14 (A) IN GENERAL.—Before making an ap-
15 portionment under section 104(b)(3) of title 23,
16 United States Code, for each of fiscal years
17 2010 through 2015, the Secretary shall set
18 aside, from amounts authorized to be appro-
19 priated to carry out the surface transportation
20 program under section 133 for such fiscal year,
21 **[\$]** to carry out this subsection.

22 (B) APPLICABILITY OF CHAPTER 1 OF
23 TITLE 23.—Funds made available to carry out
24 this subsection shall be available for obligation
25 and administered in the same manner as if such

1 funds were apportioned under chapter 1 of title
2 23, United States Code, except that the Federal
3 share of the cost of activities carried out using
4 such funds shall be 80 percent.

5 **SEC. 1107. FERRY PROGRAM.**

6 (a) ESTABLISHMENT.—Section 147 is amended—

7 (1) by striking the section designation and
8 heading and inserting the following:

9 **“§ 147. Ferry program”; and**

10 (2) in subsection (a) by striking “carry out a
11 program” and inserting “establish a ferry program”.

12 (b) COORDINATION WITH OFFICE OF INTERMOD-
13 ALISM.—Section 147(c) is amended to read as follows:

14 “(c) COORDINATION WITH OFFICE OF INTERMOD-
15 ALISM.—The Secretary shall coordinate the activities car-
16 ried out under this section with other departmental activi-
17 ties related to ferry transportation, as provided in section
18 5503(c)(3) of title 49.”.

19 (c) NATIONAL FERRY DATABASE.—Section 147(d) is
20 amended to read as follows:

21 “(d) NATIONAL FERRY DATABASE.—

22 “(1) ESTABLISHMENT.—The Secretary, acting
23 through the Director of the Bureau of Transpor-
24 tation Statistics, shall maintain a national ferry
25 database.

1 “(2) CONTENTS.—The database shall contain
2 current information regarding ferry systems (includ-
3 ing information regarding routes, vessels, passengers
4 and vehicles carried), funding sources (including
5 Federal, State, and local government funding
6 sources), and such other information as the Sec-
7 retary considers appropriate.

8 “(3) REPORT UPDATES.—Using information
9 collected through the database, the Secretary shall
10 periodically update, as appropriate, the report sub-
11 mitted under section 1207(c) of the Transportation
12 Equity Act for the 21st Century (23 U.S.C. 129
13 note; 112 Stat. 186) and submit the updated report
14 to the Committee on Transportation and Infrastruc-
15 ture of the House of Representatives and the Com-
16 mittee on Environment and Public Works of the
17 Senate.

18 “(4) REQUIREMENTS.—The Secretary shall—
19 “(A) update the database every year;
20 “(B) ensure that the database is easily ac-
21 cessible to the public;
22 “(C) ensure that the database is consistent
23 with the national transit database maintained
24 by the Federal Transit Administration; and

1 “(D) make available, from the amounts
2 made available for the Bureau of Transpor-
3 tation Statistics by section [__] of the Surface
4 Transportation Authorization Act of 2009, not
5 more than [extract_itex] for each of fiscal years 2010
6 through 2015 to carry out this subsection.”.

7 (d) APPLICABILITY.—Section 147 is amended—

8 (1) by striking subsection (e);

9 (2) by redesignating subsection (f) as sub-
10 section (e); and

11 (3) in subsection (e) (as so redesignated) by
12 striking “apportionment formula and”.

13 (e) CLERICAL AMENDMENT.—The analysis for chap-
14 ter 1 is amended by striking the item relating to section
15 147 and inserting the following:

 “147. Ferry program.”.

16 **SEC. 1108. HIGHWAY SAFETY IMPROVEMENT PROGRAM.**

17 (a) IN GENERAL.—Section 148 is amended to read
18 as follows:

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

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

22 “(1) CROSSING.—

23 “(A) IN GENERAL.—The term ‘crossing’
24 means a location within a State where—

1 “(i) a public highway, road, or street,
2 including associated sidewalks and path-
3 ways, crosses one or more railroad tracks
4 either at grade or grade-separated; or

5 “(ii) a pathway not associated with a
6 public highway, road, street, or private
7 roadway crosses one or more railroad
8 tracks either at grade or grade-separated if
9 the pathway—

10 “(I) is explicitly authorized by a
11 public authority; and

12 “(II) is dedicated for use by non-
13 motorized vehicular traffic, including
14 pedestrians, bicyclists, and others.

15 “(B) EXCLUSION.—The term ‘crossing’
16 does not include a location where one or more
17 railroad tracks cross one or more railroad
18 tracks at grade.

19 “(2) HIGH RISK RURAL ROAD.—The term ‘high
20 risk rural road’ means any roadway that is function-
21 ally classified as a rural major or minor collector or
22 a rural local road and that has or is expected to
23 have a high likelihood of crashes that would result
24 in fatal or incapacitating injuries.

1 “(3) HIGHWAY-RAIL INCIDENT.—The term
2 ‘highway-rail incident’ means any impact between a
3 rail user and a highway user at a crossing, regard-
4 less of severity.

5 “(4) HIGHWAY SAFETY IMPROVEMENT
6 PROJECT.—

7 “(A) IN GENERAL.—The term ‘highway
8 safety improvement project’ means a project or
9 activity, or both, that—

10 “(i) supports the strategies in the
11 State’s strategic highway safety plan and,
12 after September 30, 2011, in the State’s
13 HSIP investment plan and any update of
14 such HSIP plan approved under this sec-
15 tion; and

16 “(ii) improves highway safety by—

17 “(I) correcting or improving a
18 hazardous road location or feature; or

19 “(II) addressing a highway safety
20 problem.

21 “(B) INCLUSIONS.—The term ‘highway
22 safety improvement project’ includes a project
23 or activity for one or more of the following:

24 “(i) An intersection safety improve-
25 ment.

1 “(ii) Pavement and shoulder widening
2 (including addition of a passing lane to
3 remedy an unsafe condition).

4 “(iii) Installation of rumble strips or
5 another warning device if the rumble strips
6 or other warning devices do not adversely
7 affect the safety or mobility of bicyclists,
8 pedestrians, and the disabled.

9 “(iv) Installation of a skid-resistant
10 surface at an intersection or other location
11 with a high frequency of accidents.

12 “(v) An improvement for pedestrian
13 or bicyclist safety or safety of the disabled.

14 “(vi) Construction of or improvement
15 to any project for the elimination of haz-
16 ards at a highway-rail crossing eligible
17 under section 130, including the separation
18 or protection of grades at highway-rail
19 crossings, the reconstruction of existing
20 railroad grade crossing structures, and the
21 relocation of highways to eliminate grade
22 crossings.

23 “(vii) Construction of or improvement
24 to a highway-rail crossing safety feature,
25 including installation of protective devices.

1 “(viii) Conduct of a model traffic en-
2 forcement activity at a highway-rail cross-
3 ing.

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

6 “(x) Elimination of a roadside obsta-
7 cle.

8 “(xi) Improvement of highway signage
9 and pavement markings.

10 “(xii) Installation of a priority control
11 system for emergency vehicles at signalized
12 intersections.

13 “(xiii) Installation of a traffic control
14 or other warning device at a location with
15 high accident potential.

16 “(xiv) Transportation safety planning.

17 “(xv) Improvement in the collection
18 and analysis of crash data.

19 “(xvi) Planning, integrated interoper-
20 able emergency communications equip-
21 ment, operational activities, or traffic en-
22 forcement activities (including police as-
23 sistance) relating to workzone safety.

24 “(xvii) Installation of guardrails, bar-
25 riers (including barriers between construc-

1 tion work zones and traffic lanes for the
2 safety of motorists and workers), and
3 crash attenuators.

4 “(xviii) The addition or retrofitting of
5 structures or other measures to eliminate
6 or reduce accidents involving vehicles and
7 wildlife.

8 “(xix) Installation and maintenance of
9 signs (including fluorescent, yellow-green
10 signs) and construction at pedestrian-bicy-
11 cle crossings and in school zones.

12 “(xx) Construction and operational
13 improvements on high risk rural roads.

14 “(xxi) Geometric improvements to a
15 road for safety purposes.

16 “(5) HSIP FUNDS.—The term ‘HSIP funds’
17 means funds apportioned under section 104(b)(5)
18 and funds apportioned for the highway safety im-
19 provement program under section 105(d)(1).

20 “(6) HSIP INVESTMENT PLAN.—The term
21 ‘HSIP investment plan’ means a plan developed by
22 a State in accordance with subsection (g).

23 “(7) HSIP INVESTMENT STRATEGY.—The term
24 ‘HSIP investment strategy’ means the State’s strat-
25 egy described in subsection (g)(3)(C) for using

1 HSIP funds apportioned to the State to meet the
2 State's HSIP performance targets.

3 “(8) HSIP PERFORMANCE TARGET.—The term
4 “HSIP performance target” means a performance
5 target for a State established under subsection (f).

6 “(9) HSIP PROGRAM.—The term ‘HSIP pro-
7 gram’ means the highway safety improvement pro-
8 gram carried out under this section.

9 “(10) PUBLIC ROAD.—In addition to the mean-
10 ing the term ‘public road’ has under section 101(a),
11 the term includes a crossing.

12 “(11) SAFETY PROJECT UNDER ANY OTHER
13 SECTION.—

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

18 “(B) INCLUSION.—The term ‘safety
19 project under any other section’ includes a
20 project to promote the awareness of the public
21 and educate the public concerning highway
22 safety matters (including motorcyclist, pedes-
23 trian, and bicyclist safety), a project to enforce
24 highway safety laws, and a project to enhance

1 the ability of emergency medical services to re-
2 spond to crashes.

3 “(12) STATE HSIP PROGRAM.—The term ‘State
4 HSIP program’ means activities and projects con-
5 sistent with strategies included in the State’s stra-
6 tegic highway safety plan and the State’s HSIP in-
7 vestment plan (and any updates of such HSIP in-
8 vestment plan) approved under this section and car-
9 ried out as part of the State’s statewide transpor-
10 tation improvement program under section 135(g).

11 “(13) STRATEGIC HIGHWAY SAFETY PLAN.—
12 The term ‘strategic highway safety plan’ means a
13 plan developed by a State transportation department
14 that—

15 “(A) is developed after consultation with—

16 “(i) a highway safety representative of
17 the Governor of the State;

18 “(ii) persons who implement grade
19 crossing and rail safety at the State level;

20 “(iii) representatives conducting a
21 motor carrier safety program under section
22 31102, 31106, or 31309 of title 49;

23 “(iv) representatives of motor vehicle
24 administration agencies;

1 “(v) representatives of tribal govern-
2 ments;

3 “(vi) representatives of regional trans-
4 portation planning organizations and met-
5 ropolitan planning organizations;

6 “(vii) representatives of major modes
7 of transportation;

8 “(viii) State and local traffic enforce-
9 ment officials;

10 “(ix) representatives of Federal land
11 management agencies;

12 “(x) representatives of local govern-
13 ments; and

14 “(xi) other major State and local safe-
15 ty organizations;

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

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

24 “(D) considers safety needs of, and high-
25 fatality segments of, public roads;

1 “(E) considers the results of State, re-
2 gional, tribal, and local transportation and
3 highway safety planning processes;

4 “(F) describes strategies to reduce or
5 eliminate safety hazards;

6 “(G) is approved by the Governor of the
7 State or a responsible State agency;

8 “(H) is submitted to the Secretary when
9 updated; and

10 “(I) is consistent with the requirements of
11 section 135(g).

12 “(b) PROGRAM.—

13 “(1) IN GENERAL.—The Secretary shall carry
14 out a highway safety improvement program in ac-
15 cordance with this section.

16 “(2) PURPOSE.—The purpose of the HSIP pro-
17 gram shall be to achieve a significant reduction in
18 traffic fatalities and serious injuries on all public
19 roads.

20 “(c) STATE ELIGIBILITY.—

21 “(1) FISCAL YEARS 2010 AND 2011.—To obligate
22 HSIP funds apportioned to the State for each of fis-
23 cal years 2010 and 2011, a State shall have in effect
24 a State HSIP program under which the State—

1 “(A) develops and implements a State
2 strategic highway safety plan that identifies and
3 analyzes highway safety problems and opportu-
4 nities as provided in paragraph (3);

5 “(B) produces a program of projects or
6 strategies to reduce identified safety problems;
7 and

8 “(C) evaluates the plan on a regular basis
9 to ensure the accuracy of the data and priority
10 of proposed improvements.

11 “(2) FISCAL YEARS 2012 AND THEREAFTER.—
12 Before a State may obligate HSIP funds appor-
13 tioned to the State after September 30, 2011, the
14 State shall have in effect a State HSIP program
15 under which the State—

16 “(A) develops and implements a strategic
17 highway safety plan that identifies and analyzes
18 highway safety problems and opportunities as
19 provided in paragraph (3);

20 “(B) develops and implements a HSIP in-
21 vestment plan and updates of such HSIP plan
22 in accordance with subsection (g);

23 “(C) produces a program of activities,
24 projects, or strategies to reduce identified safety
25 problems consistent with the State’s strategic

1 highway safety plan and HSIP investment plan
2 and updates of such HSIP plan; and

3 “(D) evaluates the State’s strategic high-
4 way safety plan and HSIP investment plan and
5 updates of such HSIP plan on a regular basis
6 to ensure the accuracy of both plans’ data and
7 priority of proposed improvements.

8 “(3) IDENTIFICATION AND ANALYSIS OF HIGH-
9 WAY SAFETY PROBLEMS AND OPPORTUNITIES.—As
10 part of a State’s strategic highway safety plan, the
11 State shall—

12 “(A) have in place a crash data system
13 with the ability to perform safety problem iden-
14 tification and countermeasure analysis;

15 “(B) based on the analysis required by
16 subparagraph (A)—

17 “(i) identify hazardous locations, sec-
18 tions, and elements of public roads (includ-
19 ing roadside obstacles, highway-rail cross-
20 ing needs, and unmarked or poorly marked
21 roads) that constitute a danger to motor-
22 ists (including motorcyclists), bicyclists, pe-
23 destrians, the disabled, and other highway
24 users; and

1 “(ii) using such criteria as the State
2 determines to be appropriate, establish the
3 relative severity of those locations, in terms
4 of crashes, highway-rail incidents, injuries,
5 deaths, traffic volume levels, and other rel-
6 evant data;

7 “(C) adopt strategic and performance-
8 based goals that—

9 “(i) address traffic safety, including
10 behavioral and infrastructure problems and
11 opportunities on all public roads;

12 “(ii) focus resources on areas of
13 greatest need or priority;

14 “(iii) are coordinated with other State
15 highway safety programs; and

16 “(iv) for fiscal year 2012 and each fis-
17 cal year thereafter, reflect and support the
18 State’s HSIP performance targets;

19 “(D) advance the capabilities of the State
20 for traffic records data collection, analysis, and
21 integration with other sources of safety data
22 (such as roadway inventories) in a manner
23 that—

24 “(i) complements the State highway
25 safety program under chapter 4 and the

1 commercial vehicle safety plan under sec-
2 tion 31102 of title 49;

3 “(ii) includes all public roads;

4 “(iii) identifies hazardous locations,
5 sections, and elements of public roads (in-
6 cluding roadside obstacles, highway-rail
7 crossing needs, and unmarked or poorly
8 marked roads) that constitute a danger to
9 motorists (including motorcycleists),
10 bicyclists, pedestrians, the disabled, and
11 other highway users; and

12 “(iv) includes a means of identifying
13 the relative severity of hazardous locations
14 described in clause (iii) in terms of crash-
15 es, highway-rail incidents, injuries, deaths,
16 traffic volume levels, and other relevant
17 data;

18 “(E)(i) determine priorities for the correc-
19 tion of hazardous road locations, sections, and
20 elements (including highway-rail crossing im-
21 provements), as identified through crash data
22 analysis;

23 “(ii) identify opportunities for preventing
24 the development of such hazardous conditions;
25 and

1 “(iii) establish and implement a schedule
2 of highway safety improvement projects for haz-
3 ard correction and hazard prevention; and

4 “(F)(i) establish an evaluation process to
5 analyze and assess results achieved by highway
6 safety improvement projects carried out in ac-
7 cordance with procedures and criteria estab-
8 lished by this section; and

9 “(ii) use the information obtained under
10 clause (i) in setting priorities for highway safety
11 improvement projects.

12 “(4) UPDATES TO STRATEGIC HIGHWAY SAFETY
13 PLANS.—Not later than 10 months after the date of
14 enactment of the Surface Transportation Authoriza-
15 tion Act of 2009, and every 4 years thereafter, a
16 State shall develop and submit to the Secretary a re-
17 vised and updated strategic highway safety plan of
18 the State.

19 “(5) PROGRAM COORDINATOR.—The Secretary
20 shall take such action as may be necessary to ensure
21 that a State apportioned HSIP funds for a fiscal
22 year establishes and funds in such fiscal year a full-
23 time position of coordinator of its State HSIP pro-
24 gram.

25 “(d) ELIGIBLE PROJECTS.—

1 “(1) IN GENERAL.—A State may obligate HSIP
2 funds apportioned to the State to carry out one or
3 more of—

4 “(A) any highway safety improvement
5 project on any public road or publicly owned bi-
6 cycle or pedestrian pathway or trail;

7 “(B) as provided in subsection (e), other
8 safety projects; and

9 “(C) to fund a full-time position of coordi-
10 nator under subsection (c)(5).

11 “(2) USE OF OTHER FUNDING FOR SAFETY.—

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

16 “(B) USE OF OTHER FUNDS.—States are
17 encouraged to address the full scope of their
18 safety needs and opportunities by using funds
19 made available under other provisions of this
20 title (except a provision that specifically pro-
21 hibits that use).

22 “(e) **【TO BE SUPPLIED】**.—

23 “(f) HSIP PERFORMANCE TARGETS.—

24 “(1) ESTABLISHMENT OF PERFORMANCE TAR-
25 GETS.—Not later than 6 months after the date of

1 enactment of the Surface Transportation Authoriza-
2 tion Act of 2009, and every 6 years thereafter, the
3 Secretary shall establish quantifiable HSIP perform-
4 ance targets for each State in coordination with the
5 State.

6 “(2) APPLICABILITY OF HSIP PERFORMANCE
7 TARGETS.—HSIP performance targets established
8 for a State under this subsection shall apply for a
9 period of 6 years.

10 “(3) MINIMUM REQUIREMENTS.—HSIP per-
11 formance targets established for a State under this
12 subsection shall provide for, at a minimum, the fol-
13 lowing:

14 “(A) A [] percent reduction over the 6-
15 year period covered by such targets in the an-
16 nual number of highway fatalities that occur on
17 public roads within the State.

18 “(B) A [] percent reduction over the 6-
19 year period covered by such targets in the an-
20 nual number of serious injuries that occur on
21 public roads within the State.

22 “(g) STATE HSIP INVESTMENT PLANS.—

23 “(1) SUBMISSION OF INITIAL PLANS.—Not
24 later than 4 months after the date of establishment
25 of HSIP performance targets under subsection (f),

1 a State shall develop and submit to the Secretary for
2 approval a HSIP investment plan.

3 “(2) UPDATES.—

4 “(A) BIENNIAL UPDATES.—Not later than
5 July 31 of the second fiscal year beginning
6 after the date of submission of a State’s HSIP
7 investment plan under paragraph (1), and bien-
8 nially thereafter, the State shall develop and
9 submit to the Secretary for approval an update
10 of the plan.

11 “(B) UPDATES DUE TO EMERGENCY.—
12 Notwithstanding the schedule of plan updates
13 under subparagraph (A), a State may develop
14 and submit to the Secretary for approval an up-
15 date of the plan when—

16 “(i) highway facilities eligible under
17 this section in a State have suffered seri-
18 ous damage due to an event that results in
19 the declaration of a state of emergency by
20 the Governor of the State or if the Presi-
21 dent of the United States has declared
22 such event to be a major disaster for the
23 purposes of the Robert T. Stafford Dis-
24 aster Relief and Emergency Assistance Act
25 (42 U.S.C. 5121 et seq.); or

1 “(ii) unforeseen events significantly
2 impact a State’s ability to meet one or
3 more of its HSIP performance targets, as
4 determined by the Secretary.

5 “(3) PLAN REQUIREMENTS.—A HSIP invest-
6 ment plan of the State and any update of the plan
7 developed by the State shall meet the following re-
8 quirements:

9 “(A) CONSULTATION.—The plan and any
10 update shall be developed after consultation
11 with the entities and persons referred to in sub-
12 section (a)(12)(A).

13 “(B) DOCUMENTATION OF SAFETY NEEDS
14 AND STRATEGIES.—The plan and any update
15 shall document highway safety problems and
16 opportunities within the State and describe
17 strategies that the State plans to pursue
18 through the use of HSIP funds apportioned to
19 the State to reduce or eliminate such highway
20 safety problems.

21 “(C) MULTI-YEAR HSIP INVESTMENT
22 STRATEGY.—The plan and any update shall in-
23 clude a HSIP investment strategy that—

24 “(i) covers 6 years and reflects the
25 State’s prioritization, in accordance with

1 subsection (c)(2)(E), of highway safety
2 needs within the State, based on the
3 State's analysis of safety needs on public
4 roads of all functional classes and levels of
5 ownership;

6 “(ii) describes the manner in which
7 the State will allocate HSIP funds appor-
8 tioned to the State among, at a min-
9 imum—

10 “(I) public roads (other than
11 highway-rail crossings), highway-rail
12 crossings, and publicly owned bicycle
13 or pedestrian pathways or trails;

14 “(II) types of facilities by func-
15 tional class and ownership (Federal,
16 State, tribal, or local);

17 “(III) types of safety projects, in-
18 cluding both location-specific projects
19 and systematic improvements; and

20 “(IV) highway safety improve-
21 ment projects and safety projects
22 under any other section of this title;

23 “(iii) provides for investment in activi-
24 ties and projects on high risk rural roads;

1 “(iv) identifies specific solutions for
2 improving safety at highway-rail crossings
3 within the State, consistent with section
4 130, including highway-rail crossing clo-
5 sures, grade separations, or installation of
6 protective devices;

7 “(v) provides for investment in activi-
8 ties and projects that, once completed, will
9 allow the State to meet the HSIP perform-
10 ance targets established for the State
11 under this section; and

12 “(vi) describes any Federal, State,
13 local, or private funds that the State plans
14 to use, in addition to HSIP funds appor-
15 tioned to the State, on activities and
16 projects that will help to meet its HSIP
17 performance targets.

18 “(D) RATIONALE FOR HSIP INVESTMENT
19 STRATEGY.—

20 “(i) IN GENERAL.—The plan and any
21 update shall describe the manner in which
22 the State’s HSIP investment strategy will
23 enable the State to meet the State’s HSIP
24 performance targets.

1 “(ii) HIGHWAY-RAIL COLLISIONS.—

2 With respect to each of the 10 States that
3 have had the most highway-rail grade
4 crossing collisions, as identified by the Sec-
5 retary under section 202 of the Rail Safety
6 Improvement Act of 2008 (49 U.S.C.
7 22501 note; 122 Stat. 4868), the State’s
8 plan and any update shall describe how the
9 plan and update is reflective of and con-
10 sistent with the State’s grade crossing ac-
11 tion plan developed pursuant to such sec-
12 tion.

13 “(E) CONSISTENCY WITH STRATEGIC
14 HIGHWAY SAFETY PLAN.—The plan and any
15 update shall be consistent with the State’s stra-
16 tegic highway safety plan.

17 “(4) REVIEWS.—

18 “(A) IN GENERAL.—Not later than 2
19 months after the date of receipt of a State’s
20 HSIP investment plan or an update of the plan
21 under this subsection, the Secretary shall review
22 and approve or disapprove the plan or update.
23 In reviewing the plan or update, the Secretary
24 shall ensure that the Administrators of the
25 Federal Highway Administration and Federal

1 Railroad Administration have reviewed, before
2 approval or disapproval, the portions of such
3 plan that relates to highways and highway-rail
4 crossings, respectively.

5 “(B) APPROVAL OF INITIAL PLANS AND
6 UPDATES.—The Secretary shall approve a
7 State’s HSIP investment plan or an update of
8 the plan if the Secretary determines that the
9 HSIP investment strategy provided in the plan
10 or update will allow the State to meet the
11 State’s HSIP performance targets.

12 “(C) INTERIM PROGRESS IN MEETING PER-
13 FORMANCE TARGET.—In determining whether
14 to approve an update of a plan under this para-
15 graph, the Secretary shall consider, at a min-
16 imum—

17 “(i) the State’s progress relative to
18 the State’s HSIP performance targets; and

19 “(ii) the time remaining for the State
20 to meet the State’s HSIP performance tar-
21 gets.

22 “(D) DISAPPROVAL OF PLANS.—If the
23 Secretary disapproves a State’s HSIP invest-
24 ment plan or an update of the plan, the Sec-
25 retary shall notify the State of the reasons for

1 the disapproval and require the State to resub-
2 mit the plan or update to the Secretary with
3 such modifications as the Secretary may re-
4 quire.

5 “(E) STATES RECEIVING INSUFFICIENT
6 APPORTIONMENTS TO MEET TARGETS.—If, in
7 conducting a review of a State’s HSIP invest-
8 ment plan or an update of the plan, the Sec-
9 retary determines that the State’s ability to
10 meet its HSIP performance targets under this
11 section is substantially limited by the amount of
12 HSIP funds apportioned to the State, the Sec-
13 retary may reduce such performance targets to
14 take into account the amount of the funding
15 shortfall and make a determination under sub-
16 paragraph (B) concerning approval or dis-
17 approval of the plan or update based on the re-
18 duced HSIP performance targets.

19 “(F) REDUCTION IN TARGETS DUE TO
20 EMERGENCY.—The Secretary may temporarily
21 reduce one or more of a State’s HSIP perform-
22 ance targets and make a determination under
23 subparagraph (B) concerning approval or dis-
24 approval of the plan or update based on the re-
25 duced HSIP performance targets when—

1 “(i) highway facilities eligible under
2 this section in a State have suffered seri-
3 ous damage due to an event that results in
4 the declaration of a state of emergency by
5 the Governor of the State or if the Presi-
6 dent of the United States has declared
7 such event to be a major disaster for the
8 purposes of the Robert T. Stafford Dis-
9 aster Relief and Emergency Assistance Act
10 (42 U.S.C. 5121 et seq.); or

11 “(ii) unforeseen events significantly
12 impact the State’s ability to meet one or
13 more of its HSIP performance targets, as
14 determined by the Secretary.

15 “(G) RESUBMISSION OF PLANS WITH
16 MODIFICATIONS.—If the Secretary requires a
17 State to resubmit a HSIP investment plan or
18 an update of the plan with modifications, the
19 Secretary shall review and either approve or
20 disapprove the modified plan or update not
21 later than 30 days after the date on which the
22 plan or update is resubmitted.

23 “(5) PUBLIC NOTICE.—A State shall make the
24 State’s HSIP investment plan and each update of
25 the plan, and decisions of the Secretary concerning

1 approval or disapproval of the plan or update, avail-
2 able to the public.

3 “(h) STATE ANNUAL REPORTS.—

4 “(1) IN GENERAL.—Not later than July 31,
5 2011, and annually thereafter, a State apportioned
6 HSIP funds shall submit to the Secretary a report
7 that documents the State’s progress in meeting the
8 State’s HSIP performance targets through the
9 State’s implementation of its HSIP investment
10 strategy.

11 “(2) CONTENTS.—A report submitted by a
12 State in a fiscal year under paragraph (1) shall con-
13 tain, at a minimum—

14 “(A) documentation, both for the most re-
15 cent year and over the most recent 3-year pe-
16 riod, of—

17 “(i) the number of fatalities on road-
18 ways;

19 “(ii) the number of roadway-related
20 injuries;

21 “(iii) the occurrences of roadway-re-
22 lated crashes; and

23 “(iv) the number of highway-rail inci-
24 dents, fatalities, and injuries at highway-
25 rail crossings;

1 “(B) a description of the manner in which
2 HSIP funds apportioned to the State are ad-
3 ministered in the State, including the level of
4 administration (such as centrally or via dis-
5 tricts);

6 “(C) an identification of the number and
7 types of projects on which the State has used
8 such funds during the most recent fiscal year;

9 “(D) a description of the extent to which
10 the State’s use of such funds during the most
11 recent fiscal year is consistent with the State’s
12 HSIP investment strategy;

13 “(E) an assessment of the progress that
14 the State has made toward meeting each of the
15 State’s HSIP performance targets based on the
16 activities and projects that the State has car-
17 ried out under this section and the contribution
18 that those activities and projects have made or
19 will make, once complete, to the State meeting
20 such performance targets;

21 “(F) as assessment of the progress that
22 the State has made in implementing safety im-
23 provements on high risk rural roads;

24 “(G) an assessment of the progress that
25 the State has made in implementing safety im-

1 provements at highway-rail crossings pursuant
2 to this section and section 130, including an as-
3 sessment of any changes in the number of high-
4 way-rail incidents, fatalities, and injuries and
5 rate of highway-rail incidents at locations that
6 have undergone such safety improvements; and

7 “(H) with respect to each of the 10 States
8 referred to in subsection (g)(3)(D)(ii), a de-
9 scription and an assessment of actions the
10 State has taken to implement the State’s grade
11 crossing action plan developed pursuant to sec-
12 tion 202 of the Rail Safety Improvement Act of
13 2008.

14 “(i) HIGH RISK RURAL ROADS.—

15 “(1) MINIMUM ALLOCATIONS.—After making
16 an apportionment under section 104(b)(5) for each
17 of fiscal years 2010 and 2011, the Secretary shall
18 ensure, from amounts made available to carry out
19 this section for such fiscal year, that a total of **[\$]**
20 of such apportionment is set aside by the States,
21 proportionally according to the share of each State
22 of the total amount so apportioned, for use only for
23 construction and operational improvements on high
24 risk rural roads. Activities and projects funded
25 under this subsection shall be consistent with the

1 State's strategic highway safety plan approved under
2 this section.

3 “(2) SPECIAL RULE FOR STATES HAVING MET
4 NEEDS.—A State may use funds set aside by the
5 State pursuant to this paragraph for any project or
6 activity eligible under this section if the State cer-
7 tifies to the Secretary that the State has met all of
8 State needs for construction and operational im-
9 provements on high risk rural roads.

10 “(j) ENFORCEMENT.—

11 “(1) IN GENERAL.—For fiscal year 2012 and
12 each fiscal year thereafter, the Secretary shall with-
13 hold the apportionment of HSIP funds to a State
14 until—

15 “(A) the Secretary has approved the
16 State's HSIP investment plan and any update
17 of such plan required by this section; or

18 “(B) in any case in which the Secretary
19 has not approved the State's HSIP investment
20 plan or any update of such plan required by
21 this section, or both, the State agrees to use
22 such amount of the State's obligation authority
23 as the Secretary may determine for the fol-
24 lowing fiscal year for use only on activities and
25 projects described in subsection (d).

1 “(2) LIMITATION.—The Secretary shall not re-
2 quire a State to use obligation authority under para-
3 graph (1)(B) for a fiscal year in an amount that ex-
4 ceeds the amount of HSIP funds apportioned to the
5 State for that fiscal year.

6 “(3) OVERSIGHT.—Beginning in fiscal year
7 2012, the Secretary shall conduct oversight activities
8 to assess whether each State’s use of funds under
9 this section is consistent with the State’s HSIP in-
10 vestment strategy approved under this section.

11 “(4) TIMING OF OVERSIGHT.—The Secretary
12 shall conduct oversight of a State’s use of funds
13 under paragraph (3)—

14 “(A) upon any revision to the State’s
15 statewide transportation plan under section
16 135;

17 “(B) not later than the last day of each
18 quarter of a fiscal year; and

19 “(C) additionally throughout a fiscal year
20 as the Secretary deems necessary to assess the
21 State’s compliance with its HSIP investment
22 strategy approved under this section.

23 “(5) WITHHOLDING OF OBLIGATION APPROV-
24 ALS.—If the Secretary determines under paragraph
25 (3) that the State’s use of funds under this section

1 is not consistent with the State's HSIP investment
2 strategy approved under this section, the Secretary
3 shall not approve the obligation of funds under this
4 section for a project or activity in the State that was
5 not being carried out in the fiscal year preceding the
6 date of such determination until the State enters
7 into a legally binding agreement with the Secretary
8 to use HSIP funds apportioned to the State in ac-
9 cordance with the State's HSIP investment strategy
10 approved under this section.

11 “(k) ANNUAL REPORT TO CONGRESS.—

12 “(1) IN GENERAL.—Not later than September
13 30, 2011, and annually thereafter, the Secretary
14 shall submit to the Committee on Transportation
15 and Infrastructure of the House of Representatives
16 and the Committee on Environment and Public
17 Works and the Committee on Commerce, Science,
18 and Transportation of the Senate a report that com-
19 plies with the requirements of this subsection.

20 “(2) CONTENTS.—The report shall include, at a
21 minimum—

22 “(A) an evaluation of each State's per-
23 formance in relation to the State's HSIP in-
24 vestment strategy approved under this section

1 and the HSIP performance targets established
2 for the State under this section; and

3 “(B) such recommendations as the Sec-
4 retary may have for improvements of the pro-
5 gram authorized by this section.

6 “(3) HIGHWAY-RAIL CROSSING PERFORM-
7 ANCE.—In addition to the information required
8 under paragraph (1), the report shall—

9 “(A) provide documentation of crash rates
10 and of the number of crashes, fatalities, and in-
11 juries at highway-rail crossings in each State
12 over the most recent 3-year period;

13 “(B) identify any States that are not in
14 compliance with the requirements of section
15 130(d);

16 “(C) assess the progress being made by
17 each State in implementing activities and
18 projects to improve safety at highway-rail cross-
19 ings, including—

20 “(i) the number of highway-rail safety
21 activities and projects undertaken in con-
22 nection with this section and section 130;

23 “(ii) the distribution of such activities
24 and projects by cost range, road system,
25 nature of treatment, and subsequent acci-

1 dent experience at locations at which such
2 activities and projects were carried out in
3 the preceding fiscal year; and

4 “(iii) with respect to each of the 10
5 States referred to in subsection
6 (g)(3)(D)(ii), a description and assessment
7 of the State’s progress in implementing the
8 State’s grade crossing action plan under
9 section 202 of the Rail Safety Improve-
10 ment Act of 2008;

11 “(D) assess the progress made by each
12 State in reporting crossing information to the
13 Secretary as required by section 130(j); and

14 “(E) provide such recommendations as the
15 Secretary may have regarding Federal activities
16 to increase safety at highway-rail grade cross-
17 ings.

18 “(4) CONSULTATION.—The Secretary shall con-
19 sult with the Administrators of the Federal Highway
20 Administration and the Federal Railroad Adminis-
21 tration in preparing the report under this sub-
22 section.

23 “(1) APPLICABILITY OF PLANNING REQUIRE-
24 MENTS.—Nothing in this section shall be construed as lim-

1 iting the applicability of sections 134 and 135 to activities
2 and projects carried out under this section.

3 “(m) CONTINUATION OF CURRENT REVIEW PRAC-
4 TICE.—Because individual activities and projects that are
5 carried out under the HSIP investment strategy described
6 in a State’s HSIP investment plan are subject to review
7 under the National Environmental Policy Act of 1969 (42
8 U.S.C. 4321 et seq.), a decision by the Secretary con-
9 cerning a HSIP investment plan and any update of such
10 plan in connection with this section shall not be considered
11 to be a Federal action subject to review under such Act.

12 “(n) DISCOVERY AND ADMISSION INTO EVIDENCE OF
13 CERTAIN REPORTS, SURVEYS, AND INFORMATION.—Not-
14 withstanding any other provision of law, reports, surveys,
15 schedules, lists, or data compiled or collected for any pur-
16 pose directly relating to subsection (h), or published by
17 the Secretary in accordance with subsection (k), shall not
18 be subject to discovery or admitted into evidence in a Fed-
19 eral or State court proceeding or considered for other pur-
20 poses in any action for damages arising from any occur-
21 rence at a location identified or addressed in such reports,
22 surveys, schedules, lists, or other data.

23 “(o) FEDERAL SHARE OF HIGHWAY SAFETY IM-
24 PROVEDMENT PROJECTS.—Except as provided in section
25 130, the Federal share of the cost of a highway safety

1 improvement project carried out with HSIP funds appor-
2 tioned to a State shall be 90 percent.”.

3 (b) DEVELOPMENT OF ROADWAY INVENTORY
4 DATA.—Not later than 18 months after the date of enact-
5 ment of this Act, the Secretary shall—

6 (1) define the roadway inventory data elements
7 that a State will need to comply with section
8 148(c)(2), United States Code;

9 (2) set a deadline for States to develop such
10 roadway inventory data elements; and

11 (3) require each State to submit to the Sec-
12 retary a schedule for achieving compliance with such
13 section.

14 **SEC. 1109. CONGESTION MITIGATION AND AIR QUALITY IM-**
15 **PROVEMENT PROGRAM.**

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

18 “(b) ELIGIBLE PROJECTS.—

19 “(1) IN GENERAL.—A State may obligate funds
20 apportioned to the State under section 104(b)(2) for
21 a transportation project or program if the project or
22 program meets the following requirements:

23 “(A) The project or program is for an area
24 in the State that—

1 “(i) is or was designated as a non-
2 attainment area for ozone, carbon mon-
3 oxide, or particulate matter under section
4 107(d) of the Clean Air Act (42 U.S.C.
5 7407(d)) and classified pursuant to section
6 181(a), 186(a), 188(a), or 188(b) of the
7 Clean Air Act (42 U.S.C. 7511(a),
8 7512(a), 7513(a), or 7513(b));

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

12 “(iii) is required to prepare, and file
13 with the Administrator of the Environ-
14 mental Protection Agency, a maintenance
15 plan under section 175A of the Clean Air
16 Act (42 U.S.C. 7505a).

17 “(B) The Secretary, after consultation
18 with the Administrator, determines that—

19 “(i) on the basis of information pub-
20 lished by the Environmental Protection
21 Agency pursuant to section 108(f)(1)(A) of
22 the Clean Air Act (other than clause (xvi)
23 of such section), the project or program is
24 likely to contribute to—

1 “(I) the attainment of a national
2 ambient air quality standard; or

3 “(II) the maintenance of a na-
4 tional ambient air quality standard in
5 a maintenance area; and

6 “(ii) the project or program is part of
7 a program, method, or strategy described
8 in such section 108(f)(1)(A).

9 “(C) The project or program is included in
10 a State implementation plan that has been ap-
11 proved pursuant to the Clean Air Act and the
12 project will have air quality benefits.

13 “(D) The Secretary, after consultation
14 with the Administrator, determines that the
15 project or program is likely to contribute to the
16 attainment of a national ambient air quality
17 standard, whether through reductions in vehicle
18 miles traveled, fuel consumption, or through
19 other factors.

20 “(2) SPECIAL RULES.—

21 “(A) PROJECTS RESULTING IN NEW CA-
22 PACITY FOR SINGLE OCCUPANT VEHICLES.—A
23 State may obligate funds apportioned to the
24 State under section 104(b)(2) for a project that
25 will result in the construction of new capacity

1 available to single occupant vehicles only if the
2 project consists of a high occupancy vehicle fa-
3 cility available to single occupant vehicles only
4 at other than peak travel times.

5 “(B) PROJECTS FOR PM-10 NONATTAIN-
6 MENT AREAS.—A State may obligate funds ap-
7 portioned to the State under section 104(b)(2)
8 for a project or program for an area that is
9 nonattainment for ozone or carbon monoxide, or
10 both, and for PM-10 resulting from transpor-
11 tation activities, without regard to any limita-
12 tion of the Department of Transportation relat-
13 ing to the type of ambient air quality standard
14 such project or program addresses.

15 “(C) ACQUISITION OF PUBLIC TRANSPOR-
16 TATION VEHICLES.—

17 “(i) IN GENERAL.—A State may obli-
18 gate funds apportioned to the State under
19 section 104(b)(2) for the acquisition of a
20 vehicle used to provide public transpor-
21 tation, except that any vehicle so acquired
22 shall be a clean fuel vehicle.

23 “(ii) CLEAN FUEL VEHICLE DE-
24 FINED.—In this subparagraph, the term
25 ‘clean fuel vehicle’ means a passenger vehi-

1 cle used to provide public transportation
2 that—

3 “(I) is powered by—

4 “(aa) compressed natural
5 gas;

6 “(bb) liquefied natural gas;

7 “(cc) biodiesel fuels;

8 “(dd) batteries;

9 “(ee) alcohol-based fuels;

10 “(ff) electricity, in whole or
11 in part;

12 “(gg) fuel cells;

13 “(hh) hydrogen; or

14 “(ii) other low or zero emis-
15 sions technology; and

16 “(II) the Administrator of the
17 Environmental Protection Agency has
18 certified sufficiently reduces harmful
19 emissions.”.

20 (b) ALLOCATION OF APPORTIONED FUNDS.—Section
21 149(c) is amended to read as follows:

22 “(c) ALLOCATION OF APPORTIONED FUNDS.—

23 “(1) DIVISION BETWEEN NONATTAINMENT OR
24 MAINTENANCE AREAS WITH A WEIGHTED POPU-

1 LATION OF OVER [] AND OTHER NONATTAINMENT
2 OR MAINTENANCE AREAS.—

3 “(A) IN GENERAL.—The funds appor-
4 tioned to a State under section 104(b)(2) for a
5 fiscal year shall be obligated under this sec-
6 tion—

7 “(i) in nonattainment or maintenance
8 areas of the State with a weighted popu-
9 lation of over [__], and

10 “(ii) in other nonattainment or main-
11 tenance areas of the State,
12 in proportion to their relative share of the
13 State’s weighted population for all nonattain-
14 ment or maintenance areas in the State.

15 “(B) DISTRIBUTION BETWEEN NON-
16 ATTAINMENT OR MAINTENANCE AREAS WITH A
17 WEIGHTED POPULATION OF OVER [__].—The
18 amount of funds that a State is required to ob-
19 ligate under subparagraph (A)(i) shall be obli-
20 gated in the nonattainment or maintenance
21 areas of the State described in subparagraph
22 (A)(i) based on the relative weighted population
23 of such areas.

24 “(2) OBLIGATION AUTHORITY.—

1 “(A) IN GENERAL.—A State that is re-
2 quired to obligate in a nonattainment or main-
3 tenance area with a weighted population of over
4 【__】 under paragraph (1) funds apportioned to
5 the State for a fiscal year under section
6 104(b)(2) shall make available during the first
7 9 months of the fiscal year an amount of obli-
8 gation authority distributed to the State for
9 Federal-aid highways and highway safety con-
10 struction programs for use in the nonattain-
11 ment or maintenance area that is equal to the
12 amount obtained by multiplying—

13 “(i) the aggregate amount of funds
14 that the State is required to obligate in the
15 area under paragraph (1) during the fiscal
16 year; and

17 “(ii) the ratio that—

18 “(I) the aggregate amount of ob-
19 ligation authority distributed to the
20 State for Federal-aid highways and
21 highway safety construction programs
22 during the fiscal year; bears to

23 “(II) the total of the sums appor-
24 tioned to the State for Federal-aid
25 highways and highway safety con-

1 struction programs (excluding sums
2 not subject to an obligation limitation)
3 during the fiscal year.

4 “(B) REVERSION TO ORIGINAL AVAIL-
5 ABILITY.—If an amount of obligation authority
6 distributed for a nonattainment or maintenance
7 area under subparagraph (A) for a fiscal year
8 remains available after the first 9 months of the
9 fiscal year, that amount of obligation authority
10 shall be available to the State during the re-
11 maining 3 months of the fiscal year without re-
12 gard to the distribution made under subpara-
13 graph (A).

14 “(C) JOINT RESPONSIBILITY.—Each State,
15 any affected metropolitan planning organiza-
16 tion, and the Secretary shall jointly ensure com-
17 pliance with subparagraph (A).

18 “(3) DEFINITIONS.—In this subsection, the fol-
19 lowing definitions apply:

20 “(A) NONATTAINMENT OR MAINTENANCE
21 AREA.—The term ‘nonattainment or mainte-
22 nance area’ means an area that is or was des-
23 ignated as a nonattainment area for ozone or
24 carbon monoxide under section 107(d) of the
25 Clean Air Act (42 U.S.C. 7407(d)) and classi-

1 fied pursuant to section 181(a), 186(a), 188(a),
2 or 188(b) of the Clean Air Act (42 U.S.C.
3 7511(a), 7512(a), 7513(a), or 7513(b)).

4 “(B) WEIGHTED POPULATION.—The term
5 ‘weighted population’ means the sum of the
6 weighted county populations, as calculated
7 under section 104(b)(2)(B), for a nonattain-
8 ment or maintenance area.”.

9 (c) INTERAGENCY CONSULTATION; EVALUATION, AS-
10 SESSMENT, AND BEST PRACTICES.—Section 149 is
11 amended by striking subsections (e) through (h) and in-
12 serting the following:

13 “(e) INTERAGENCY CONSULTATION.—The Secretary
14 shall require States and metropolitan planning organiza-
15 tions to cooperate with State and local air quality agencies
16 in nonattainment and maintenance areas on the estimated
17 emission reductions from proposed congestion mitigation
18 and air quality improvement programs and projects.

19 “(f) EVALUATION, ASSESSMENT, AND BEST PRAC-
20 TICES.—

21 “(1) IN GENERAL.—The Secretary, in consulta-
22 tion with the Administrator of the Environmental
23 Protection Agency, shall—

24 “(A) conduct an evaluation and assessment
25 of a representative sample of projects funded

1 under this section to determine the direct and
2 indirect impact of the projects on air quality
3 and congestion levels; and

4 “(B) establish a publically available elec-
5 tronic database that will serve as a clearing-
6 house of—

7 “(i) information on the transportation
8 control measures and projects receiving
9 funding under this section; and

10 “(ii) information providing technical
11 assistance on effective strategies, tech-
12 niques, and best practices to be utilized by
13 States, counties, and urbanized areas in
14 reducing congestion and meeting national
15 ambient air quality standards.

16 “(2) REPORT.—Not later than one year after
17 the date of enactment of the Surface Transportation
18 Authorization Act of 2009, and annually thereafter,
19 the Secretary, in consultation with the Adminis-
20 trator, shall submit to the Committee on Transpor-
21 tation and Infrastructure of the House of Represent-
22 atives and the Committee on Environment and Pub-
23 lic Works of the Senate a report containing—

24 “(A) a description of the projects funded
25 under this section;

1 “(B) an assessment of the direct and indi-
2 rect impacts on air quality and congestion levels
3 of a representative sample of projects funded
4 under this section; and

5 “(C) such recommendations as the Sec-
6 retary may have for improvements in the oper-
7 ation and evaluation of the program established
8 under this section.”.

9 **SEC. 1110. CRITICAL ASSET INVESTMENT PROGRAM.**

10 (a) IN GENERAL.—Chapter 1 is amended by insert-
11 ing after section 149 the following:

12 **“§ 150. Critical asset investment program**

13 “(a) ESTABLISHMENT.—The Secretary shall estab-
14 lish and implement a critical asset investment program in
15 accordance with this section.

16 “(b) PURPOSES.—The purposes of the CAI program
17 shall be to—

18 “(1) establish national priorities and goals for
19 bringing the National Highway System into a state
20 of good repair and preserving that state of good re-
21 pair;

22 “(2) focus Federal investment on preserving
23 and improving the condition of roadways and high-
24 way bridges located on the National Highway Sys-
25 tem; and

1 “(3) strengthen the connection between the use
2 of Federal surface transportation funding and the
3 accomplishment of national performance outcomes.

4 “(c) USE OF APPORTIONED FUNDS.—A State may
5 obligate CAI funds apportioned to the State for projects
6 eligible under subsection (d) and other costs eligible under
7 subsection (e).

8 “(d) ELIGIBLE PROJECTS.—

9 “(1) IN GENERAL.—To be eligible for funding
10 under this section, a project shall—

11 “(A) be a project for preservation, rehabili-
12 tation, protection, or replacement of an eligible
13 facility; and

14 “(B) be consistent with the investment
15 strategy of the State in which the project is lo-
16 cated.

17 “(2) ELIGIBLE FACILITIES.—For the purposes
18 of paragraph (1), the following facilities are eligible
19 facilities:

20 “(A) A highway located on the National
21 Highway System.

22 “(B) A highway bridge located on a Fed-
23 eral-aid highway.

24 “(3) LIMITATION.—

1 “(A) IN GENERAL.—A project cost attrib-
2 utable to expansion of the capacity of a high-
3 way located on the National Highway System
4 shall not be eligible for funding under this sec-
5 tion if such new capacity consists of one or
6 more new travel lanes that are not auxiliary
7 lanes.

8 “(B) SPECIAL RULE FOR BRIDGES.—The
9 requirements of subparagraph (A) shall not
10 apply to projects on highway bridges located on
11 Federal-aid highways.

12 “(e) OTHER ELIGIBLE COSTS.—In addition to the
13 projects described in subsection (d), a State may obligate,
14 in the aggregate, not to exceed **[____]** percent of the CAI
15 funds apportioned to the State for a fiscal year for the
16 following activities:

17 “(1) Development and implementation of man-
18 agement systems in support of CAI plans.

19 “(2) Inspection activities for highway bridges
20 and tunnels in the State.

21 “(3) Training of personnel responsible for in-
22 spection of highway tunnels and inspection and load
23 rating of highway bridges in the State.

24 “(4) Data collection to monitor the condition of
25 highways and highway bridges.

1 “(f) CAI PERFORMANCE TARGETS.—

2 “(1) ESTABLISHMENT OF CAI PERFORMANCE
3 TARGETS.—Not later than 6 months after the date
4 of enactment of this section, and every 6 years
5 thereafter, the Secretary shall establish quantifiable
6 CAI performance targets for each State in coordina-
7 tion with the State.

8 “(2) APPLICABILITY OF CAI PERFORMANCE
9 TARGETS.—The CAI performance targets estab-
10 lished for a State under this subsection shall apply
11 for a period of 6 years.

12 “(3) MINIMUM REQUIREMENTS.—The CAI per-
13 formance targets established for a State under this
14 subsection shall provide for, at a minimum, the fol-
15 lowing:

16 “(A) A [] percent reduction over the 6-
17 year period covered by such targets in the
18 State’s total deck area of highway bridges that
19 are located on the Interstate System and rated
20 as being structurally deficient, as determined by
21 the Secretary.

22 “(B) A [] percent reduction over the 6-
23 year period covered by such targets in the
24 State’s total deck area of highway bridges that
25 are located on the National Highway System

1 and rated as being structurally deficient, as de-
2 termined by the Secretary.

3 “(C) A [] percent reduction over the 6-
4 year period covered by such targets in the
5 State’s lane miles that are located on the Inter-
6 state System and rated as being in poor condi-
7 tion, as determined by the Secretary based on
8 a broadly-accepted measure of the condition or
9 structural adequacy of the highway.

10 “(D) A [] percent reduction over the 6-
11 year period covered by such targets in the
12 State’s lane miles that are located on the Inter-
13 state System and rated as being in either fair
14 or poor condition, as determined by the Sec-
15 retary based on a broadly-accepted measure of
16 the condition or structural adequacy of the
17 highway.

18 “(E) A [] percent reduction over the 6-
19 year period covered by such targets in the
20 State’s lane miles that are located on the Na-
21 tional Highway System and rated as being in
22 poor condition, as determined by the Secretary
23 based on a broadly-accepted measure of the
24 condition or structural adequacy of the high-
25 way.

1 “(F) A [] percent reduction over the 6-
2 year period covered by such targets in of the
3 State’s lane miles that are located on the Na-
4 tional Highway System and rated as being in
5 either fair or poor condition, as determined by
6 the Secretary based on a broadly-accepted
7 measure of the condition or structural adequacy
8 of the highway.

9 “(4) PERFORMANCE MEASURES FOR HIGH-
10 WAYS.—For purpose of paragraphs (3)(C), (3)(D),
11 (3)(E), and (3)(F), until such time as the Secretary
12 establishes, by rule, a superseding measure of high-
13 way condition or structural adequacy—

14 “(A) a rating of poor condition shall be
15 based on a determination that the highway, or
16 relevant portion thereof, has an international
17 roughness index greater than 170; and

18 “(B) a rating of fair condition shall be
19 based on a determination that the highway, or
20 relevant portion thereof, has an international
21 roughness index greater than 94 and less than
22 or equal to 170.

23 “(g) STATE CAI PLANS.—

24 “(1) SUBMISSION OF PLANS.—Not later than 4
25 months after the date of establishment of perform-

1 ance targets under subsection (f), a State shall de-
2 velop and submit to the Secretary for approval a
3 CAI plan.

4 “(2) UPDATES.—

5 “(A) BIENNIAL UPDATES.—Not later than
6 July 31 of the second fiscal year beginning
7 after the date of submission of a State’s CAI
8 plan under paragraph (1), and biennially there-
9 after, the State shall develop and submit to the
10 Secretary for approval an update of the plan.

11 “(B) UPDATES DUE TO EMERGENCY.—
12 Notwithstanding the schedule of plan updates
13 under subparagraph (A), a State may develop
14 and submit to the Secretary for approval an up-
15 date of the plan when—

16 “(i) highway facilities eligible under
17 this section in a State have suffered seri-
18 ous damage due to an event that results in
19 the declaration of a state of emergency by
20 the Governor of the State or if the Presi-
21 dent has declared such event to be a major
22 disaster under the Robert T. Stafford Dis-
23 aster Relief and Emergency Assistance Act
24 (42 U.S.C. 5121 et seq.); or

1 “(ii) unforeseen events significantly
2 impact a State’s ability to meet one or
3 more of its CAI performance targets, as
4 determined by the Secretary.

5 “(3) PLAN REQUIREMENTS.—A CAI plan of a
6 State and any update of the plan developed by a
7 State shall meet the following requirements:

8 “(A) DOCUMENTATION ON CONDITION OF
9 ELIGIBLE FACILITIES.—The plan and any up-
10 date shall include documentation on the condi-
11 tion of—

12 “(i) highways on the National High-
13 way System located in the State; and

14 “(ii) highway bridges on Federal-aid
15 highways located in the State.

16 “(B) MULTI-YEAR INVESTMENT STRAT-
17 EGY.—The plan and any update shall include
18 an investment strategy that—

19 “(i) covers 6 years and describes the
20 manner in which the State will allocate
21 funds apportioned to the State to carry out
22 this section among, at a minimum—

23 “(I) facilities in good condition,
24 fair condition, and poor condition;

1 “(II) projects for preservation,
2 rehabilitation, protection, and replace-
3 ment;

4 “(III) projects located on Inter-
5 state System highways, National
6 Highway System highways (other
7 than Interstate System highways),
8 Interstate System bridges, National
9 Highway System bridges (other than
10 Interstate System bridges), and high-
11 way bridges located on Federal-aid
12 highways that are not part of the Na-
13 tional Highway System; and

14 “(IV) other eligible costs, as de-
15 scribed in subsection (e);

16 “(ii) describes any Federal, State,
17 local, or private funds that the State plans
18 to use, in addition to funds described in
19 clause (i), on projects that will help to
20 meet the CAI performance targets estab-
21 lished for the State under this section;

22 “(iii) indicates the number of lane
23 miles of highways and amount of deck area
24 on highway bridges that the State will ad-

1 dress through the allocations described in
2 clause (i); and

3 “(iv) provides for investment in
4 projects that, once completed, will allow
5 the State to meet its CAI performance tar-
6 gets.

7 “(C) RATIONALE FOR INVESTMENT STRAT-
8 EGY.—The plan and any update shall describe
9 the manner in which the State’s investment
10 strategy will enable the State to meet its CAI
11 performance targets.

12 “(4) REVIEWS.—

13 “(A) IN GENERAL.—Not later than 2
14 months after the date of receipt of a State’s
15 CAI plan or an update of the plan under this
16 section, the Secretary shall review and approve
17 or disapprove the plan or update.

18 “(B) APPROVAL OF PLANS AND UP-
19 DATES.—The Secretary shall approve a State’s
20 CAI plan or an update of the plan if the Sec-
21 retary determines that the investment strategy
22 provided in the plan or update will allow the
23 State to meet the State’s CAI performance tar-
24 gets.

1 “(C) INTERIM PROGRESS IN MEETING PER-
2 FORMANCE TARGETS.—In determining whether
3 to approve an update of a plan under this para-
4 graph, the Secretary shall consider, at a min-
5 imum—

6 “(i) the State’s progress relative to
7 the State’s CAI performance targets; and

8 “(ii) the time remaining for the State
9 to meet the State’s CAI performance tar-
10 gets.

11 “(D) DISAPPROVAL OF PLANS.—If the
12 Secretary disapproves a State’s CAI plan or an
13 update of the plan, the Secretary shall notify
14 the State of the reasons for the disapproval and
15 require the State to resubmit the plan or up-
16 date to the Secretary with such modifications as
17 the Secretary may require.

18 “(E) EFFECT OF DISAPPROVAL OF
19 PLANS.—If the Secretary disapproves a State’s
20 CAI plan or an update of the plan, the Sec-
21 retary shall not approve the obligation of funds
22 under this section for a project in the State
23 that was not being carried out in the fiscal year
24 preceding the date of such disapproval until the
25 Secretary approves the State’s CAI plan or the

1 update of the plan, except that the Secretary
2 shall not withhold approval of the obligation of
3 funds for projects in the State under this sec-
4 tion until 60 days after the date of such dis-
5 approval.

6 “(F) STATES RECEIVING INSUFFICIENT
7 APPORTIONMENTS TO MEET TARGETS.—If, in
8 conducting a review of a State’s CAI plan or an
9 update of the plan, the Secretary determines
10 that the State’s ability to meet its CAI perform-
11 ance targets under this section is substantially
12 limited by the amount of funds apportioned to
13 the State to carry out this section, the Sec-
14 retary may reduce such performance targets to
15 take into account the amount of the funding
16 shortfall and make a determination under sub-
17 paragraph (B) concerning approval or dis-
18 approval of the plan or update based on the re-
19 duced CAI performance targets.

20 “(G) REDUCTION IN TARGETS DUE TO
21 EMERGENCY.—The Secretary may temporarily
22 reduce one or more of a State’s CAI perform-
23 ance targets and make a determination under
24 subparagraph (B) concerning approval or dis-

1 approval of the plan or update based on the re-
2 duced CAI performance targets when—

3 “(i) highway facilities eligible under
4 this section in a State have suffered seri-
5 ous damage due to an event that results in
6 the declaration of a state of emergency by
7 the Governor of the State or if the Presi-
8 dent has declared such event to be a major
9 disaster under the Robert T. Stafford Dis-
10 aster Relief and Emergency Assistance Act
11 (42 U.S.C. 5121 et seq.); or

12 “(ii) unforeseen events significantly
13 impact the State’s ability to meet one or
14 more of its CAI performance targets, as
15 determined by the Secretary.

16 “(H) RESUBMISSION OF PLANS WITH
17 MODIFICATIONS.—If the Secretary requires a
18 State to resubmit an CAI plan or an update of
19 the plan with modifications, the Secretary shall
20 review and either approve or disapprove the
21 modified plan or update not later than 30 days
22 after the date on which the plan or update is
23 resubmitted.

24 “(5) PUBLIC NOTICE.—A State shall make the
25 State’s CAI plan and each update of the plan, and

1 decisions of the Secretary concerning approval or
2 disapproval of the plan or update, available to the
3 public.

4 “(h) STATE ANNUAL REPORTS.—

5 “(1) IN GENERAL.—Not later than July 31,
6 2011, and annually thereafter, a State apportioned
7 CAI funds shall submit to the Secretary a report
8 that documents the State’s progress in meeting its
9 CAI performance targets through implementation of
10 its investment strategy.

11 “(2) CONTENTS.—A report submitted by a
12 State in a fiscal year under paragraph (1) shall con-
13 tain, at a minimum—

14 “(A) documentation on the condition of—

15 “(i) highways (subdivided by func-
16 tional class) on the National Highway Sys-
17 tem located in the State; and

18 “(ii) highway bridges (subdivided by
19 functional class) on Federal-aid highways
20 located in the State;

21 “(B) a description of the extent to which
22 the State’s use of CAI funds apportioned to the
23 State during the most recent fiscal year was
24 consistent with the State’s investment strategy;

1 “(C) an identification of the number of
2 lane miles of highways and amount of deck area
3 on highway bridges on which the State has used
4 such funds during the most recent fiscal year;

5 “(D) an identification of the distribution of
6 highway and bridge facilities, by level of owner-
7 ship (Federal, State, tribal, and local) and by
8 functional classification, on which the State has
9 obligated such funds during the most recent fis-
10 cal year;

11 “(E) an assessment of the progress that
12 the State has made toward meeting each of the
13 State’s CAI performance targets based on the
14 projects that the State has carried out under
15 this section and the contribution that those
16 projects have made or will make, once complete,
17 to the State meeting such performance targets;
18 and

19 “(F) an identification of the average unit
20 cost (per lane mile or highway bridge unit) for
21 projects that the State has delivered through its
22 use of CAI funds apportioned to the State dur-
23 ing the most recent fiscal year.

24 “(i) SPECIAL RULES FOR FISCAL YEARS 2010 AND
25 2011.—

1 “(1) ELIGIBILITY FOR FUNDING.—For fiscal
2 years 2010 and 2011, a project shall be eligible for
3 funding under this section without regard to sub-
4 section (d)(1)(B).

5 “(2) SET-ASIDES OF FUNDS.—After making
6 CAI funds available to a State for each of fiscal
7 years 2010 and 2011, the Secretary shall ensure
8 that—

9 “(A) the State uses at least [__] percent
10 of the CAI funds only on projects located on
11 the Interstate System; and

12 “(B) the State uses at least [__] percent
13 of the CAI funds only on bridge projects located
14 on Federal-aid highways other than the Inter-
15 state System.

16 “(j) OVERSIGHT.—

17 “(1) IN GENERAL.—Beginning in fiscal year
18 2012, the Secretary shall conduct oversight activities
19 to assess whether each State’s use of funds under
20 this section is consistent with the State’s investment
21 strategy approved under this section.

22 “(2) TIMING OF OVERSIGHT.—The Secretary
23 shall conduct oversight of a State’s use of funds
24 under paragraph (1)—

1 “(A) upon any revision to the State’s
2 statewide transportation plan under section
3 135;

4 “(B) not later than the last day of each
5 quarter of a fiscal year; and

6 “(C) additionally throughout a fiscal year
7 as the Secretary considers necessary to assess
8 the State’s compliance with its investment
9 strategy.

10 “(3) WITHHOLDING OF PROJECT APPROVALS.—

11 If the Secretary determines under paragraph (1)
12 that a State’s use of funds under this section is not
13 consistent with the State’s investment strategy ap-
14 proved under this section, the Secretary shall not
15 approve the obligation of funds under this section
16 for a project in the State that was not being carried
17 out in the fiscal year preceding the date of such de-
18 termination until the State enters into a legally
19 binding agreement with the Secretary to use CAI
20 funds apportioned to the State in accordance with
21 the State’s investment strategy approved under this
22 section.

23 “(k) ANNUAL REPORT TO CONGRESS.—Not later
24 than September 30, 2011, and annually thereafter, the
25 Secretary shall submit to the Committee on Transpor-

1 tation and Infrastructure of the House of Representatives
2 and the Committee on Environment and Public Works of
3 the Senate a report containing—

4 “(1) an evaluation of each State’s performance
5 in relation to the State’s investment strategy ap-
6 proved under this section and the CAI performance
7 targets established for the State under this section;
8 and

9 “(2) such recommendations as the Secretary
10 may have for improvements of the program author-
11 ized by this section.

12 “(l) APPLICABILITY OF PLANNING REQUIRE-
13 MENTS.—Nothing in this section shall be construed as lim-
14 iting the applicability of sections 134 and 135 to projects
15 carried out under this section.

16 “(m) CONTINUATION OF CURRENT REVIEW PRAC-
17 TICE.—Because individual projects that are carried out
18 under the investment strategy described in a State’s CAI
19 plan are subject to review under the National Environ-
20 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.), a
21 decision by the Secretary concerning a CAI plan or an up-
22 date of the plan in connection with this section shall not
23 be considered to be a Federal action subject to review
24 under such Act.

1 “(n) TRANSFER OF NHS, BRIDGE PROGRAM, AND
2 INTERSTATE MAINTENANCE APPORTIONMENTS.—Upon
3 application by a State and approval by the Secretary, the
4 Secretary may transfer to the apportionment of the State
5 under section 104(b)(1) an amount of the funds appor-
6 tioned to the State for a fiscal year ending before October
7 1, 2009, under sections 104(b)(1), 104(b)(4), and 144(e)
8 (in each case, as in effect on the day before the date of
9 enactment of this section) that remains available for ex-
10 penditure by the State.

11 “(o) DEFINITIONS.—In this section, the following
12 definitions apply:

13 “(1) CAI PLAN.—The term ‘CAI plan’ means a
14 critical asset investment plan established by a State
15 under subsection (g).

16 “(2) CAI FUNDS.—The term ‘CAI funds’
17 means funds apportioned under section 104(b)(1)
18 and funds apportioned for the CAI program under
19 section 105(d)(1).

20 “(3) CAI PROGRAM.—The term ‘CAI program’
21 means the critical asset investment program carried
22 out under this section.

23 “(4) CAI PERFORMANCE TARGET.—The term
24 ‘CAI performance target’ means a performance tar-
25 get established under subsection (f).

1 “(5) DATE OF ENACTMENT OF THIS SEC-
2 TION.—The term ‘date of enactment of this section’
3 means the date of enactment of the Surface Trans-
4 portation Authorization Act of 2009.

5 “(6) INVESTMENT STRATEGY.—The term ‘in-
6 vestment strategy’ means a State investment strat-
7 egy established under subsection (g)(3)(B).

8 “(7) PRESERVATION.—

9 “(A) IN GENERAL.—The term ‘preserva-
10 tion’ means any cost-effective activity to pre-
11 vent, delay, or reduce deterioration on an eligi-
12 ble highway facility, including both preventive
13 and corrective actions.

14 “(B) EXCLUSION.—The term does not in-
15 clude structural or operational improvement be-
16 yond the originally designed strength or traffic
17 capacity of an existing facility except to the ex-
18 tent the improvement occurs as an incidental
19 result of the preservation activity.

20 “(8) PROTECTION.—The term ‘protection’
21 means all activities associated with the design and
22 construction of measures to protect highways from
23 hazards such as earthquakes, floods, scour, icing,
24 vessel collision, vehicular impact, and security
25 threats.”.

1 (b) CLERICAL AMENDMENT.—The analysis for chap-
2 ter 1 is amended by inserting after the item relating to
3 section 149 the following:

“Sec. 150. Critical asset investment program.”.

4 (c) REGULATIONS ON PERFORMANCE MEASURES OF
5 STRUCTURAL ADEQUACY.—

6 (1) ISSUANCE.—Not later than 18 months after
7 the date of enactment of this Act, the Secretary
8 shall issue regulations establishing performance
9 measures for highway condition and structural ade-
10 quacy to supersede the interim measures designated
11 in accordance with section 150(f)(4) of title 23,
12 United States Code, as added by subsection (a).

13 (2) USE OF PERFORMANCE MEASURES.—After
14 establishing performance measures under paragraph
15 (1), the Secretary shall rely on the measures in—

16 (A) reviewing State CAI plans and updates
17 under section 150(g)(4) of such title; and

18 (B) establishing future State performance
19 targets under section 150(f)(1) of such title.

20 (d) CONFORMING AMENDMENTS.—

21 (1) Section 103(b) is amended by striking para-
22 graphs (6) and (7).

23 (2) Section 118 is amended—

24 (A) by striking subsection (c); and

1 (B) by redesignating subsections (d) and
2 (e) as subsections (c) and (d), respectively.

3 (3) Section 119, and the item relating to that
4 section in the analysis for chapter 1, are repealed.

5 (4) Section 137 is amended by striking sub-
6 section (f).

7 (5) Section 142 is amended—

8 (A) in subsection (a)(2) by striking “the
9 the” and inserting “the”;

10 (B) by striking subsections (b) and (i);

11 (C) by redesignating subsections (c), (d),
12 (e), (f), (g), and (h) as subsections (b), (c), (d),
13 (e), (f), and (g), respectively; and

14 (D) in subsection (f) (as so redesignated)
15 by striking “air space exits” and inserting “air
16 space exists”.

17 (6) Section 146(a) is amended by striking “sec-
18 tions 104(b)(1) and” and inserting “section”.

19 (7) Section 303(g) is amended by striking “and
20 funds apportioned under section 144” and all that
21 follows before the period at the end.

22 **SEC. 1111. SAFE ROUTES TO SCHOOL PROGRAM.**

23 (a) IN GENERAL.—Section 152 is amended to read
24 as follows:

1 **“§ 152. Safe routes to school program**

2 “(a) ESTABLISHMENT.—Subject to the requirements
3 of this section, the Secretary shall establish and carry out
4 a safe routes to school program for the benefit of children
5 in primary and middle schools.

6 “(b) PURPOSES.—The purposes of the program shall
7 be—

8 “(1) to enable and encourage children, includ-
9 ing those with disabilities, to walk and bicycle to
10 school;

11 “(2) to make bicycling and walking to school a
12 safer and more appealing transportation alternative,
13 thereby encouraging a healthy and active lifestyle
14 from an early age; and

15 “(3) to facilitate the planning, development,
16 and implementation of projects and activities that
17 will improve safety and reduce traffic, fuel consump-
18 tion, and air pollution in the vicinity of schools.

19 “(c) ADMINISTRATION OF AMOUNTS.—Amounts ap-
20 portioned to a State under section 104(b)(7) shall be ad-
21 ministered by the State’s department of transportation.

22 “(d) ELIGIBLE RECIPIENTS.—Amounts apportioned
23 to a State under section 104(b)(7) shall be used by the
24 State to provide financial assistance to State, local, tribal,
25 and regional agencies, including nonprofit organizations,

1 that demonstrate an ability to meet the requirements of
2 this section.

3 “(e) ELIGIBLE PROJECTS AND ACTIVITIES.—

4 “(1) INFRASTRUCTURE-RELATED PROJECTS.—

5 “(A) IN GENERAL.—Amounts apportioned
6 to a State under section 104(b)(7) may be used
7 for the planning, design, and construction of in-
8 frastructure-related projects that will substan-
9 tially improve the ability of students to walk, bi-
10 cycle, and use other modes of nonmotorized
11 transportation to travel to and from school, in-
12 cluding sidewalk improvements, traffic calming
13 and speed reduction improvements, pedestrian
14 and bicycle crossing improvements, on-street bi-
15 cycle facilities, off-street bicycle and pedestrian
16 facilities, secure bicycle parking facilities, and
17 traffic diversion improvements in the vicinity of
18 schools.

19 “(B) LOCATION OF PROJECTS.—Infra-
20 structure-related projects under subparagraph
21 (A) may be carried out on any public road or
22 any bicycle or pedestrian pathway or trail in the
23 vicinity of schools.

24 “(2) NONINFRASTRUCTURE-RELATED ACTIVI-
25 TIES.—

1 “(A) IN GENERAL.—In addition to projects
2 described in paragraph (1), amounts appor-
3 tioned to a State under section 104(b)(7) may
4 be used for noninfrastructure-related activities
5 to encourage walking, bicycling, and using other
6 modes of nonmotorized transportation to travel
7 to and from school, including—

8 “(i) public awareness campaigns and
9 outreach to press and community leaders;

10 “(ii) traffic education and enforce-
11 ment in the vicinity of schools;

12 “(iii) student sessions on bicycle and
13 pedestrian safety, health, and environment;
14 and

15 “(iv) notwithstanding any limitation
16 relating to reoccurring costs, funding for
17 training, volunteers, and managers of safe
18 routes to school programs.

19 “(B) ALLOCATION.—Not less than 10 per-
20 cent and not more than 30 percent of the
21 amount apportioned to a State under section
22 104(b)(7) for a fiscal year shall be used for
23 noninfrastructure-related activities under this
24 subparagraph.

1 “(3) SAFE ROUTES TO SCHOOL COORDI-
2 NATOR.—Each State receiving an apportionment
3 under section 104(b)(7) for a fiscal year shall use a
4 sufficient amount of the apportionment to fund a
5 full-time position of coordinator of the State’s safe
6 routes to school program.

7 “(4) PLANNING GRANTS.—Amounts appor-
8 tioned to a State under section 104(b)(7) may be
9 used for developing State plans for implementing
10 projects and activities, including noninfrastructure-
11 related activities, under the State’s safe routes to
12 school program.

13 “(5) DATA COLLECTION.—For fiscal year 2011,
14 and each fiscal year thereafter, a State receiving an
15 apportionment of funds under section 104(b)(7)
16 shall require eligible recipients described in sub-
17 section (d) to use a standardized form, as developed
18 by the Secretary, in consultation with the nonprofit
19 organization under subsection (g)(2)(A), to record
20 data collected under the State’s safe routes to school
21 program.

22 “(f) CLEARINGHOUSE.—

23 “(1) IN GENERAL.—The Secretary shall make
24 grants to a national nonprofit organization engaged
25 in promoting safe routes to schools to—

1 “(A) operate a national safe routes to
2 school clearinghouse;

3 “(B) develop information and educational
4 programs on safe routes to school;

5 “(C) provide technical assistance and dis-
6 seminate techniques and strategies used for
7 successful safe routes to school programs; and

8 “(D) develop and disseminate best prac-
9 tices to include children with disabilities in
10 State safe routes to school programs, particu-
11 larly with respect to noninfrastructure-related
12 activities.

13 “(2) FUNDING.—The Secretary shall carry out
14 this subsection using amounts set aside for adminis-
15 trative expenses under section 104(b)(7)(B).

16 “(g) COMPREHENSIVE DATA COLLECTION.—

17 “(1) IN GENERAL.—Not later than 6 months
18 after the date of enactment of the Surface Transpor-
19 tation Authorization Act of 2009, the Secretary, in
20 consultation with the nonprofit organization de-
21 scribed in subsection (f), shall develop and imple-
22 ment a comprehensive plan for the collection of data
23 relating to the safe routes to school program.

24 “(2) CONTENTS OF COMPREHENSIVE PLAN.—

25 The comprehensive plan shall contain—

1 “(A) a standardized form to be used by eli-
2 gible recipients described in subsection (d) for
3 recording data collected under the safe routes
4 to school program, including data tracking stu-
5 dent participation (including the percentage of
6 students using various modes of nonmotorized
7 transportation), safety, and vehicular traffic re-
8 duction;

9 “(B) a description of a process for collabo-
10 rating with the Centers for Disease Control and
11 Prevention and the Environmental Protection
12 Agency to develop evaluation measures on the
13 effectiveness of the safe routes to school pro-
14 gram relating to health and the environment;
15 and

16 “(C) any other components the Secretary
17 determines necessary.

18 “(h) USING INNOVATIVE TECHNOLOGIES.—

19 “(1) IN GENERAL.—The Secretary may make
20 grants to States to determine the effectiveness of
21 using innovative technologies to measure student
22 participation in the safe routes to school program.

23 “(2) ELIGIBLE ACTIVITIES.—A State that re-
24 ceives a grant under this subsection shall use the
25 amounts of the grant to acquire and deploy innova-

1 tive technologies that measure student participation
2 in the safe routes to school program.

3 “(3) REPORT TO CONGRESS.—For each fiscal
4 year that the Secretary makes grants under this
5 subsection, the Secretary shall submit to the Com-
6 mittee on Transportation and Infrastructure of the
7 House of Representatives and the Committee on En-
8 vironment and Public Works of the Senate a report
9 on projects and activities funded using the grants
10 and determinations of the Secretary concerning the
11 effectiveness of innovative technologies in measuring
12 student participation in the safe routes to school
13 program.

14 “(4) FUNDING.—Before making an apportion-
15 ment under section 104(b)(7) for each of fiscal years
16 2010 through 2015, the Secretary may set aside
17 from amounts made available to carry out the safe
18 routes to school program under this section for such
19 fiscal year not to exceed **【\$】** to carry out this sub-
20 section.

21 “(i) FEDERAL SHARE.—

22 “(1) IN GENERAL.—Except as provided in para-
23 graph (2), the Federal share of the cost of a project
24 or activity carried out using funds made available to
25 carry out this section shall be 100 percent.

1 “(2) NON-FEDERAL CONTRIBUTIONS.—A State
2 may permit contributions from non-Federal sources
3 for projects and activities carried out under this sec-
4 tion if the State provides assurances satisfactory to
5 the Secretary that the contributions will not serve as
6 a factor in the selection of projects and activities to
7 receive assistance under this section.

8 “(j) TREATMENT OF PROJECTS.—For purposes of
9 this chapter, a project funded using amounts made avail-
10 able under this section that does not involve construction
11 work shall not be considered to be a project on the Fed-
12 eral-aid system.

13 “(k) EXPEDITING INFRASTRUCTURE PROJECTS.—

14 “(1) GUIDANCE.—Not later than one year after
15 the date of enactment of this subsection, the Sec-
16 retary, in consultation with the Office of Livability
17 established under section 331, shall issue guidance
18 on best practices to facilitate the timely implementa-
19 tion of infrastructure-related projects under this sec-
20 tion.

21 “(2) CONTENTS.—In issuing the guidance, the
22 Secretary shall address, at a minimum—

23 “(A) the applicability of categorical exclu-
24 sions to projects in the environmental review
25 process;

1 “(B) expedited procurement techniques;
2 and

3 “(C) methods to expedite projects that are
4 small, low-impact, and constructed within an
5 existing built environment.

6 “(3) STATE PROCESSES.—A State department
7 of transportation receiving an apportionment of
8 funds under this section shall adopt best practices to
9 comply with the guidance developed by the Secretary
10 under this subsection, avoid unnecessary delays in
11 implementing projects, and ensure the effective use
12 of the funds.

13 “(1) SAVINGS PROVISIONS.—Nothing in this section
14 shall be construed as—

15 “(1) superseding, amending, or modifying the
16 National Environmental Policy Act of 1969 (42
17 U.S.C. 4321 et seq.), any other Federal environ-
18 mental law, or any requirement of this title; or

19 “(2) affecting the responsibility of any Federal
20 officer to comply with or enforce any such a law or
21 requirement.

22 “(m) DEFINITIONS.—In this section, the following
23 definitions apply:

24 “(1) IN THE VICINITY OF SCHOOLS.—The term
25 ‘in the vicinity of schools’ means, with respect to a

1 school, the area within bicycling and walking dis-
2 tance of the school (approximately 2 miles).

3 “(2) PRIMARY AND MIDDLE SCHOOLS.—The
4 term ‘primary and middle schools’ means schools
5 providing education from kindergarten through
6 eighth grade.”.

7 (b) CLERICAL AMENDMENT.—The analysis for chap-
8 ter 1 is amended by striking the item relating to section
9 152 and inserting the following:

“152. Safe routes to school program.”.

10 (c) CONFORMING AMENDMENTS.—Section 1404 of
11 SAFETEA-LU (23 U.S.C. 402 note; 119 Stat. 1228),
12 and the item relating to that section in the table of con-
13 tents contained in section 1(b) of that Act, are repealed.

14 **SEC. 1112. NATIONAL SCENIC BYWAYS PROGRAM.**

15 Section 162 is amended to read as follows:

16 **“§ 162. National scenic byways program**

17 “(a) DESIGNATION OF ROADS.—

18 “(1) IN GENERAL.—The Secretary shall carry
19 out a national scenic byways program that recog-
20 nizes roads having outstanding scenic, historic, cul-
21 tural, natural, recreational, and archaeological quali-
22 ties by designating the roads as—

23 “(A) National Scenic Byways;

24 “(B) All-American Roads; or

25 “(C) America’s Byways.

1 “(2) CRITERIA.—The Secretary shall designate
2 roads to be recognized under the national scenic by-
3 ways program in accordance with criteria developed
4 by the Secretary.

5 “(3) NOMINATION.—

6 “(A) IN GENERAL.—To be considered for a
7 designation, a road must be nominated by a
8 State, an Indian tribe, or a Federal land man-
9 agement agency and must first be designated as
10 a State scenic byway, an Indian tribe scenic
11 byway, or, in the case of a road on Federal
12 land, as a Federal land management agency
13 byway.

14 “(B) NOMINATION BY INDIAN TRIBES.—
15 An Indian tribe may nominate a road as a Na-
16 tional Scenic Byway, an All-American Road, or
17 one of America’s Byways under paragraph (1)
18 only if a Federal land management agency
19 (other than the Bureau of Indian Affairs), a
20 State, or a political subdivision of a State does
21 not have—

22 “(i) jurisdiction over the road; or

23 “(ii) responsibility for managing the
24 road.

1 “(C) SAFETY.—An Indian tribe shall
2 maintain the safety and quality of roads nomi-
3 nated by the Indian tribe under subparagraph
4 (A).

5 “(4) RECIPROCAL NOTIFICATION.—States, In-
6 dian tribes, and Federal land management agencies
7 shall notify each other regarding nominations made
8 under this subsection for roads that—

9 “(A) are within the jurisdictional boundary
10 of the State, Federal land management agency,
11 or Indian tribe; or

12 “(B) directly connect to roads for which
13 the State, Federal land management agency, or
14 Indian tribe is responsible.

15 “(b) GRANTS AND TECHNICAL ASSISTANCE.—

16 “(1) IN GENERAL.—The Secretary shall make
17 grants and provide technical assistance to States
18 and Indian tribes to—

19 “(A) implement projects on highways des-
20 igned as—

21 “(i) National Scenic Byways;

22 “(ii) All-American Roads;

23 “(iii) America’s Byways;

24 “(iv) State scenic byways; or

25 “(v) Indian tribe scenic byways; and

1 “(B) plan, design, and develop a State or
2 Indian tribe scenic byway program.

3 “(2) PRIORITIES.—In making grants, the Sec-
4 retary shall give priority to—

5 “(A) each eligible project that is associated
6 with a highway that has been designated as a
7 National Scenic Byway, All-American Road, or
8 1 of America’s Byways and that is consistent
9 with the corridor management plan for the
10 byway;

11 “(B) each eligible project along a State or
12 Indian tribe scenic byway that is consistent
13 with the corridor management plan for the
14 byway, or is intended to foster the development
15 of such a plan, and is carried out to make the
16 byway eligible for designation as—

17 “(i) a National Scenic Byway;

18 “(ii) an All-American Road; or

19 “(iii) 1 of America’s Byways; and

20 “(C) each eligible project that is associated
21 with the development of a State or Indian tribe
22 scenic byway program.

23 “(c) ELIGIBLE PROJECTS.—The following are
24 projects that are eligible for Federal assistance under this
25 section:

1 “(1) An activity related to the planning, design,
2 or development of a State or Indian tribe scenic
3 byway program.

4 “(2) Development and implementation of a cor-
5 ridor management plan to maintain the scenic, his-
6 torical, recreational, cultural, natural, and archae-
7 ological characteristics of a byway corridor while
8 providing for accommodation of increased tourism
9 and development of related amenities.

10 “(3) Safety improvements to a State scenic
11 byway, Indian tribe scenic byway, National Scenic
12 Byway, All-American Road, or one of America’s By-
13 ways to the extent that the improvements are nec-
14 essary to accommodate increased traffic and changes
15 in the types of vehicles using the highway as a result
16 of the designation as a State scenic byway, Indian
17 tribe scenic byway, National Scenic Byway, All-
18 American Road, or one of America’s Byways.

19 “(4) Construction along a scenic byway of a fa-
20 cility for pedestrians and bicyclists, rest area, turn-
21 out, highway shoulder improvement, overlook, or in-
22 terpretive facility.

23 “(5) An improvement to a scenic byway that
24 will enhance access to an area for the purpose of
25 recreation, including water-related recreation.

1 “(6) Protection of scenic, historical, rec-
2 reational, cultural, natural, and archaeological re-
3 sources in an area adjacent to a scenic byway.

4 “(7) Development and provision of tourist in-
5 formation to the public, including interpretive infor-
6 mation about a scenic byway.

7 “(8) Development and implementation of a sce-
8 nic byway marketing program.

9 “(d) LIMITATION.—The Secretary shall not make a
10 grant under this section for any project that would not
11 protect the scenic, historical, recreational, cultural, nat-
12 ural, and archaeological integrity of a highway and adja-
13 cent areas.

14 “(e) SAVINGS CLAUSE.—The Secretary shall not
15 withhold any grant or impose any requirement on a State
16 or Indian tribe as a condition of providing a grant or tech-
17 nical assistance for any scenic byway unless the require-
18 ment is consistent with the authority provided in this
19 chapter.

20 “(f) BYWAYS RESOURCE CENTER.—

21 “(1) IN GENERAL.—In accordance with para-
22 graph (3), the Secretary shall allocate funds made
23 available to carry out this section to the America’s
24 Byways Resource Center established pursuant to
25 section 1215(b)(1) of the Transportation Equity Act

1 for the 21st Century (112 Stat. 209). The Center
2 shall use such funds to continue to provide technical
3 support and conduct educational activities for the
4 national scenic byways program under this section.

5 “(2) ELIGIBLE ACTIVITIES.—Technical support
6 and educational activities carried out under this sub-
7 section shall provide local officials and organizations
8 associated with National Scenic Byways, All-Amer-
9 ican Roads, and America’s Byways with proactive,
10 technical, and on-site customized assistance, includ-
11 ing training, communications (including a public
12 awareness series), publications, conferences, on-site
13 meetings, and other assistance considered appro-
14 priate to develop and sustain such byways and
15 roads.

16 “(3) FUNDING.—Of amounts made available to
17 carry out this section, the Secretary shall set aside
18 **[\$]** for each of fiscal years 2010 through 2015 for
19 allocations under this subsection.

20 “(g) FEDERAL SHARE.—The Federal share of the
21 cost of carrying out a project under this section shall be
22 80 percent, except that—

23 “(1) the Federal share of activities funded
24 under subsection (f) shall be 100 percent; and

1 “(1) ALLOCATION OF FUNDING.—On October 1
2 of each fiscal year, the Secretary shall allocate the
3 sums authorized to be appropriated for that fiscal
4 year for forest highways in accordance with section
5 134 of the Federal-Aid Highway Act of 1987 (23
6 U.S.C. 202 note; 101 Stat. 173).

7 “(2) PUBLIC ACCESS TO AND WITHIN NATIONAL
8 FOREST SYSTEM.—In making the allocation under
9 paragraph (1), the Secretary shall give equal consid-
10 eration to projects that provide access to and within
11 the National Forest System, as identified by the
12 Secretary of Agriculture through—

13 “(A) renewable resource and land use
14 planning; and

15 “(B) assessments of the impact of that
16 planning on transportation facilities.”.

17 (4) PARK ROADS AND PARKWAYS.—Section
18 202(c) is amended by inserting “PARK ROADS AND
19 PARKWAYS.—” before “On October 1”.

20 (5) INDIAN RESERVATION ROADS.—

21 (A) ADMINISTRATIVE EXPENSES.—Section
22 202(d)(2)(F) is amended—

23 (i) by striking clause (i) and inserting
24 the following:

1 “(i) IN GENERAL.—Of the funds au-
2 thorized to be appropriated for Indian res-
3 ervation roads, **[\$]** for fiscal year 2010,
4 **[\$]** for fiscal year 2011, **[\$]** for fiscal
5 year 2012, **[\$]** for fiscal year 2013, **[\$]**
6 for fiscal year 2014, and **[\$]** for fiscal
7 year 2015 may be used by the Secretary of
8 the Interior for program management and
9 oversight and project-related administra-
10 tive expenses.”; and

11 (ii) in clause (ii) by striking “and
12 SAFETEA-LU” and inserting
13 “SAFETEA-LU (Public Law 109–59),
14 and Surface Transportation Authorization
15 Act of 2009”.

16 (6) RESERVATION OF FUNDS.—Section 202(d)
17 is amended by striking paragraph (4) and redesign-
18 nating paragraph (5) as paragraph (4).

19 (7) ALLOCATIONS FOR NATIONAL FOREST SYS-
20 TEM ROADS, BUREAU OF LAND MANAGEMENT
21 ROADS, TERRITORIAL HIGHWAYS, AND PUERTO RICO
22 HIGHWAYS.—Section 202 is amended by adding at
23 the end the following:

24 “(f) NATIONAL FOREST SYSTEM ROADS.—

1 “(1) IN GENERAL.—On October 1 of each fiscal
2 year, the Secretary shall allocate sums authorized to
3 be appropriated for the fiscal year for national forest
4 system roads according to the needs of the National
5 Forest System, as determined by the Secretary and
6 the Secretary of Agriculture.

7 “(2) PLANNING.—The allocation under para-
8 graph (1) shall be consistent with land use planning
9 for the various national forests and grasslands.

10 “(g) BUREAU OF LAND MANAGEMENT ROADS.—On
11 October 1 of each fiscal year, the Secretary shall allocate
12 the sums authorized to be appropriated for such fiscal
13 year for Bureau of Land Management roads according to
14 the relative needs of the various elements of the Bureau
15 of Land Management, taking into consideration the need
16 for access as identified through land use planning and the
17 impact of such planning on existing transportation facili-
18 ties.

19 “(h) TERRITORIAL HIGHWAYS.—

20 “(1) ALLOCATION OF FUNDS.—On October 1 of
21 each fiscal year, the Secretary shall allocate the
22 sums made available for the fiscal year for territorial
23 highways among the governments of the territories
24 based on a consideration of each territory’s relative

1 population, land area, and miles of territorial high-
2 ways.

3 “(2) TERRITORY DEFINED.—In this section, the
4 term ‘territory’ means American Samoa, the Com-
5 monwealth of the Northern Mariana Islands, Guam,
6 or the United States Virgin Islands.

7 “(i) PUERTO RICO HIGHWAYS.—

8 “(1) ALLOCATION OF FUNDS.—On October 1 of
9 each fiscal year, the Secretary shall allocate the
10 sums made available for the fiscal year for Puerto
11 Rico highways to the Commonwealth of Puerto Rico
12 to carry out a highway program in the Common-
13 wealth.

14 “(2) APPLICABILITY OF CHAPTER 1.—Except
15 as provided in paragraph (3), funds made available
16 for Puerto Rico highways shall be available for obli-
17 gation and administered in the same manner as if
18 such funds were apportioned under chapter 1.

19 “(3) TREATMENT OF FUNDS.—Amounts made
20 available for a fiscal year for Puerto Rico highways
21 shall be administered as follows:

22 “(A) APPORTIONMENT.—

23 “(i) IN GENERAL.—For the purpose
24 of imposing any penalty under this title or
25 title 49, the amounts shall be treated as

1 being apportioned to Puerto Rico under
2 sections 104(b) and 144 (as in effect for
3 fiscal year 1997) for each program funded
4 under those sections in an amount deter-
5 mined by multiplying—

6 “(I) the aggregate of the
7 amounts for the fiscal year; by

8 “(II) the ratio that—

9 “(aa) the amount of funds
10 apportioned to Puerto Rico for
11 each such program for fiscal year
12 1997; bears to

13 “(bb) the total amount of
14 funds apportioned to Puerto Rico
15 for all such programs for fiscal
16 year 1997.

17 “(ii) EXCEPTION.—Funds identified
18 under subparagraph (A) as having been
19 apportioned for the interstate maintenance
20 and National Highway System programs
21 shall be deemed to have been apportioned
22 for the critical asset investment program
23 for purposes of imposing such penalties.

24 “(B) PENALTY.—The amounts treated as
25 being apportioned to Puerto Rico under each

1 section referred to in subparagraph (A) shall be
2 deemed to be required to be apportioned to
3 Puerto Rico under section 104(b) for purposes
4 of the imposition of any penalty under this title
5 or title 49.

6 “(4) EFFECT ON ALLOCATIONS AND APPOR-
7 TIONMENTS.—Subject to paragraph (3)(B), nothing
8 in this subsection affects any allocation or appor-
9 tionment under section 105 or any apportionment
10 under section 104.”.

11 (c) AVAILABILITY OF FUNDS.—Section 203 is
12 amended—

13 (1) in the first sentence by striking “and public
14 lands highways” and inserting “public lands high-
15 ways, forest highways, national forest system roads,
16 and Bureau of Land Management roads”;

17 (2) in the fourth sentence by striking “and pub-
18 lic lands highways” and inserting “public lands
19 highways, forest highways, national forest system
20 roads, and Bureau of Land Management roads”;
21 and

22 (3) by striking the last sentence and inserting
23 the following: “Notwithstanding any other provision
24 of law, the authorization by the Secretary of engi-
25 neering and related work for a project under section

1 apply to forest highways, park roads and parkways,
2 refuge roads, Indian reservation roads, national for-
3 est system roads, Bureau of Land Management
4 roads, territorial highways, and Puerto Rico high-
5 ways (in this section referred to as ‘lands program
6 highways’).

7 “(2) TRANSPORTATION PLANNING PROCE-
8 DURES.—

9 “(A) IN GENERAL.—In consultation with
10 the Secretary of each appropriate Federal land
11 management agency, the Secretary shall de-
12 velop, by rule, transportation planning proce-
13 dures that are consistent with the metropolitan
14 and statewide planning processes required
15 under sections 134 and 135.

16 “(B) SPECIAL RULE FOR TERRITORIAL
17 HIGHWAYS.—Projects funded under subsection
18 (o) shall be subject to the metropolitan and
19 statewide planning processes and procedures re-
20 quired under sections 134 and 135 to the ex-
21 tent that the Secretary determines the proc-
22 esses and procedures to be consistent with the
23 needs of the territories.

24 “(C) SPECIAL RULE FOR PUERTO RICO
25 HIGHWAYS.—Projects funded under subsection

1 (p) shall be subject to the metropolitan and
2 statewide planning processes and procedures re-
3 quired under sections 134 and 135.

4 “(3) APPROVAL OF TRANSPORTATION IMPROVE-
5 MENT PROGRAM.—The transportation improvement
6 program developed as a part of the transportation
7 planning process under this section shall be ap-
8 proved by the Secretary.

9 “(4) INCLUSION IN OTHER PLANS.—All region-
10 ally significant lands program projects—

11 “(A) shall be developed in cooperation with
12 States and metropolitan planning organizations;
13 and

14 “(B) shall be included in appropriate lands
15 program, State, and metropolitan plans and
16 transportation improvement programs.

17 “(5) INCLUSION IN STATE PROGRAMS.—The ap-
18 proved lands program transportation improvement
19 program shall be included in appropriate State and
20 metropolitan planning organization plans and pro-
21 grams without further action on the transportation
22 improvement program.

23 “(6) DEVELOPMENT OF SYSTEMS.—The Sec-
24 retary and the Secretary of each appropriate Federal
25 land management agency shall, to the extent appro-

1 priate, develop by rule safety, bridge, pavement, and
2 congestion management systems for roads funded
3 under this section (except for safety, pavement, and
4 congestion management systems for Puerto Rico
5 highways and territorial highways).”.

6 (2) USE OF FUNDS.—Section 204(b) is amend-
7 ed—

8 (A) in paragraph (1) in the matter pre-
9 ceding subparagraph (A)—

10 (i) by striking “public lands” and in-
11 serting “forest”; and

12 (ii) by inserting “Bureau of Land
13 Management roads,” before “and Indian
14 reservation roads”; and

15 (B) in paragraph (5) by striking “Federal
16 lands highways” each place it appears and in-
17 serting “lands program highways”.

18 (3) CONDITIONS FOR PROJECT APPROVAL.—
19 Section 204(c) is amended—

20 (A) by inserting “CONDITIONS FOR
21 PROJECT APPROVAL.—” before “Before ap-
22 proving”; and

23 (B) in the first sentence by striking “or
24 section 144”.

1 (4) ADMINISTRATION OF APPROPRIATIONS.—

2 Section 204(f) is amended to read as follows:

3 “(f) ADMINISTRATION OF APPROPRIATIONS.—All ap-
4 propriations for the construction and improvement of each
5 class of lands program highways shall be administered in
6 conformity with regulations and agreements—

7 “(1) in the case of territorial highways and
8 Puerto Rico highways, approved by the Secretary;
9 and

10 “(2) in the case of Forest highways, forest de-
11 velopment roads and trails, park roads and park-
12 ways, Indian reservation roads, refuge roads, public
13 lands highways, national forest system roads, and
14 Bureau of Land Management roads, jointly ap-
15 proved by the Secretary and the Secretary of the ap-
16 propriate Federal land managing agency.”.

17 (5) ADMINISTRATIVE EXPENSES OF FOREST
18 SERVICE.—Section 204(g) is amended—

19 (A) by inserting “ADMINISTRATIVE EX-
20 PENSES OF FOREST SERVICE.—” before “The
21 Secretary”; and

22 (B) by inserting “and national forest sys-
23 tem roads” after “forest highways” each place
24 it appears.

1 (6) ELIGIBLE PROJECTS.—Section 204(h) is
2 amended—

3 (A) in the subsection heading by striking
4 “ELIGIBLE PROJECTS” and inserting “ADDI-
5 TIONAL ELIGIBILITIES”; and

6 (B) in the matter preceding paragraph (1)
7 by striking “Federal lands highways” and in-
8 serting “lands program highways”; and

9 (C) by striking paragraph (8).

10 (7) TRANSFERS OF COSTS TO SECRETARIES OF
11 FEDERAL LAND MANAGEMENT AGENCIES.—Section
12 204(i) is amended—

13 (A) by striking paragraph (1) and insert-
14 ing the following:

15 “(1) ADMINISTRATIVE COSTS.—The Secretary
16 shall transfer to the appropriate Federal land man-
17 agement agency from amounts made available for
18 park roads and parkways, forest highways, refuge
19 roads, Indian reservation roads, national forest sys-
20 tem roads, and Bureau of Land Management roads
21 such amounts as are necessary to pay necessary ad-
22 ministrative costs of the agency in connection with
23 public roads that are within or adjacent to, or that
24 provide access to, Federal lands, if funding for nec-

1 essary administrative costs is not otherwise provided
2 under this section.”.

3 (B) in paragraph (2) by striking “public
4 lands highways” and inserting “lands program
5 highways”.

6 (8) REFUGE ROADS.—Section 204(k)(1) is
7 amended—

8 (A) by striking “and” at the end of sub-
9 paragraph (D);

10 (B) by striking the period at the end of
11 subparagraph (E) and inserting a semicolon;
12 and

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

14 “(F) construction, operation, and mainte-
15 nance of transit facilities located in wildlife ref-
16 uges;

17 “(G) transportation planning; and

18 “(H) development of management systems
19 under subsection (a).”.

20 (9) USE OF FUNDS MADE AVAILABLE FOR NA-
21 TIONAL FOREST SYSTEM ROADS, BUREAU OF LAND
22 MANAGEMENT ROADS, TERRITORIAL HIGHWAYS, AND
23 PUERTO RICO HIGHWAYS.—Section 204 is amended
24 by adding at the end the following:

25 “(m) NATIONAL FOREST SYSTEM ROADS.—

1 “(1) ELIGIBLE PROJECTS.—Notwithstanding
2 any other provision of this title, funds made avail-
3 able for national forest system roads shall be used
4 by the Secretary and the Secretary of Agriculture
5 only to pay the costs of—

6 “(A) restoration, reconstruction, and reha-
7 bilitation of national forest system roads;

8 “(B) maintenance of national forest system
9 roads; and

10 “(C) constructing, maintaining, replacing,
11 or removing culverts and other barriers to fa-
12 cilitate the passage of aquatic species beneath
13 national forest system roads.

14 “(2) ELIGIBLE FACILITIES.—

15 “(A) IN GENERAL.—To be eligible to re-
16 ceive funds under this subsection, a project
17 shall be located on a national forest system
18 road included in the inventory described in sub-
19 paragraph (B).

20 “(B) INVENTORY.—

21 “(i) IN GENERAL.—Not later than 6
22 months after the enactment of this sub-
23 section, the Secretary of Agriculture shall
24 develop and make available to the public

1 an inventory of national forest system
2 roads that are—

3 “(I) maintenance level 3, 4, or 5,
4 as defined in the United States De-
5 partment of Agriculture Forest Serv-
6 ice Handbook; and

7 “(II) most used by passenger ve-
8 hicles to access major recreation sites,
9 as defined by the Secretary of Agri-
10 culture.

11 “(ii) UPDATES.—The Secretary of Ag-
12 riculture shall update the inventory under
13 clause (i) annually and make each such up-
14 date available to the public.

15 “(C) REVIEW.—A decision to add a road
16 to or remove a road from the inventory under
17 subparagraph (B) shall not be considered a
18 Federal action for purposes of review under the
19 National Environmental Protection Act of 1969
20 (42 U.S.C. 4321 et seq.).

21 “(3) PROHIBITION ON CONSTRUCTION OF NEW
22 ROADS.—Funds made available under this sub-
23 section shall not be used for the construction of a
24 new national forest system road.

25 “(n) BUREAU OF LAND MANAGEMENT ROADS.—

1 “(1) IN GENERAL.—Notwithstanding any other
2 provision of this title, funds made available for Bu-
3 reau of Land Management roads shall be used by
4 the Secretary and the Secretary of the Interior only
5 to pay the cost of—

6 “(A) maintenance, repair, reconstruction,
7 restoration and rehabilitation of Bureau of
8 Land Management roads; and

9 “(B) construction, maintenance, replace-
10 ment, or removal of culverts and other barriers
11 to facilitate the passage of aquatic species be-
12 neath Bureau of Land Management roads.

13 “(2) ELIGIBLE FACILITIES.—

14 “(A) IN GENERAL.—To be eligible to re-
15 ceive funds under this subsection, a project
16 shall be located on a Bureau of Land Manage-
17 ment road included in the inventory described
18 in subparagraph (B).

19 “(B) INVENTORY.—

20 “(i) IN GENERAL.—Not later than 6
21 months after the enactment of this sub-
22 section, the Secretary of the Interior shall
23 develop and make available to the public
24 an inventory of Bureau of Land Manage-
25 ment roads—

1 “(I) that are public roads; and

2 “(II) that are most used by pas-
3 senger vehicles to access recreation
4 sites.

5 “(ii) UPDATES.—The Secretary of the
6 Interior shall update the inventory under
7 clause (i) annually and make each such up-
8 date available to the public.

9 “(C) REVIEW.—A decision to add a road
10 to or remove a road from the inventory under
11 subparagraph (B) shall not be considered a
12 Federal action for purposes of review under the
13 National Environmental Protection Act of 1969
14 (42 U.S.C. 4321 et seq.).

15 “(3) PROHIBITION ON CONSTRUCTION OF NEW
16 ROADS.—Funds made available under this sub-
17 section shall not be used for the construction of a
18 new Bureau of Land Management road.

19 “(o) TERRITORIAL HIGHWAYS.—

20 “(1) IN GENERAL.—Funds made available for
21 territorial highways shall be used for the construc-
22 tion and improvement of, in each territory, a system
23 of arterial and collector highways, and necessary
24 inter-island connectors, that is—

1 “(A) designated by the Governor or chief
2 executive officer of each territory; and

3 “(B) approved by the Secretary.

4 “(2) TECHNICAL ASSISTANCE.—

5 “(A) IN GENERAL.—The Secretary may
6 provide technical assistance to the governments
7 of the territories to enable the territories to, on
8 a continuing basis—

9 “(i) engage in highway planning;

10 “(ii) conduct environmental evalua-
11 tions;

12 “(iii) administer right-of-way acquisi-
13 tion and relocation assistance programs;
14 and

15 “(iv) design, construct, operate, and
16 maintain a system of arterial and collector
17 highways, including necessary inter-island
18 connectors.

19 “(B) FORM AND TERMS OF ASSISTANCE.—
20 Technical assistance provided under subpara-
21 graph (A), and the terms for the sharing of in-
22 formation among territories receiving the tech-
23 nical assistance, shall be included in the agree-
24 ment required by paragraph (4).

1 “(3) APPLICABILITY OF CERTAIN PROVI-
2 SIONS.—

3 “(A) IN GENERAL.—Except to the extent
4 that provisions of chapter 1 are determined by
5 the Secretary to be inconsistent with the needs
6 of the territories and the purposes described in
7 paragraph (1), chapter 1 (other than provisions
8 of chapter 1 relating to the apportionment and
9 allocation of funds) shall apply to funds author-
10 ized to be appropriated for the purposes de-
11 scribed in paragraph (1).

12 “(B) APPLICABLE PROVISIONS.—The
13 agreement required by paragraph (4) for each
14 territory shall identify the sections of chapter 1
15 that are applicable to that territory and the ex-
16 tent of the applicability of those sections.

17 “(C) FEDERAL SHARE.—The Federal
18 share of Federal financial assistance provided
19 to territories under this subsection shall be in
20 accordance with section 120(h).

21 “(4) AGREEMENT.—

22 “(A) IN GENERAL.—Except as provided in
23 subparagraph (D), none of the funds made
24 available for territorial highways shall be avail-
25 able for obligation or expenditure with respect

1 to any territory until the chief executive officer
2 of the territory enters into an agreement with
3 the Secretary providing that the government of
4 the territory shall—

5 “(i) carry out any activities under this
6 subsection in accordance with applicable
7 provisions of chapter 1 and paragraph (3);

8 “(ii) design and construct a system of
9 arterial and collector highways, including
10 necessary inter-island connectors, in ac-
11 cordance with standards that are—

12 “(I) appropriate for each terri-
13 tory; and

14 “(II) approved by the Secretary;

15 “(iii) provide for the maintenance of
16 facilities constructed or operated under
17 this subsection in a condition to adequately
18 serve the needs of present and future traf-
19 fic; and

20 “(iv) implement standards for traffic
21 operations and uniform traffic control de-
22 vices that are approved by the Secretary.

23 “(B) TECHNICAL ASSISTANCE.—The
24 agreement required by subparagraph (A)
25 shall—

1 “(i) specify the kind of technical as-
2 sistance to be provided under this sub-
3 section;

4 “(ii) include appropriate provisions re-
5 garding information sharing among the
6 territories; and

7 “(iii) delineate the oversight role and
8 responsibilities of the territories and the
9 Secretary.

10 “(C) REVIEW AND REVISION OF AGREE-
11 MENT.—The agreement entered into under sub-
12 paragraph (A) shall be reevaluated and, as nec-
13 essary, revised, at least every 2 years.

14 “(D) EXISTING AGREEMENTS.—With re-
15 spect to an agreement under the section be-
16 tween the Secretary and the chief executive offi-
17 cer of a territory that is in effect as of August
18 10, 2005—

19 “(i) the agreement shall continue in
20 force until replaced by an agreement en-
21 tered into in accordance with subparagraph
22 (A); and

23 “(ii) amounts made available under
24 this subsection under the existing agree-
25 ment shall be available for obligation or ex-

1 penditure so long as the agreement, or the
2 existing agreement entered into under sub-
3 paragraph (A), is in effect.

4 “(5) PERMISSIBLE USES OF FUNDS.—

5 “(A) IN GENERAL.—Notwithstanding any
6 other provision of this title, funds made avail-
7 able for territorial highways may be used only
8 for the following projects and activities carried
9 out in a territory:

10 “(i) Eligible surface transportation
11 program projects described in section
12 133(b).

13 “(ii) Cost-effective, preventive mainte-
14 nance consistent with section 116(d).

15 “(iii) Ferry boats, terminal facilities,
16 and approaches, in accordance with sub-
17 sections (b) and (c) of section 129.

18 “(iv) Engineering and economic sur-
19 veys and investigations for the planning,
20 and the financing, of future highway pro-
21 grams.

22 “(v) Studies of the economy, safety,
23 and convenience of highway use.

24 “(vi) The regulation and equitable
25 taxation of highway use.

1 “(vii) Such research and development
2 as are necessary in connection with the
3 planning, design, and maintenance of the
4 highway system.

5 “(B) PROHIBITION ON USE OF FUNDS FOR
6 ROUTINE MAINTENANCE.—None of the funds
7 made available for territorial highways shall be
8 obligated or expended for routine maintenance.

9 “(6) LOCATION OF PROJECTS.—Territorial
10 highway projects (other than those described in
11 paragraphs (1), (3), and (4) of section 133(b)) may
12 not be undertaken on roads functionally classified as
13 local.

14 “(7) TERRITORY DEFINED.—In this subsection,
15 the term ‘territory’ means American Samoa, the
16 Commonwealth of the Northern Mariana Islands,
17 Guam, or the United States Virgin Islands.

18 “(p) PUERTO RICO HIGHWAYS.—

19 “(1) ELIGIBLE USES OF FUNDING.—Notwith-
20 standing any other provision of this title, funds
21 made available for Puerto Rico highways may be
22 used to pay the cost of any project or activity eligi-
23 ble under chapter 1.

1 “(2) FEDERAL SHARE.—The Federal share of
2 projects funded under this subsection shall be in ac-
3 cordance with section 120.”.

4 (10) CLERICAL AMENDMENT.—The analysis for
5 chapter 1 is amended by striking the item relating
6 to section 204 and inserting the following:

“204. Federal and tribal lands, Puerto Rico, and territorial highway program.”.

7 (e) CONFORMING AMENDMENTS.—

8 (1) FEDERAL SHARE.—Section 120(l) is
9 amended—

10 (A) in the subheading by striking “FED-
11 ERAL LANDS HIGHWAYS PROGRAM” and insert-
12 ing “FEDERAL AND TRIBAL LANDS, PUERTO
13 RICO, AND TERRITORIAL HIGHWAY PROGRAM”;

14 (B) by striking “Federal lands highways
15 program” and inserting “Federal and tribal
16 lands, Puerto Rico, and territorial highway pro-
17 gram”; and

18 (C) by inserting after “section 204” the
19 following: “(except for funds authorized to be
20 appropriated for Puerto Rico highways)”.

21 (2) EMERGENCY RELIEF.—Section 120(e) is
22 amended by striking “and Indian reservation roads”
23 and inserting “Indian reservation roads, National
24 Forest System roads, and Bureau of Land Manage-
25 ment roads”.

1 (3) EFFICIENT ENVIRONMENTAL REVIEWS FOR
2 PROJECT DECISIONMAKING.—The paragraph head-
3 ing for section 139(j)(3) is amended by striking
4 “FEDERAL LANDS HIGHWAY” and inserting “FED-
5 ERAL AND TRIBAL LANDS, PUERTO RICO, AND TER-
6 RITORIAL HIGHWAY”.

7 (4) PUERTO RICO HIGHWAY PROGRAM.—Section
8 165, and the item relating to that section in the
9 analysis for chapter 1, are repealed.

10 (5) TERRITORIAL HIGHWAY PROGRAM.—Section
11 215, and the item relating to that section in the
12 analysis for chapter 2, are repealed.

13 (f) RULEMAKING.—Not later than 2 years after the
14 date of enactment of this Act, the Secretary shall complete
15 a rulemaking proceeding—

16 (1) to review the Department’s formula for allo-
17 cating territorial highway funds under section
18 202(h) of title 23, United States Code (as added by
19 this section), among the territories;

20 (2) to determine whether the formula described
21 in paragraph (1) allocates funding equitably among
22 the territories based on a consideration of the fac-
23 tors listed in section 202(h) of such title; and

24 (3) to revise the formula if necessary to allocate
25 territorial highway funds in closer proportion to each

1 territory's relative share based on the factors listed
2 in section 202(h) of such title.

3 **SEC. 1114. RECREATIONAL TRAILS PROGRAM.**

4 (a) IN GENERAL.—Section 206(h) is amended by
5 adding at the end the following:

6 “(5) USE OF YOUTH CONSERVATION AND SERV-
7 ICE CORPS.—The Secretary shall encourage the
8 States to enter into contracts and cooperative agree-
9 ments with qualified youth conservation and service
10 corps to perform construction and maintenance of
11 recreational trails under this section.”.

12 (b) CONFORMING AMENDMENT.—Section 1109(f) of
13 SAFETEA-LU (119 Stat. 1170) is repealed.

14 **SEC. 1115. NONMOTORIZED TRANSPORTATION PILOT PRO-**
15 **GRAM.**

16 (a) ESTABLISHMENT.—Section 1807(a) of
17 SAFETEA-LU (119 Stat. 1460) is amended by striking
18 “and pedestrian and bicycle trails” and inserting “pedes-
19 trian and bicycle trails, and other design features of ben-
20 efit in fulfilling the purposes of the program”.

21 (b) STATISTICAL INFORMATION.—Section 1807(d) of
22 SAFETEA-LU (119 Stat. 1460) is amended by inserting
23 after “energy usage,” the following: “improve safety for
24 cyclists and pedestrians,”.

1 (c) REPORTS.—Section 1807(e) of SAFETEA-LU
2 (119 Stat. 1460) is amended to read as follows:

3 “(e) REPORTS.—

4 “(1) IN GENERAL.—The Secretary shall submit
5 to the Committee on Transportation and Infrastruc-
6 ture of the House of Representatives and the Com-
7 mittee on Environment and Public Works of the
8 Senate—

9 “(A) an interim report on the results of
10 the program not later than September 30,
11 2007; and

12 “(B) a final report on the results of the
13 program not later than March 31, 2012.

14 “(2) CONTENTS.—The report submitted under
15 paragraph (1)(B) shall also include the statistical in-
16 formation developed under subsection (d) and the
17 Secretary’s recommendations to Congress on wheth-
18 er or not the program should be expanded into an
19 ongoing and national approach or program.”.

20 (d) FUNDING.—Section 1807(f) of SAFETEA-LU
21 (119 Stat. 1460) is amended by striking paragraph (2)
22 and inserting the following:

23 “(2) STATISTICAL INFORMATION.—There is au-
24 thorized to be appropriated out of the Highway
25 Trust Fund (other than the Mass Transit Account)

1 to carry out the activities under subsections (d) and
2 (e) **[\$]** for each of fiscal years 2010 through 2012.

3 “(3) APPLICABILITY OF CHAPTER 1 OF TITLE
4 23.—Funds made available to carry out this section
5 shall be available for obligation and administered in
6 the same manner as if such funds were apportioned
7 under chapter 1 of title 23, United States Code, ex-
8 cept that the Federal share of the cost of activities
9 carried out using such funds shall be 100 percent
10 and such funds shall remain available until ex-
11 pended.”.

12 (e) TREATMENT OF PROJECTS.—Section 1807(g) of
13 SAFETEA-LU (119 Stat. 1461) is amended by inserting
14 after “this subsection” the following: “(other than projects
15 that do not involve or lead directly to construction)”.

16 **SEC. 1116. APPALACHIAN DEVELOPMENT HIGHWAY SYS-**
17 **TEM.**

18 (a) APPORTIONMENT.—Subject to subsection (b), the
19 Secretary shall apportion funds made available by section
20 1102(a)(6) of this Act for each of fiscal years 2010
21 through 2015 among the States in the ratio that—

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

1 (2) the latest available cost to complete esti-
2 mate for the Appalachian development highway sys-
3 tem under section 14501 of title 40, United States
4 Code, in all States.

5 (b) MINIMUM AND MAXIMUM APPORTIONMENT.—

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

8 (1) not less than one percent of the funds ap-
9 portioned under this section; and

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

12 (c) CORRIDOR X-1.—

13 (1) COST TO COMPLETE.—In determining the
14 cost to complete estimate for the Appalachian devel-
15 opment highway system under section 14501 of title
16 40, United States Code, the total Federal share of
17 the cost to complete Corridor X-1 in Alabama, as
18 designated in section 123 of title I of division F of
19 Public Law 108-199 (118 Stat. 296), shall not ex-
20 ceed \$500,000,000.

21 (2) REVISION OF COST TO COMPLETE ESTI-
22 MATE.—Not later than 60 days after the date of en-
23 actment of this Act, the Appalachian Regional Com-
24 mission shall revise the cost to complete estimate for
25 the Appalachian development highway system under

1 section 14501 of title 40, United States Code, in ac-
2 cordance with paragraph (1).

3 (d) APPLICABILITY OF CHAPTER 1 OF TITLE 23.—
4 Funds made available by section 1102(a)(6) of this Act
5 for the Appalachian development highway system shall be
6 available for obligation and administered in the same man-
7 ner as if such funds were apportioned under chapter 1
8 of title 23, United States Code, except that the Federal
9 share of the cost of any project under this section shall
10 be determined in accordance with section 14501 of title
11 40, United States Code, and such funds shall be available
12 to construct highways and access roads under such sec-
13 tion.

14 (e) RESCISSION OF PREVIOUS UNOBLIGATED BAL-
15 ANCES.—Balances of funds that were apportioned to a
16 State for the Appalachian development highway system
17 before September 30, 2009, and that are not obligated be-
18 fore September 30, 2013, are rescinded effective Sep-
19 tember 30, 2013.

20 (f) REPORT TO CONGRESS.—Not later than January
21 1, 2014, the Secretary shall submit to the Committee on
22 Transportation and Infrastructure of the House of Rep-
23 resentatives and the Committee on Environment and Pub-
24 lic Works of the Senate a report that contains, at a min-
25 imum—

1 **SEC. 1118. GRANT PROGRAM TO PROHIBIT RACIAL**
2 **PROFILING.**

3 Section 1906(e) of SAFETEA-LU (119 Stat. 1469)
4 is amended—

5 (1) in paragraph (1) by striking “\$7,500,000
6 for each of fiscal years 2005 through 2009” and in-
7 serting “**[\$]** for each of fiscal years 2010 through
8 2015”; and

9 (2) by striking paragraph (2) and inserting the
10 following:

11 “(2) **APPLICABILITY OF CHAPTER 1 OF TITLE**
12 **23, UNITED STATES CODE.—**Funds made available to
13 carry out this section shall be available for obligation
14 and administered in the same manner as if such
15 funds were apportioned under chapter 1 of title 23,
16 United States Code, except that the Federal share of
17 the cost of activities carried out using such funds
18 shall be 80 percent.”.

19 **SEC. 1119. TECHNICAL AMENDMENTS.**

20 (a) **TRANSFERABILITY OF FEDERAL-AID HIGHWAY**
21 **FUNDS.—**Section 126, and the item relating to that sec-
22 tion in the analysis for chapter 1, are repealed.

23 (b) **INTERSTATE OASIS PROGRAM.—**Section 1310 of
24 SAFETEA-LU (23 U.S.C. 111 note; 119 Stat. 1219),
25 and the item relating to that section in the table of con-
26 tents contained in section 1(b) of that Act, are repealed.

1 **Subtitle B—Intermodal and**
2 **Organizational Innovations**

3 **SEC. 1201. INTERMODALISM.**

4 (a) UNDER SECRETARY.—Section 102 of title 49,
5 United States Code, is amended—

6 (1) by redesignating subsections (e), (f), (g),
7 and (h) as subsections (f), (g), (h), and (i);

8 (2) by inserting after subsection (d) the fol-
9 lowing:

10 “(e) UNDER SECRETARY OF TRANSPORTATION FOR
11 INTERMODALISM.—The Department of Transportation
12 shall have an Under Secretary of Transportation for Inter-
13 modalism appointed by the President, by and with the ad-
14 vice and consent of the Senate. The Under Secretary shall
15 coordinate Federal policy on intermodal transportation
16 and initiate policies to promote efficient intermodal trans-
17 portation in the United States. The Under Secretary shall
18 act for the Secretary when the Secretary, the Deputy Sec-
19 retary, and the Under Secretary of Transportation for
20 Policy are absent or unable to serve, or when the offices
21 of Secretary, Deputy Secretary, and Under Secretary of
22 Transportation for Policy are vacant.”;

23 (3) in subsection (f), as redesignated by para-
24 graph (1) of this subsection—

1 (A) by striking “and” after “Deputy Sec-
2 retary,”; and

3 (B) by inserting “, and Under Secretary of
4 Transportation for Intermodalism” after “for
5 Policy” each place it appears; and

6 (4) in subsection (g)(1) (as redesignated by
7 paragraph (1) of this subsection) by inserting “Of-
8 fice of Intermodalism in the” after “within the”.

9 (b) COUNCIL ON INTERMODALISM.—

10 (1) IN GENERAL.—Section 5502 of title 49,
11 United States Code, is amended to read as follows:

12 **“§ 5502. Council on Intermodalism**

13 “(a) ORGANIZATION.—The Council on Intermodalism
14 shall be a council in the Office of the Secretary of Trans-
15 portation.

16 “(b) MEMBERSHIP.—

17 “(1) VOTING MEMBERS.—The voting member-
18 ship of the Council shall consist of the Secretary,
19 who shall serve as chairman, the Under Secretary of
20 Transportation for Intermodalism, who shall serve
21 as chairman in the absence of the Secretary, and the
22 Administrators of—

23 “(A) the Federal Highway Administration;

24 “(B) the Federal Aviation Administration;

25 “(C) the Maritime Administration;

1 “(D) the Federal Railroad Administration;

2 “(E) the Federal Transit Administration;

3 “(F) the Federal Motor Carrier Safety Ad-
4 ministration;

5 “(G) the National Highway Traffic Safety
6 Administration;

7 “(H) the Research and Innovative Tech-
8 nology Administration;

9 “(I) the Pipeline and Hazardous Materials
10 Safety Administration; and

11 “(J) the Saint Lawrence Seaway Develop-
12 ment Corporation.

13 “(2) NON-VOTING MEMBERS.—The Chief of
14 Engineers, or the designee of the Chief of Engineers,
15 and the Commandant of the Coast Guard, or the
16 designee of the Commandant, shall serve as non-vot-
17 ing members of the Council.

18 “(c) DUTIES AND POWERS.—

19 “(1) RECOMMENDATIONS.—The Council shall
20 provide recommendations for carrying out the duties
21 of the Secretary described in section 301(3).

22 “(2) APPROVAL OF FUNDING DECISIONS.—The
23 Council shall review and may approve or disapprove
24 or modify the recommendations of the Under Sec-
25 retary of Transportation for Intermodalism.

1 “(d) MEETINGS.—

2 “(1) IN GENERAL.—The Council shall meet at
3 least monthly, and shall make its meeting records
4 available to the public in electronically accessible for-
5 mat and means, such as the World Wide Web, as
6 appropriate.

7 “(2) ATTENDANCE.—A voting member of the
8 Council may not send a designee on his or her behalf
9 to meetings of the Council.”.

10 (2) CLERICAL AMENDMENT.—The analysis for
11 chapter 55 of such title is amended by striking the
12 item relating to section 5502 and inserting the fol-
13 lowing:

“5502. Council on Intermodalism.”.

14 (c) OFFICE OF INTERMODALISM.—

15 (1) IN GENERAL.—Section 5503 of title 49,
16 United States Code, is amended to read as follows:

17 **“§ 5503. Office of Intermodalism**

18 “(a) ESTABLISHMENT.—There is established in the
19 Office of the Secretary an Office of Intermodalism to en-
20 courage and promote development of a national intermodal
21 transportation system in the United States that is eco-
22 nomically efficient and environmentally sound, provides
23 the foundation for the United States to compete in the
24 global economy, and moves individuals and property in an
25 energy efficient manner.

1 “(b) ORGANIZATION.—The head of the Office shall
2 be the Under Secretary of Transportation for Intermod-
3 alism. The Office shall also have a Director, who shall be
4 appointed in the competitive service by the Secretary, with
5 the approval of the President. The Director shall carry
6 out duties and powers prescribed by the Under Secretary.

7 “(c) DUTIES AND POWERS.—

8 “(1) IN GENERAL.—The Under Secretary shall
9 carry out the duties of the Secretary described in
10 section 301(3) and the duties set forth in this sub-
11 section.

12 “(2) LEADERSHIP ON INTERMODAL POLICY AND
13 PLANNING.—The Under Secretary shall—

14 “(A) coordinate and lead the development
15 of Federal policy on intermodal transportation;

16 “(B) lead the development of the national
17 transportation strategic plan, as provided under
18 subsection (d); and

19 “(C) in the absence of the Secretary, pre-
20 side over the Council on Intermodalism estab-
21 lished under section 5502.

22 “(3) INTERMODAL COORDINATION.—The Under
23 Secretary shall—

1 “(A) facilitate and improve collaboration
2 among operating administrations to address
3 barriers that inhibit intermodal transportation;

4 “(B) coordinate transportation safety ac-
5 tivities among operating administrations;

6 “(C) in coordination with the Office of Cli-
7 mate Change and Environment of the Depart-
8 ment of Transportation, carry out strategies
9 and actions under the Department’s statutory
10 authority to reduce energy usage and green-
11 house gas emissions related to the nation’s
12 intermodal transportation system;

13 “(D) coordinate departmental activities re-
14 lated to ferry transportation; and

15 “(E) establish and implement a process for
16 coordinating activities related to the issuance of
17 policies, regulations, and special permits and
18 approvals between the Pipeline and Hazardous
19 Materials Safety Administration and the De-
20 partment of Transportation’s modal administra-
21 tions to ensure that the unique safety require-
22 ments for shipments of hazardous materials by
23 all modes of transportation are being effectively
24 addressed.

1 “(4) COORDINATION OF INTERMODAL PRO-
2 GRAMS.—

3 “(A) IN GENERAL.—The Under Secretary
4 shall—

5 “(i) oversee the establishment of the
6 metropolitan mobility and access program
7 under section 701 of title 23;

8 “(ii) oversee the establishment of the
9 projects of national significance program
10 under section 702 of title 23;

11 “(iii) oversee the development of selec-
12 tion criteria and issuance of rules under
13 such sections; and

14 “(iv) lead the implementation of such
15 programs, including—

16 “(I) the solicitation and review of
17 applications;

18 “(II) the selection of activities
19 and projects for funding; and

20 “(III) the development of letters
21 of intent, full funding grant agree-
22 ments, and early system work agree-
23 ments for activities and projects.

24 “(B) APPROVAL BY COUNCIL ON INTER-
25 MODALISM.—

1 “(i) METROPOLITAN MOBILITY
2 PLANS.—No project or activity shall re-
3 ceive Federal assistance under section 701
4 of title 23 until—

5 “(I) the Under Secretary has
6 presented to the Council on Intermod-
7 alism recommendations that the met-
8 ropolitan mobility plan in which such
9 project or activity is included be fund-
10 ed; and

11 “(II) the Council on Intermod-
12 alism has approved the recommenda-
13 tions.

14 “(ii) PROJECTS OF NATIONAL SIGNIFI-
15 CANCE.—No project or activity shall re-
16 ceive Federal assistance under section 702
17 of title 23 until—

18 “(I) the Under Secretary has
19 presented to the Council on Intermod-
20 alism recommendations that such
21 project or activity be funded; and

22 “(II) the Council on Intermod-
23 alism has approved the recommenda-
24 tions.

1 “(d) NATIONAL TRANSPORTATION STRATEGIC
2 PLAN.—The Director shall lead and coordinate the devel-
3 opment of the national transportation strategic plan under
4 section 703.

5 “(e) ADMINISTRATIVE AND CLERICAL SUPPORT.—
6 The Director shall provide administrative and clerical sup-
7 port to the Council on Intermodalism.

8 “(f) AUTHORIZATION OF APPROPRIATIONS.—

9 “(1) IN GENERAL.—There is authorized to be
10 appropriated out of the Highway Trust Fund to the
11 Secretary to carry out this section **[\$]** for each of
12 fiscal years 2010 through 2015.

13 “(2) APPLICABILITY OF CHAPTER 1 OF TITLE
14 23.—Funds made available to carry out this section
15 shall be available for obligation and administered in
16 the same manner as if such funds were apportioned
17 under chapter 1 of title 23.”.

18 (2) CLERICAL AMENDMENT.—The analysis for
19 chapter 55 of such title is amended by striking the
20 item relating to section 5503 and inserting the fol-
21 lowing:

“5503. Office of Intermodalism.”.

22 (d) REPORTS.—

23 (1) REPORT ON DEPARTMENT’S INTERMODAL
24 ACTIVITIES.—

1 (A) REVIEW OF ACTIVITIES.—Not later
2 than two years after the date of enactment of
3 this Act, the Comptroller General shall conduct
4 a review of the Department of Transportation’s
5 activities in relation to intermodal transpor-
6 tation, including—

7 (i) its establishment of an Under Sec-
8 retary of Transportation for Intermodalism
9 in accordance with section 102 of title 49,
10 United States Code;

11 (ii) its establishment of a Council on
12 Intermodalism in accordance with section
13 5502 of title 49, United States Code;

14 (iii) its establishment of an Office of
15 Intermodalism in accordance with section
16 5503 of title 49, United States Code; and

17 (iv) the extent to which the Under
18 Secretary, Council, and Office have en-
19 abled or facilitated the Department’s ac-
20 tivities in relation to intermodal transpor-
21 tation.

22 (B) REPORT.—Not later than two years
23 after the date of enactment of this Act, the
24 Comptroller General shall transmit to the Com-
25 mittee on Transportation and Infrastructure of

1 the House of Representatives and the Com-
2 mittee on Environment and Public Works and
3 the Committee on Commerce, Science, and
4 Transportation of the Senate a report on the
5 results of its review under subparagraph (A),
6 which shall include, at a minimum—

7 (i) a description of barriers that in-
8 hibit intermodal transportation;

9 (ii) an evaluation of any actions that
10 the Department of Transportation has
11 taken to address these barriers; and

12 (iii) recommendations on any addi-
13 tional actions that the Department could
14 take to better address any remaining bar-
15 riers to intermodal transportation.

16 (2) REPORT ON DEPARTMENT'S PROGRESS RE-
17 GARDING HAZARDOUS MATERIAL TRANSPOR-
18 TATION.—Not later than December 31, 2010, the
19 Inspector General of the Department of Transpor-
20 tation shall transmit to the Committee on Transpor-
21 tation and Infrastructure of the House of Represent-
22 atives and the Committee on Commerce, Science,
23 and Transportation of the Senate a report evalu-
24 ating the efforts of the Department in establishing
25 and implementing the process established in sub-

1 section (c)(2)(F) of section 5503 of title 49, United
2 States Code, together with any recommendations the
3 Inspector General may have for improving the proc-
4 ess.

5 (e) MODEL INTERMODAL TRANSPORTATION
6 PLANS.—Section 5504, and the item relating to that sec-
7 tion in the analysis for chapter 55 of title 49, United
8 States Code, are repealed.

9 (f) POSITION OF UNDER SECRETARY IN EXECUTIVE
10 SCHEDULE.—Section 5313 of title 5, United States Code,
11 is amended by inserting after the undesignated paragraph
12 relating to the Under Secretary of Transportation for Pol-
13 icy the following:

14 “Under Secretary of Transportation for Inter-
15 modalism.”.

16 **SEC. 1202. OFFICE OF EXPEDITED PROJECT DELIVERY.**

17 (a) IN GENERAL.—Chapter 3 is amended by adding
18 at the end the following:

19 **“§ 330. Office of Expedited Project Delivery**

20 “(a) ESTABLISHMENT.—The Secretary shall estab-
21 lish an Office of Expedited Project Delivery in the Federal
22 Highway Administration to enhance the speed of project
23 delivery for highway construction projects.

24 “(b) DIRECTOR.—The Office shall be headed by a Di-
25 rector who shall be appointed by the Secretary.

1 “(c) DUTIES OF DIRECTOR.—The Director shall pro-
2 vide national leadership to enhance the speed of delivery
3 of highway construction projects, with particular focus on
4 significant highway construction projects and substantially
5 delayed projects.

6 “(d) ACTIONS TO SPEED DELIVERY OF SIGNIFICANT
7 HIGHWAY CONSTRUCTION PROJECTS.—

8 “(1) IN GENERAL.—For a significant highway
9 construction project, the Director shall—

10 “(A) monitor the project throughout the
11 project delivery process;

12 “(B) monitor whether headquarters offices,
13 Federal-aid division offices, other Federal agen-
14 cies, and other relevant parties are fully imple-
15 menting and complying with section 139 (relat-
16 ing to efficient environmental reviews for
17 project decisionmaking) and assist such parties
18 in reaching full compliance if necessary;

19 “(C) participate in the development of any
20 schedule for completion of the environmental re-
21 view process for the project established as part
22 of a coordination plan under section
23 139(g)(1)(B);

24 “(D) assist the State in the development of
25 a project delivery schedule that must—

1 “(i) be submitted to the Secretary
2 prior to the completion of the environ-
3 mental review process for the project under
4 NEPA;

5 “(ii) encompass the time period be-
6 tween the completion of the environmental
7 review process for the project and the com-
8 pletion of the project; and

9 “(iii) set forth the expected start and
10 completion dates for each of the remaining
11 phases of the project, and any other rel-
12 evant milestones in the project delivery
13 timeline;

14 “(E) promote and assist in the use of prac-
15 tices and techniques (including best practices
16 from other States) that enhance the speed of
17 project delivery when suitable and allowable
18 under Federal, State, and local law, including—

19 “(i) using design-build procurement
20 methods;

21 “(ii) using other procurement methods
22 that enhance the speed of project delivery
23 (such as cost-plus-time bidding, lane rent-
24 al, and best-value procurement);

1 “(iii) using accelerated construction
2 techniques (such as accelerated bridge con-
3 struction methodologies);

4 “(iv) including early completion incen-
5 tives and late completion penalties in de-
6 sign and construction contracts;

7 “(v) maintaining up-to-date State in-
8 ventories of historic, cultural, and natural
9 resources;

10 “(vi) linking planning and the envi-
11 ronmental review process under NEPA by
12 focusing on the NEPA process in the early
13 phases of project planning and then car-
14 rying through the work done in the plan-
15 ning stage to the NEPA process;

16 “(vii) encouraging practices that re-
17 sult in good communication, coordination,
18 and collaboration between relevant parties
19 (including local communities, metropolitan
20 planning offices, State departments of
21 transportation, other State agencies, Fed-
22 eral-aid division offices, headquarters of-
23 fices, the Office of the Secretary of Trans-
24 portation, other Federal agencies, and
25 other highway stakeholders);

1 “(viii) using conflict resolution tech-
2 niques and professionals, as appropriate;
3 and

4 “(ix) establishing programmatic
5 agreements, including memoranda of
6 agreement, between State departments of
7 transportation and the Federal Highway
8 Administration or environmental resource
9 agencies (such as the United States Fish
10 and Wildlife Service) regarding the NEPA
11 process in general and categorical exclu-
12 sions in particular;

13 “(F) coordinating the activities of relevant
14 parties (including the parties described in sub-
15 paragraph (E)(vii)) and encouraging the parties
16 to collaborate throughout the phases of the
17 project delivery process; and

18 “(G) working with the designated points of
19 contact to expedite the project’s delivery and to
20 monitor the project’s progress.

21 “(2) SUBSTANTIALLY DELAYED SIGNIFICANT
22 HIGHWAY CONSTRUCTION PROJECTS.—For a signifi-
23 cant highway construction project that is experi-
24 encing substantial delays, as determined by the Di-
25 rector based on the monitoring of the project and

1 any additional information obtained from designated
2 points of contact and other relevant parties, the Di-
3 rector shall—

4 “(A) inform the Committee on Transpor-
5 tation and Infrastructure of the House of Rep-
6 resentatives and the Committee on Environ-
7 ment and Public Works of the Senate of the
8 project in a quarterly report, to be submitted
9 not later than the last day of each quarter of
10 a fiscal year, that contains for each such
11 project a description of—

12 “(i) the project;

13 “(ii) the location of the project;

14 “(iii) the estimated cost of the project;

15 “(iv) when the delays began;

16 “(v) the nature of the delays;

17 “(vi) the steps that the Director took
18 or will take to resolve the delays;

19 “(vii) the effectiveness of any steps
20 taken; and

21 “(viii) the current status of the
22 project;

23 “(B) identify and resolve the obstacles in
24 project delivery that are causing the delays, in-

1 including by working with the designated points
2 of contact;

3 “(C) coordinate relevant parties (including
4 the parties described in paragraph (1)(E)(vii))
5 to help resolve the delays;

6 “(D) utilize conflict resolution techniques
7 and professionals, as appropriate, to help re-
8 solve the delays; and

9 “(E) intensify the monitoring of the
10 project under paragraph (1)(A) after the delays
11 have been resolved in order to prevent, or iden-
12 tify and resolve, any further delays.

13 “(e) ACTIONS TO RESOLVE OBSTACLES TO DELIV-
14 ERY OF OTHER SUBSTANTIALLY DELAYED PROJECTS.—

15 “(1) IN GENERAL.—For highway construction
16 projects not covered under subsection (d), the Direc-
17 tor shall identify and resolve substantially delayed
18 projects according to this subsection.

19 “(2) DATA MONITORING AND REPORTS.—The
20 Director shall obtain information on delays of high-
21 way construction projects as follows:

22 “(A) The Director shall track and analyze
23 data on the progress of individual projects and
24 the time spent in different phases of project de-
25 livery.

1 “(B) A Federal-aid division office shall
2 submit to the Director a report on any project
3 that the office considers to be experiencing sig-
4 nificant delays.

5 “(C) A headquarters office, in which there
6 is a designated point of contact, shall submit to
7 the Director a report on any project that the of-
8 fice considers to be experiencing significant
9 delays.

10 “(3) CONTENTS OF REPORTS.—A report on a
11 project submitted under paragraph (2) shall include,
12 at a minimum, a description of—

13 “(A) the project;

14 “(B) the location of the project;

15 “(C) the estimated cost of the project;

16 “(D) when the delays began;

17 “(E) the nature of the delays; and

18 “(F) any steps that the reporting office be-
19 lieves that could be taken to resolve the delays.

20 “(4) IDENTIFICATION OF SUBSTANTIALLY DE-
21 LAYED PROJECTS.—Based on information obtained
22 on a project under paragraph (2), and after acquir-
23 ing any additional information needed on the project
24 from designated points of contact and other relevant
25 parties, the Director shall determine whether to

1 identify a project as a substantially delayed project
2 for the purposes of this subsection.

3 “(5) FUNCTIONS RELATING TO SUBSTANTIALLY
4 DELAYED PROJECTS.—For a project that the Direc-
5 tor identifies as a substantially delayed project, the
6 Director shall—

7 “(A) identify and resolve the obstacles in
8 project delivery that are causing the delays, in-
9 cluding by working with the designated points
10 of contact;

11 “(B) coordinate relevant parties (including
12 the parties described in subsection
13 (d)(1)(E)(vii)) to help resolve the delays;

14 “(C) utilize conflict resolution techniques
15 and professionals, as appropriate, to help re-
16 solve the delays; and

17 “(D) monitor the progress of the project
18 after the delays have been resolved through the
19 completion of the project in order to prevent, or
20 identify and resolve, any further delays.

21 “(f) LEADERSHIP ACTIVITIES TO ENHANCE SPEED
22 OF PROJECT DELIVERY.—In addition to the duties under
23 subsections (d) and (e), on an ongoing basis, the Director
24 shall—

1 “(1) monitor whether headquarters offices, Fed-
2 eral-aid division offices, other Federal agencies, and
3 other relevant parties are fully implementing and
4 complying with section 139 (relating to efficient en-
5 vironmental reviews for project decisionmaking) and
6 assist such parties in reaching full compliance with
7 such requirements if necessary;

8 “(2) compile information on practices and tech-
9 niques (including practices and techniques described
10 in subsection (d)(1)(E)) that serve to enhance the
11 speed of project delivery;

12 “(3) disseminate to States information on such
13 practices and techniques;

14 “(4) promote the use of such practices and
15 techniques if suitable and allowable under Federal,
16 State, and local law;

17 “(5) serve as a clearinghouse among the States
18 for best practices in enhancing the speed of project
19 delivery;

20 “(6) coordinate the provision of technical assist-
21 ance to States by headquarters offices, Federal-aid
22 division offices, and other entities regarding prac-
23 tices and techniques that serve to enhance the speed
24 of project delivery; and

1 “(7) provide support to designated points of
2 contact within the Office of the Secretary in their
3 activities relating to any Executive order or inter-
4 agency body concerning enhancing the speed of
5 project delivery or expediting environmental reviews.

6 “(g) INTERMODAL COORDINATION.—The Office shall
7 coordinate its efforts with the Office of Expedited Project
8 Delivery of the Federal Transit Administration established
9 under section 5326 of title 49, particularly in the case of
10 projects that encompass both highway and public trans-
11 portation elements and in developing techniques and best
12 practices to enhance the speed of project delivery that are
13 applicable to both highway and public transportation
14 projects.

15 “(h) DESIGNATION OF POINTS OF CONTACT.—The
16 Secretary shall designate, to work with the Office in its
17 efforts to enhance the speed of project delivery, one or
18 more points of contact within—

19 “(1) the Office of the Secretary, with at least
20 one point of contact located in the Office of the As-
21 sistant Secretary for Transportation Policy;

22 “(2) each Federal-aid division office; and

23 “(3) such headquarters offices as the Secretary,
24 in consultation with the Director, considers appro-
25 priate.

1 “(i) ANNUAL REPORT BY SECRETARY.—

2 “(1) IN GENERAL.—Not later than September
3 30 of each fiscal year, the Secretary, with the assist-
4 ance of the Director, shall submit to the Committee
5 on Transportation and Infrastructure of the House
6 of Representatives and the Committee on Environ-
7 ment and Public Works of the Senate a report on
8 the speed of delivery of highway construction
9 projects and efforts to enhance the speed of project
10 delivery under this section.

11 “(2) CONTENTS.—A report submitted by the
12 Secretary under paragraph (1) shall contain, at a
13 minimum—

14 “(A) background data on the speed of
15 project delivery;

16 “(B) an analysis of the data and trends re-
17 lating to the speed of project delivery;

18 “(C) a description of the steps that the Of-
19 fice has taken to enhance the speed of project
20 delivery and an analysis of the effectiveness of
21 those steps;

22 “(D) a description of the efforts of the Of-
23 fice to coordinate with the Office of Expedited
24 Project Delivery in the Federal Transit Admin-
25 istration;

1 “(E) an identification of remaining obsta-
2 cles to faster project delivery;

3 “(F) a description of future steps that the
4 Office will take to enhance the speed of project
5 delivery and future goals for enhancing the
6 speed of project delivery;

7 “(G) an assessment of whether head-
8 quarters offices, Federal-aid division offices,
9 other Federal agencies, and any other relevant
10 parties are fully implementing and complying
11 with section 139 (relating to efficient environ-
12 mental reviews for project decisionmaking) and
13 a description of the steps that the Office has
14 taken or intends to take to ensure full imple-
15 mentation and compliance with section 139;
16 and

17 “(H) such recommendations as the Sec-
18 retary may have for improvements to the func-
19 tions and roles of the Office and other measures
20 to enhance the speed of project delivery.

21 “(j) REPORT BY GOVERNMENT ACCOUNTABILITY OF-
22 FICE.—Not later than 4 years after the date of enactment
23 of this section, the Comptroller General shall submit to
24 the Committee on Transportation and Infrastructure of
25 the House of Representatives and the Committee on Envi-

1 ronment and Public Works of the Senate a report on the
2 speed of delivery of highway construction projects and ef-
3 ferts to enhance the speed of project delivery under this
4 section.

5 “(k) CAREER RESERVED POSITION.—The position of
6 Director shall be treated for purposes of title 5 as a career
7 reserved position, as defined by section 3132(a)(8) of title
8 5.

9 “(l) LOCATION.—The Office shall be located in the
10 Office of the Administrator of Federal Highway Adminis-
11 tration.

12 “(m) FUNDING.—The Secretary shall allocate suffi-
13 cient funding to carry out this section from the adminis-
14 trative expenses authorized by section 104(a).

15 “(n) SAVINGS PROVISION.—Nothing in this section
16 shall be construed as—

17 “(1) superseding, amending, or modifying
18 NEPA, any other Federal environmental law, or any
19 requirement of this title; or

20 “(2) affecting the responsibility of any Federal
21 officer to comply with or enforce any such a law or
22 requirement.

23 “(o) DEFINITIONS.—In this section, the following
24 definitions apply:

1 “(1) DESIGNATED POINT OF CONTACT.—The
2 term ‘designated point of contact’ means a point of
3 contact designated by the Secretary under sub-
4 section (h).

5 “(2) DIRECTOR.—The term ‘Director’ means
6 the Director of the Office of Expedited Project De-
7 livery appointed under subsection (b).

8 “(3) FEDERAL-AID DIVISION OFFICE.—The
9 term ‘Federal-aid division office’ means a Federal-
10 aid division office of the Federal Highway Adminis-
11 tration.

12 “(4) HEADQUARTERS OFFICE.—The term
13 ‘headquarters office’ means a headquarters office of
14 the Federal Highway Administration.

15 “(5) HIGHWAY CONSTRUCTION PROJECT.—The
16 term ‘highway construction project’ means a high-
17 way construction project carried out with assistance
18 made available under this title.

19 “(6) NEPA.—The term ‘NEPA’ means the Na-
20 tional Environmental Policy Act of 1969 (42 U.S.C.
21 4321 et seq.).

22 “(7) OFFICE.—The term ‘Office’ means the Of-
23 fice of Expedited Project Delivery established under
24 subsection (a).

1 “(8) PROJECT DELIVERY.—The term ‘project
2 delivery’ means planning, environmental review, per-
3 mitting, design, right-of-way acquisition, and con-
4 struction for a highway construction project.

5 “(9) PROJECT DELIVERY SCHEDULE.—The
6 term ‘project delivery schedule’ means a project de-
7 livery schedule under section 106(h), 106(i), or 702.

8 “(10) SIGNIFICANT HIGHWAY CONSTRUCTION
9 PROJECT.—The term ‘significant highway construc-
10 tion project’ means a highway construction project
11 that—

12 “(A) has an estimated total cost of
13 \$500,000,000 or more;

14 “(B) requires an environmental impact
15 statement under NEPA;

16 “(C) is a project of national significance
17 under section 702; or

18 “(D) meets the requirements of any com-
19 bination of subparagraphs (A), (B), and (C).”.

20 (b) CLERICAL AMENDMENT.—The analysis for chap-
21 ter 3 is amended by adding at the end the following:

“Sec. 330. Office of Expedited Project Delivery.”.

22 **SEC. 1203. OFFICE OF LIVABILITY.**

23 (a) IN GENERAL.—Chapter 3 (as amended by this
24 Act) is amended by adding at the end the following:

1 **“§ 331. Office of Livability**

2 “(a) FINDINGS.—Congress finds the following

3 “(1) Since the creation of the Interstate Sys-
4 tem, American surface transportation has been de-
5 fined by the use of personal motor vehicles.

6 “(2) The focus on automobiles has afforded
7 Americans increased mobility and interconnectivity;
8 yet has also lead to increased congestion, higher
9 greenhouse gas emissions, and a reduced focus on
10 other modes of surface transportation.

11 “(3) Between 1955 and 2005, vehicle miles
12 traveled in the United States increased fivefold,
13 bringing with it an escalation in traffic congestion.

14 “(4) Each year, Americans spend
15 4,200,000,000 hours in traffic congestion, burning
16 2,900,000,000 gallons of fuel.

17 “(5) Wasted time and fuel result in a
18 \$78,000,000,000 annual congestion tax, creating a
19 financial drain on individual passengers and the
20 economy as a whole.

21 “(6) The transportation sector accounts for 28
22 percent of the greenhouse gases emitted annually in
23 the United States, with 60 percent of this coming
24 from personal vehicle use.

1 “(7) Transportation costs account for approxi-
2 mately 18 percent of an average household’s expend-
3 itures.

4 “(8) Over reliance on automobiles can have ad-
5 verse impacts on public health, both through less-
6 ened physical activity and from increased pollutants.

7 “(9) In order to reduce the financial, environ-
8 mental, and quality of life impacts of traffic conges-
9 tion and to create modal choice for all users, our
10 transportation system must include alternate modes
11 of transportation to complement personal vehicle
12 travel, including public transit, walking, and cycling.

13 “(10) Public transit, walking, and cycling are
14 sustainable modes of transportation that result in
15 5,600,000,000 gallons of fuel savings and reduce
16 carbon dioxide emissions by 49,000,000 metric tons
17 each year.

18 “(11) Sustainable modes of transportation can
19 provide affordable transportation choices and have
20 the ability to reduce the transportation cost burden.

21 “(12) Cyclists and pedestrians are intended
22 users of the surface transportation system, except
23 where prohibited by law; and it is the policy of the
24 Federal Government to encourage maximum accessi-
25 bility and safety of the surface transportation sys-

1 tem for cyclists and pedestrians as intended users
2 when designing and constructing surface transpor-
3 tation facilities.

4 “(13) In order to provide access to sustainable
5 modes of transportation, land use and planning deci-
6 sions must include considerations about transpor-
7 tation options.

8 “(14) A modally balanced surface transpor-
9 tation system will benefit all users through improved
10 accessibility, mobility, and quality of life.

11 “(15) Increasing the availability and use of sus-
12 tainable modes of transportation and the develop-
13 ment of livable communities are national priorities.

14 “(b) ESTABLISHMENT.—The Secretary shall estab-
15 lish within the Federal Highway Administration an office,
16 to be known as the ‘Office of Livability’, to provide leader-
17 ship and support for policies and decision-making at all
18 levels of government that increase modal choice and en-
19 hance livability and sustainable modes of transportation.

20 “(c) DIRECTOR.—The Office shall be headed by a di-
21 rector who shall be known as the ‘Director of the Office
22 of Livability’ and who shall be appointed by the Secretary.

23 “(d) GENERAL DUTIES OF THE DIRECTOR.—The du-
24 ties of the Director shall include to provide leadership na-

1 tionally and within the Department of Transportation
2 to—

3 “(1) increase surface transportation options,
4 and advance sustainable modes of transportation;

5 “(2) promote the intersection of surface trans-
6 portation and quality of life through comprehensive
7 planning, access to modal choices, enhanced environ-
8 mental quality, and improved public health.

9 “(3) provide support for livable communities
10 and sustainable modes of transportation by devel-
11 oping and conducting research, data collection and
12 analyses, and outreach to Federal, State, regional,
13 and local governmental entities and Indian tribes in-
14 volved in the provision of transportation and to the
15 public.

16 “(e) PROVISION OF LEADERSHIP ON ISSUES PER-
17 TAINING TO LIVABILITY.—

18 “(1) IN GENERAL.—The Director shall admin-
19 ister the following:

20 “(A) The safe routes to school program
21 under section 152.

22 “(B) The nonmotorized transportation
23 pilot program under section 1807 of
24 SAFETEA-LU (23 U.S.C. 217 note; 119 Stat.
25 1460).

1 “(C) Transportation enhancements under
2 section 133.

3 “(D) The recreational trails program
4 under section 206.

5 “(E) The national scenic byways program
6 under section 162.

7 “(F) The U.S. bicycle route system pro-
8 gram under subsection (k).

9 “(2) COLLABORATION.—The Director shall
10 work collaboratively to ensure the expeditious and
11 successful implementation of projects and programs
12 by offices within the Federal Highway Administra-
13 tion and the Federal Transit Administration under
14 the following:

15 “(A) Section 134, relating to metropolitan
16 planning.

17 “(B) Section 135, relating to statewide
18 transportation planning.

19 “(C) The Transit in the Parks Program of
20 section 5320 of title 49.

21 “(D) Section 5309 of title 49, relating to
22 capital investment grants.

23 “(E) Any other transportation programs
24 relating to livability.

1 “(2) EXECUTIVE BRANCH COORDINATION.—
2 Working with the points of contact designated under
3 subsection (m), the Director shall work collabo-
4 ratively with other executive branch agencies, includ-
5 ing the Department of Housing and Urban Develop-
6 ment, the Environmental Protection Agency, the De-
7 partment of the Interior, and the Centers for Dis-
8 ease Control and Prevention, to exchange informa-
9 tion, carry out joint planning and research, and
10 other activities that promote the development of liv-
11 able communities, access to transportation alter-
12 natives, and an improved environment, public health,
13 and quality of life.

14 “(3) POLICIES PERTAINING TO LIVABILITY.—
15 The Director shall promote and support policies that
16 advance livable communities, modal choice, and sus-
17 tainable modes of transportation.

18 “(4) MODE SHARE TARGETS.—The Director
19 shall develop quantifiable national mode share tar-
20 gets for sustainable modes of transportation, develop
21 a timeline for achievement of these targets, and sup-
22 port projects, programs, and activities within the
23 Department of Transportation and nationally in sup-
24 port of these targets.

1 “(f) PROVISION OF LEADERSHIP TO EXPEDITE
2 PROJECT DELIVERY.—In order to provide national leader-
3 ship in enhancing the delivery of nonmotorized transpor-
4 tation projects, the Director shall—

5 “(1) compile information on practices and tech-
6 niques that serve to enhance the delivery of non-
7 motorized transportation projects, including the de-
8 livery of projects under section 152, relating to the
9 safe routes to school program, and section 1807 of
10 SAFETEA-LU, relating to the nonmotorized trans-
11 portation pilot program;

12 “(2) disseminate to States and other appro-
13 priate entities information on practices and tech-
14 niques compiled under paragraph (1);

15 “(3) promote the use of practices and tech-
16 niques identified under paragraph (1) where suitable
17 and allowable under Federal, State, and local law;

18 “(4) coordinate the provision of technical assist-
19 ance by the headquarters offices, Federal-aid Divi-
20 sion Offices, Federal Transit Administration Re-
21 gional Offices, and other Federal entities of the De-
22 partment of Transportation to the States and other
23 appropriate regional and local governmental entities
24 and Indian tribes regarding practices and techniques

1 that serve to enhance nonmotorized transportation
2 project delivery.

3 “(g) DEVELOPMENT AND DISSEMINATION OF BEST
4 PRACTICES.—The Office shall act as a leadership resource
5 to develop and disseminate information or best practices
6 and provide technical assistance or training to the States
7 and other appropriate regional and local governmental en-
8 tities and Indian tribes relating to the following topics,
9 at a minimum:

10 “(1) Promotion of the integration of land use
11 and planning and transit-oriented development to
12 support the creation of livable communities.

13 “(2) The expeditious delivery of nonmotorized
14 transportation projects.

15 “(3) Innovative design of nonmotorized trans-
16 portation facilities.

17 “(4) Adoption and implementation of com-
18 prehensive street design policies and principles and
19 practical design standards.

20 “(5) Implementation of the U.S. bicycle route
21 system program.

22 “(6) Projects, programs, and activities that
23 support the achievement of national mode share tar-
24 gets developed under subsection (e)(4).

1 “(h) DEVELOPMENT OF STATISTICAL AND ANALYT-
2 ICAL CAPABILITIES.—

3 “(1) IN GENERAL.—The Director shall develop
4 statistical and analytical capabilities, in conjunction
5 when appropriate with other entities within the De-
6 partment of Transportation or the executive branch
7 (including other offices within the Federal Highway
8 Administration, the Federal Transit Administration,
9 the National Highway Traffic Safety Administra-
10 tion, and the Bureau of Transportation Statistics) to
11 ascertain, and shall determine, the following using
12 the best available research methodologies:

13 “(A) The percentage of trips taken nation-
14 ally each year using each of the following
15 modes: motor vehicle travel; public transit;
16 walking; and bicycling.

17 “(B) The economic, public health, and en-
18 vironmental benefits derived due to the percent-
19 age of trips taken annually by sustainable
20 modes of transportation.

21 “(C) Potential future benefits that could
22 be achieved with an increase in the percentage
23 of trips taken annually by sustainable modes of
24 transportation.

1 “(D) Any other information the Director
2 determines is necessary and is related to the
3 status and expansion of sustainable modes of
4 transportation and livable communities.

5 “(2) INCLUSION IN ANNUAL REPORT.—The Di-
6 rector shall include the statistics and other informa-
7 tion determined under paragraph (1) in the annual
8 report to Congress under subsection (i).

9 “(3) COORDINATION.—The development of ca-
10 pabilities and the making of determinations under
11 paragraph (1) may be conducted in coordination
12 with the nonmotorized transportation pilot program
13 under section 1807 of SAFETEA-LU to the extent
14 the Director determines appropriate.

15 “(4) WORKING WITH CLEARINGHOUSES AND
16 RESOURCE CENTERS.—The Director may work col-
17 laboratively with any appropriate federally-estab-
18 lished clearinghouses or resource centers to dissemi-
19 nate the statistics developed, and other information
20 determined, under paragraph (1).

21 “(i) ANNUAL REPORT TO CONGRESS.—

22 “(1) IN GENERAL.—Not later than September
23 30, 2011, and September 30 of every year there-
24 after, the Director shall submit to the Committee on
25 Transportation and Infrastructure of the House of

1 Representatives and the Committees on Environ-
2 ment and Public Works, Banking, Housing, and
3 Urban Affairs, and Commerce, Science, and Trans-
4 portation of the Senate a report that includes, at a
5 minimum, the following:

6 “(A) A summary of the actions taken by
7 the Director under subsection (d).

8 “(B) Future steps the Director will take
9 under subsection (d).

10 “(C) Background information on non-
11 motorized transportation project delivery.

12 “(D) The steps that the Director has
13 taken to enhance such project delivery.

14 “(E) Identification of remaining impedi-
15 ments to expeditious nonmotorized transpor-
16 tation project delivery.

17 “(F) Future steps that the Director will
18 take to enhance nonmotorized transportation
19 project delivery and future goals for enhancing
20 such project delivery.

21 “(G) Information on the best practices de-
22 veloped disseminated under subsection (g).

23 “(H) Information on the national mode
24 share targets developed under subsection (e)(4)

1 and activities the Office has undertaken to pro-
2 mote achievement of the targets.

3 “(I) Information on the status of the es-
4 tablishment and implementation of the U.S. bi-
5 cycle route system program.

6 “(J) Information on the adoption and im-
7 plementation of comprehensive street design
8 policies and principles and practical design
9 standards and the Office’s activities in over-
10 seeing the requirements of section 109(a)(1) re-
11 lating to such information.

12 “(K) Such recommendations as the Direc-
13 tor may have for improvements to the functions
14 or roles of the Office or other measures relating
15 to the intersection of surface transportation and
16 quality of life through comprehensive planning,
17 access to modal choices, enhanced environ-
18 mental quality, and improved public health.

19 “(j) COMPREHENSIVE STREET DESIGN POLICIES
20 AND PRINCIPLES AND PRACTICAL DESIGN STANDARDS.—

21 “(1) PURPOSES.—The Director shall encourage
22 the adoption and implementation by States and re-
23 gional and local governmental entities and Indian
24 tribes of comprehensive street design policies and
25 principles and practical design standards through—

1 “(A) the development and dissemination of
2 information or best practices relating to com-
3 prehensive street design policies and principles
4 and practical design standards to States, metro-
5 politan planning organizations, and other ap-
6 propriate governmental entities;

7 “(B) provision of technical assistance or
8 training under subsection (g) relating to com-
9 prehensive street design policies and principles
10 and practical design standards;

11 “(C) the creation or compilation of model
12 comprehensive street design policies and prin-
13 ciples and practical design standards and the
14 dissemination of information relating to such
15 models to States, metropolitan planning organi-
16 zations, and other appropriate governmental en-
17 tities; and

18 “(D) monitoring adherence to the require-
19 ments of section 109(a)(1) relating to com-
20 prehensive street design policies and principles
21 and practical design standards by recipients of
22 Federal-aid funding under chapter 1 and work-
23 ing collaboratively with other entities within the
24 Department to ensure compliance with such re-
25 quirements.

1 “(2) RIGHTS OF CYCLISTS AND PEDES-
2 TRIANS.—

3 “(A) STUDY.—The Director shall conduct
4 a study on—

5 “(i) State and local laws relating to
6 the rights of cyclists and pedestrians to
7 use transportation facilities and to be con-
8 sidered to be intended and permitted users
9 of these facilities; and

10 “(ii) whether State and local laws and
11 the actions of judicial systems are afford-
12 ing cyclists and pedestrians who are in-
13 jured or suffer property damage on trans-
14 portation facilities the same ability to re-
15 cover damages for their injuries as would
16 be available to persons in motor vehicles
17 suffering comparable injuries.

18 “(B) REPORT.—Not later one year after
19 the date of enactment of this section, the Direc-
20 tor shall submit to Congress a report on the re-
21 sults of the study, including any recommenda-
22 tions of the Director for actions needed to im-
23 prove the access of bicyclists and pedestrians to
24 transportation facilities and their rights to re-

1 cover damages for injuries sustained on these
2 facilities.

3 “(C) GUIDANCE AND MODEL LEGISLATION
4 FOR STATES.—Not later than 18 months after
5 the date of enactment of this subsection, the
6 Director shall develop and disseminate guidance
7 and model legislation for use by States and
8 other appropriate entities in—

9 “(i) establishing the rights of
10 bicyclists and pedestrians to use transpor-
11 tation facilities as permitted and intended
12 users; and

13 “(ii) ensuring that bicyclists and pe-
14 destrians have the same ability as motor-
15 ists and their passengers to recover dam-
16 ages for injuries sustained on transpor-
17 tation facilities.

18 “(k) U.S. BICYCLE ROUTE SYSTEM.—

19 “(1) IN GENERAL.—The Director shall establish
20 a U.S. bicycle route system and a program for the
21 award of grants under this section for activities or
22 projects that are on or are related to portions of the
23 U.S. bicycle route system that have been approved
24 by the Secretary under the criteria developed under
25 paragraph (3).

1 “(2) PURPOSE.—The purpose of the U.S. bicy-
2 cle route system program shall be to provide for the
3 establishment and support of an interconnected,
4 intercity network of bicycle facilities of all classes, to
5 improve and enhance mobility, modal choice, eco-
6 nomic development, and quality of life.

7 “(3) DESIGNATION OF THE U.S. BICYCLE
8 ROUTE SYSTEM.—The Director shall issue regula-
9 tions—

10 “(A) to establish and implement a process
11 for the designation of a U.S. bicycle route sys-
12 tem that shall include procedures for the ap-
13 proval of routes by the Secretary, numerical
14 designation of such routes, and standard sign-
15 age for such routes; and

16 “(B) to establish the criteria for selection
17 of recipients of grants under this section.

18 “(4) GRANTS.—The Director shall make grants
19 under this subsection to States and Indian tribes for
20 the purpose of implementing and enhancing a U.S.
21 bicycle route system in accordance with the regula-
22 tions issued under paragraph (2).

23 “(5) SELECTION CRITERIA.—In making grants
24 to States and Indian tribes under this subsection,

1 the Secretary shall take into consideration the fol-
2 lowing:

3 “(A) The extent to which the State or In-
4 dian tribe has identified other sources of Fed-
5 eral, State, regional, local, tribal, or private
6 funds to support the implementation of the
7 U.S. bicycle route system components within
8 that State, region, locality, or Indian reserva-
9 tion.

10 “(B) The extent to which the State or In-
11 dian tribe has demonstrated an ability to work
12 with various levels of government that will be
13 involved in the implementation of the U.S. bicy-
14 cle route system program.

15 “(C) The extent to which cyclists will be
16 able to travel safely on proposed routes of the
17 system.

18 “(D) Any other factors that the Secretary
19 determines are appropriate.

20 “(6) ELIGIBLE ACTIVITIES.—Eligible activities
21 for grants under this section include the following
22 activities that are on or are related to portions of
23 the U.S. bicycle route system:

24 “(A) Planning.

25 “(B) Mapping.

1 “(C) Signage.

2 “(D) Development of informational or pro-
3 motional materials.

4 “(E) Construction of components of the
5 system.

6 “(7) SPECIAL RULE FOR CONSTRUCTION.—The
7 Secretary shall ensure that no more than 50 percent
8 of funds under this subsection are used for the ac-
9 tivities listed under paragraph (5)(E).

10 “(8) FEDERAL SHARE.—The Federal share
11 payable on account of any project or activity carried
12 out using amounts from a grant received under this
13 subsection shall be 80 percent of the cost of the
14 project or activity.

15 “(9) FUNDING.—【to be supplied.】

16 “(l) LIVABILITY, SUSTAINABILITY, AND PLAN-
17 NING.—The Director shall compile information and pro-
18 vide technical assistance, training, and best practices to
19 States and metropolitan planning organizations to assist
20 in their compliance with livability and sustainability re-
21 quirements and performance targets under sections 134,
22 135, and 701.

23 “(m) DESIGNATION OF POINTS OF CONTACT.—The
24 Secretary, in consultation with the Director, shall des-

1 ignate to work with the Office to carry out its functions
2 under this section—

3 “(1) one or more points of contact within the
4 Office of the Assistant Secretary for Transportation
5 Policy of the Department of Transportation;

6 “(2) a point of contact within each of the Fed-
7 eral-aid Division Offices;

8 “(3) a point of contact within each of the Fed-
9 eral Transit Administration Regional Offices; and

10 “(4) a point of contact within each of the head-
11 quarters offices.

12 “(n) CAREER RESERVED POSITION.—The position of
13 Director shall be treated for purposes of title 5 as a career
14 reserved position, as defined in section 3132(a)(8) of title
15 5.

16 “(o) FUNDING.—**[to be supplied]**

17 “(p) SAVINGS PROVISION.—Nothing in this section
18 shall be construed as—

19 “(1) superseding, amending, or modifying the
20 National Environmental Policy Act of 1969 (42
21 U.S.C. 4321 et seq.), any other Federal environ-
22 mental law, or any requirement of this title; or

23 “(2) affecting the responsibility of any Federal
24 officer to comply with or enforce any such law or re-
25 quirement.

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

3 “(1) COMPREHENSIVE STREET DESIGN POLICY
4 OR PRINCIPLE.—The term ‘comprehensive street de-
5 sign policy or principle’ means a transportation law
6 or policy at the Federal, State, regional, local, or
7 tribal level that ensures—

8 “(A) the adequate accommodation, in all
9 phases of project planning and development, of
10 all users of the transportation system, including
11 pedestrians, bicyclists, public transit users, chil-
12 dren, older individuals, motorists (including mo-
13 torcyclists), and individuals with disabilities;

14 “(B) the consideration of the safety and
15 convenience of all users in all phases of project
16 planning and development; and

17 “(C) the consideration of the context in
18 which any facility is planned to be constructed
19 as part of the project to determine the appro-
20 priate facility design.

21 “(2) FEDERAL-AID DIVISION OFFICE.—The
22 term ‘Federal-aid Division Office’ means a Federal-
23 aid Division Office of the Federal Highway Adminis-
24 tration.

1 “(3) FEDERAL TRANSIT ADMINISTRATION RE-
2 REGIONAL OFFICE.—The term ‘Federal Transit Ad-
3 ministration Regional Office’ means a regional office
4 of the Federal Transit Administration.

5 “(4) HEADQUARTERS OFFICE.—The term
6 ‘headquarters office’ means a headquarter office of
7 the Federal Highway Administration and a head-
8 quarters office of the Federal Transit Administra-
9 tion.

10 “(5) PRACTICAL DESIGN STANDARD.—The term
11 ‘practical design standard’ means a collaborative,
12 interdisciplinary approach that involves interested
13 entities to develop a transportation facility that fits
14 its physical setting, balances costs with the nec-
15 essary scope of the project, and preserves scenic,
16 aesthetic, historic, and environmental resources,
17 while maintaining safety and mobility.

18 “(6) PROJECT DELIVERY.—The term ‘project
19 delivery’ means planning, environmental review, per-
20 mitting, design, right-of-way acquisition, and con-
21 struction of a project.

22 “(7) SUSTAINABLE MODES OF TRANSPOR-
23 TATION.—The term ‘sustainable modes of transpor-
24 tation’ means public transit, walking, and bicycling.

1 “(8) U.S. BICYCLE ROUTE SYSTEM.—The term
2 ‘U.S. bicycle route system’ means a national, inter-
3 city system of interconnected urban, suburban, and
4 rural bicycle facilities of all classes.”.

5 (b) CLERICAL AMENDMENT.—The analysis for chap-
6 ter 3 (as amended by this Act) is amended by adding at
7 the end the following:

 “331. Office of Livability.”.

8 **SEC. 1204. OFFICE OF PUBLIC BENEFIT.**

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

11 **“§ 611. Office of Public Benefit**

12 “(a) ESTABLISHMENT.—There is established in the
13 Federal Highway Administration an Office of Public Ben-
14 efit to provide for the protection of the public interest in
15 relation to highway toll projects and public-private part-
16 nership agreements on Federal-aid highways.

17 “(b) DIRECTOR.—The Office shall be headed by a Di-
18 rector, who shall be appointed by the Secretary.

19 “(c) DUTIES.—The Director shall carry out the fol-
20 lowing duties:

21 “(1) LEADERSHIP AND TECHNICAL ASSIST-
22 ANCE.—The Director shall—

23 “(A) provide national leadership in ensur-
24 ing the protection of the public interest in rela-
25 tion to highway toll projects and public-private

1 partnership agreements on Federal-aid high-
2 ways;

3 “(B) compile and promote the use of poli-
4 cies, practices, and techniques for protecting
5 the public interest in relation to highway toll
6 projects and public-private partnership agree-
7 ments on Federal-aid highways; and

8 “(C) upon request, assist State and local
9 transportation departments, elected officials,
10 and other public officials in implementing such
11 policies, practices, and techniques.

12 “(2) ADMINISTRATION OF TOLL AGREE-
13 MENTS.—The Director shall administer toll agree-
14 ments under section 129, including—

15 “(A) reviewing and approving or dis-
16 approving proposed toll rate schedules in ac-
17 cordance with section 129(a)(3)(G);

18 “(B) reviewing and approving or dis-
19 approving any substantial proposed change to
20 such toll rate schedules in accordance with such
21 section; and

22 “(C) any other activities that the Secretary
23 determines necessary under section
24 129(a)(3)(B).

1 “(3) COMPLIANCE WITH TOLL AGREEMENTS.—

2 The Director shall monitor the compliance of public
3 authorities with the requirements applicable to toll
4 agreements under section 129, including—

5 “(A) restrictions on use of toll revenues;

6 “(B) the prohibition on noncompete agree-
7 ments;

8 “(C) prior to the implementation of tolls
9 on the facility—

10 “(i) allowance for public comment on
11 toll rate schedules;

12 “(ii) consideration of impacts of the
13 toll on interstate commerce or travel;

14 “(iii) provision of operational improve-
15 ments and transit service sufficient to ac-
16 commodate travel diverted from the facility
17 due to the collection of the toll; and

18 “(iv) provision of measures to miti-
19 gate the impact of the toll on low-income
20 travelers;

21 “(D) public availability of rate data for
22 each tolled facility in an interoperable electronic
23 format that complies with the requirements,
24 standards, and performance specifications es-
25 tablished under the final rule required by sec-

1 tion 1301(e) of the Surface Transportation Au-
2 thorization Act of 2009; and

3 “(E) any other provisions applicable to toll
4 agreements under such section.

5 “(4) COMPLIANCE WITH PUBLIC-PRIVATE PART-
6 NERSHIP REQUIREMENTS.—The Director shall ad-
7 minister and monitor the compliance of States, and
8 of other public authorities subject to section 112(h),
9 with the requirements of section 112(h), including—

10 “(A) pursuant to section 112(h), that the
11 public authority, prior to the award of any con-
12 tract awarded under section 112(b) for a
13 project that involves a public-private partner-
14 ship agreement—

15 “(i) assess whether the use of a pub-
16 lic-private partnership agreement, as pro-
17 posed for the potential project, provides
18 value compared with traditional public de-
19 livery methods;

20 “(ii) make available to the public key
21 terms of the contract to be awarded; and

22 “(iii) offer interested parties a reason-
23 able opportunity to comment on the pro-
24 posed agreement;

1 “(B) pursuant to section 112(h), that any
2 contract awarded under section 112(b) for a
3 project that involves a public-private partner-
4 ship agreement—

5 “(i) includes provisions to prohibit the
6 closing of the highway facility or portions
7 thereof to vehicular traffic except in spe-
8 cifically enumerated circumstances;

9 “(ii) does not include any provision
10 under which the State is prevented from
11 improving or expanding the capacity of
12 public roads in the same travel corridor as
13 the highway facility;

14 “(iii) includes provisions to allow the
15 public authority the option of reclaiming
16 ownership of the highway facility prior to
17 the end of the term of the public-private
18 partnership agreement; and

19 “(iv) sets forth standards that the
20 highway facility must meet or must be
21 brought up to by the private partner at the
22 end of the term of the public-private part-
23 nership agreement; and

24 “(C) any other requirement of section
25 112(h).

1 “(5) COMPLIANCE WITH REQUIREMENTS ON
2 USE OF PROCEEDS.—The Director shall monitor the
3 compliance of States with restrictions under section
4 156(c) on the use of the Federal share of net income
5 from the revenues obtained through the sale or lease
6 of real property.

7 “(6) OTHER DUTIES.—The Director shall carry
8 out any additional duties consistent with this section
9 that the Secretary may require.

10 “(d) REPORT TO CONGRESS.—

11 “(1) IN GENERAL.—Not later than one year
12 after the date of enactment of this section, and an-
13 nually thereafter, the Secretary shall submit to the
14 Committee on Transportation and Infrastructure of
15 the House of Representatives and the Committee on
16 Environment and Public Works of the Senate a re-
17 port on the activities of the Director under this sec-
18 tion.

19 “(2) CONTENTS.—The report shall contain, at
20 a minimum—

21 “(A) a summary of the activities that the
22 Director has carried out under this section in
23 the year prior to submission of the report, in-
24 cluding—

1 “(i) a description of the Director’s
2 oversight activities under subsection (e);

3 “(ii) a description of any toll agree-
4 ments that the Director administered
5 under subsection (c)(2); and

6 “(iii) a description of actions that the
7 Secretary has taken in response to any
8 noncompliance described under paragraph
9 (2);

10 “(B) a description of the compliance or
11 noncompliance of State and public authorities
12 in the year prior to submission of the report
13 with the requirements of sections 112(h), 129,
14 and 156(c); and

15 “(C) a description of significant activities
16 (statutory, policy, or otherwise) that States and
17 other public entities have taken in that annual
18 period to protect the public interest in relation
19 to highway toll projects and public-private part-
20 nership agreements on Federal-aid highways;
21 and

22 “(D) such recommendations as the Sec-
23 retary may have for enhancing the ability of the
24 Director to meet the objectives of this section.

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

3 “(1) HIGHWAY TOLL PROJECT.—The term
4 ‘highway toll project’ means a project that—

5 “(A) involves the institution of tolls on a
6 Federal-aid highway; and

7 “(B) is subject to the requirements of sec-
8 tion 129.

9 “(2) PRIVATE PARTNER.—The term ‘private
10 partner’ has the meaning given that term in section
11 112(h).

12 “(3) PUBLIC AUTHORITY.—The term ‘public
13 authority’ has the meaning given that term in sec-
14 tion 112(h).

15 “(4) PUBLIC-PRIVATE PARTNERSHIP AGREE-
16 MENT.—The term ‘public-private partnership agree-
17 ment’ has the meaning given that term in section
18 112(h).”.

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

“611. Office of Public Benefit.”.

21 **SEC. 1205. METROPOLITAN MOBILITY AND ACCESS PRO-**
22 **GRAM.**

23 (a) FINDINGS.—Congress finds the following:

24 (1) According to the National Surface Trans-
25 portation Policy and Revenue Study Commission,

1 approximately 80 percent of the population of the
2 United States lives in metropolitan areas, with over
3 60 percent living in areas of more than 1,000,000
4 people.

5 (2) Although the largest metropolitan areas
6 comprise only 12 percent of the Nation's land area,
7 these areas generate 75 percent of total United
8 States gross domestic product.

9 (3) Over 85 percent of the Nation's market
10 share of critical transportation infrastructure exists
11 in metropolitan areas.

12 (4) Metropolitan areas are most often com-
13 prised of several counties, cities, suburbs, and towns
14 that have commuting ties to an urban core.

15 (5) Metropolitan areas often have complex
16 transportation networks and multiple jurisdictions
17 and operating agencies.

18 (6) The Texas Transportation Institute's 2007
19 urban mobility report found that, in 2005, wasted
20 fuel and time translated into a total congestion cost
21 of \$78,200,000,000, \$5,100,000,000 higher than a
22 year earlier.

23 (7) In 2007, traffic congestion in the top 437
24 urban areas resulted in major chokepoints and bot-
25 tlenecks, causing Americans to lose 4,200,000,000

1 hours and 2,900,000,000 gallons of fuel sitting in
2 traffic jams.

3 (8) This congestion represents an annual con-
4 gestion tax of between \$600 and \$1,600 in lost time
5 and fuel and results in travelers losing the equiva-
6 lent of almost 8 work days each year stuck in traf-
7 fic.

8 (9) In the largest cities, highway congestion im-
9 pacts 67 percent of travel, lasts 7 hours per day,
10 and increases by 37 percent the length of the aver-
11 age rush hour driver's trip.

12 (10) Traffic congestion undermines air quality
13 with vehicles caught in traffic emitting far more pol-
14 lutants than they do when operating without fre-
15 quent braking and acceleration.

16 (11) With truck transportation accounting for
17 77 percent of transportation costs, congestion in-
18 creases logistics costs on business and undermines
19 business productivity.

20 (12) The logistics cost relating to intercity
21 trucking reached \$455,000,000,000 in 2007, an in-
22 crease of 6.1 percent over 2006. Total truck trans-
23 portation accounted for \$671,000,000,000 of trans-
24 portation costs in 2007.

1 (13) Overall, logistics costs accounted for 10.1
2 percent of the gross domestic product in 2007, up
3 from 8.8 percent in 2004.

4 (b) IN GENERAL.—Title 23 is amended by adding at
5 the end the following:

6 **“CHAPTER 7—INTERMODALISM**

 “701. Metropolitan mobility and access program.

 “702. Projects of national significance program.

 “703. National transportation strategic plan.

7 **“§ 701. Metropolitan mobility and access program**

8 “ (a) ESTABLISHMENT.—The Secretary shall estab-
9 lish a metropolitan mobility and access program in accord-
10 ance with this section and sections 5502(c)(2) and
11 5503(c)(4) of title 49.

12 “ (b) PURPOSE.—The purpose of the metropolitan
13 mobility and access program shall be to provide multi-
14 modal transportation funding and financing authority di-
15 rectly to metropolitan planning organizations, thereby al-
16 lowing MPOs broad multi-modal flexibility in planning and
17 implementing programs of surface transportation projects
18 to reduce vehicular congestion, to maximize mobility and
19 access of people and goods, and to improve safety, environ-
20 mental sustainability, and livability in large urbanized
21 areas.

22 “ (c) PROGRAMS OF PROJECTS.—A program of sur-
23 face transportation projects carried out using Federal fi-
24 nancial assistance made available under the metropolitan

1 mobility and access program shall include system oper-
2 ations and management improvements, travel demand
3 strategies, and, if necessary, new highway and transit ca-
4 pacity for an urbanized area—

5 “(1) to maximize mobility and access of people
6 and goods in the urbanized area;

7 “(2) to provide for the implementation of out-
8 come-based plans and strategies to address travel
9 time delays and travel time reliability in the urban-
10 ized area; and

11 “(3) to improve safety and environmental sus-
12 tainability in the urbanized area and the livability of
13 the urbanized area.

14 “(d) INDEPENDENT REVIEW OF SELECTION CRI-
15 TERIA AND PLANS.—

16 “(1) PARTICIPATION OF NATIONAL ACAD-
17 EMIES.—Not later than 3 months after the date of
18 enactment of this section, the Secretary shall enter
19 into appropriate arrangements with the Transpor-
20 tation Research Board of the National Academies to
21 permit the Transportation Research Board to pro-
22 vide recommendations to the Secretary for processes
23 and procedures for developing selection and evalua-
24 tion criteria to carry out this section, including a
25 methodology for calculating travel time delay.

1 “(2) SUBMISSION OF RECOMMENDATIONS.—Not
2 later than 9 months after the date of enactment of
3 this section, the Transportation Research Board
4 shall submit the recommendations described in para-
5 graph (1) to the Secretary, the Committee on Trans-
6 portation and Infrastructure of the House of Rep-
7 resentatives, and the Committees on Environment
8 and Public Works and Banking, Housing, and
9 Urban Affairs of the Senate.

10 “(e) REGULATIONS.—Not later than 18 months after
11 the date of enactment of this section, the Secretary shall
12 establish, by regulation, requirements to carry out this
13 section, including requirements for—

14 “(1) the eligibility of an MPO to receive fund-
15 ing under this section, in accordance with subsection
16 (f);

17 “(2) the eligibility of a project to receive fund-
18 ing under this section, in accordance with subsection
19 (g);

20 “(3) the requirements for metropolitan mobility
21 plans under this section, in accordance with sub-
22 section (h);

23 “(4) the allocation of grants to eligible recipi-
24 ents under this section, in accordance with sub-
25 section (i); and

1 “(5) the identification of performance areas, es-
2 tablishment of performance measures, and imple-
3 mentation of performance-based transportation plan-
4 ning processes under this section, in accordance with
5 subsection (l).

6 “(f) PROGRAM REQUIREMENTS.—

7 “(1) IN GENERAL.—To be eligible to receive
8 Federal assistance under this section, an entity
9 shall—

10 “(A) be an MPO that serves a metropoli-
11 tan planning area that encompasses, in whole
12 or in part, an urbanized area with a population
13 of more than 500,000 individuals;

14 “(B) submit to the Secretary an applica-
15 tion that is in such form and contains such in-
16 formation as the Secretary may require;

17 “(C) have in effect a metropolitan mobility
18 plan that has been approved by the Secretary
19 under subsection (h);

20 “(D) demonstrate and certify to the Sec-
21 retary that the entity, or an eligible sub-
22 recipient of the entity, has, or will have, the
23 legal, financial, and technical capacity to carry
24 out the metropolitan mobility plan;

1 “(E) carry out a congestion management
2 process that, as determined by Secretary, com-
3 plies with the requirements of section
4 134(k)(3); and

5 “(F)(i) demonstrate to the Secretary that
6 the entity has implemented low cost traffic
7 management strategies and systems, such as in-
8 cident management systems and traffic light
9 signalization, designed to optimize traffic flows;
10 or

11 “(ii) certify to the Secretary that the entity
12 has identified funding sufficient to implement
13 such strategies and systems and that the entity
14 plans to implement such strategies and systems
15 before completing the projects or activities for
16 which the entity seeks assistance under this sec-
17 tion.

18 “(2) TIER ONE GRANTS.—To be eligible to re-
19 ceive a tier one grant under this section, in addition
20 to meeting the requirements of paragraph (1), an el-
21 igible recipient shall be an MPO serving a metropoli-
22 tan planning area that encompasses, in whole or in
23 part, an urbanized area that—

24 “(A) has a population of more than
25 1,000,000 individuals; and

1 “(B) experiences substantial travel time
2 delays, as determined in accordance with regu-
3 lations issued under subsection (e).

4 “(3) TIER TWO GRANTS.—To be eligible to re-
5 ceive a tier two grant under this section, in addition
6 to meeting the requirements of paragraph (1), an
7 MPO shall not have received a tier one grant under
8 this section.

9 “(g) ELIGIBLE PROJECTS.—

10 “(1) IN GENERAL.—Subject to sections
11 5502(c)(2) and 5503(c)(4) of title 49, the Secretary
12 may provide Federal assistance under this section to
13 an eligible recipient with respect to a proposed
14 project or activity only if the Secretary determines
15 that—

16 “(A) the project or activity is eligible for
17 funding under this title or chapter 53 of title
18 49, or both;

19 “(B) the project or activity is included in
20 a metropolitan mobility plan of the eligible re-
21 cipient that has been approved by the Secretary
22 under subsection (h); and

23 “(C) the project or activity is part of an
24 approved transportation plan and program of
25 projects required under section 134 or 135 for

1 the urbanized area served by the eligible recipi-
2 ent.

3 “(2) LIMITATION.—Federal assistance provided
4 under this section may not be used to carry out ac-
5 tivities to meet the requirements of subsection
6 (f)(1)(F).

7 “(h) METROPOLITAN MOBILITY PLANS.—

8 “(1) IN GENERAL.—Not later than 6 months
9 after the date on which final regulations are issued
10 under subsection (e), an eligible recipient seeking
11 Federal assistance under this section shall develop,
12 and submit to the Secretary for approval, a metro-
13 politan mobility plan that identifies projects that the
14 eligible recipient, or another entity described in and
15 subject to the plan, proposes to address surface
16 transportation congestion and its impacts within the
17 urbanized area served by the eligible recipient.

18 “(2) PLAN REQUIREMENTS.—A metropolitan
19 mobility plan submitted by an eligible recipient to
20 the Secretary under paragraph (1) shall contain, at
21 a minimum—

22 “(A) a certification that the eligible recipi-
23 ent has complied with the requirements of sub-
24 section (f)(1)(F);

1 “(B) an assessment of the congestion, mo-
2 bility, access, and livability challenges facing
3 the surface transportation systems and facilities
4 in the urbanized area served by the eligible re-
5 cipient;

6 “(C) a range of low-cost congestion reduc-
7 tion and mobility, access, and livability improve-
8 ment activities and projects that the eligible re-
9 cipient , or another entity described in and sub-
10 ject to the plan, proposes to implement in the
11 urbanized area within 2 fiscal years;

12 “(D) additional congestion reduction and
13 mobility, access, and livability improvement
14 projects and activities that the eligible recipient
15 , or another entity described in and subject to
16 the plan, proposes to implement in the urban-
17 ized area within 6 fiscal years;

18 “(E) a detailed analysis of the effects that
19 the activities and projects described in subpara-
20 graphs (C) and (D) will have on the challenges
21 described in subparagraph (B); and

22 “(F) an analysis of any additional bene-
23 ficial effects that the activities and projects de-
24 scribed in subparagraphs (C) and (D) will have
25 on the urbanized area, including energy and en-

1 vironmental benefits, economic development
2 benefits, reductions in transportation costs, and
3 benefits resulting from land use policies and fu-
4 ture growth patterns.

5 “(3) REGIONAL COORDINATION.—An eligible re-
6 cipient shall develop a metropolitan mobility plan
7 under this section for the urbanized area served by
8 the eligible recipient in coordination with the State
9 and local transit authorities.

10 “(4) REVIEW OF PLANS.—

11 “(A) IN GENERAL.—The Secretary shall
12 review and approve, or disapprove, each metro-
13 politan mobility plan submitted by an eligible
14 recipient under this subsection based on a con-
15 sideration of the criteria described in subpara-
16 graph (B).

17 “(B) CRITERIA.—In reviewing the metro-
18 politan mobility plan of an eligible recipient
19 under subparagraph (A), the Secretary shall
20 consider, at a minimum, the following criteria:

21 “(i) The extent of the urbanized
22 area’s roadway congestion delays, includ-
23 ing—

24 “(I) the urbanized area’s annual
25 total hours of travel delays;

1 “(II) the urbanized area’s annual
2 hours of delay per peak period driver;
3 and

4 “(III) the urbanized area’s total
5 annual cost of congestion.

6 “(ii) The degree to which the eligible
7 recipient’s metropolitan mobility plan is
8 likely to—

9 “(I) increase the speed, reli-
10 ability, and accessibility of passenger
11 and freight movement within the ur-
12 banized area;

13 “(II) reduce congestion, including
14 reductions in incident-based delays,
15 and its impact in the urbanized area;

16 “(III) generate economic bene-
17 fits, including creating jobs, expand-
18 ing business opportunities, enhancing
19 productivity within the urbanized
20 area, and impacting the gross domes-
21 tic product;

22 “(IV) improve surface transpor-
23 tation safety in the urbanized area,
24 including reducing transportation

1 crashes, serious injuries, and fatali-
2 ties; and

3 “(V) improve environmental sus-
4 tainability and quality of life within
5 the urbanized area.

6 “(iii) The population of the urbanized
7 area served by the eligible recipient.

8 “(iv) The size and usage of the urban-
9 ized area’s surface transportation system,
10 including—

11 “(I) the total vehicle miles trav-
12 eled on lanes on Federal-aid highways
13 within the urbanized area; and

14 “(II) the urbanized area’s annual
15 public transportation revenue miles,
16 vehicle route-miles, and passenger-
17 miles.

18 “(C) PLANS INVOLVING TOLLS OR PUBLIC
19 PRIVATE PARTNERSHIPS.—As part of the re-
20 view under subparagraph (A), the Office of
21 Public Benefit established by section 611 shall
22 review and approve, or disapprove, any portion
23 of a metropolitan mobility plan that requires
24 Federal toll authority or involves a public pri-

1 vate partnership agreement on a Federal-aid
2 highway.

3 “(i) ALLOCATION OF FUNDING.—

4 “(1) IN GENERAL.—The Secretary shall allo-
5 cate the Federal funds made available to carry out
6 this section for each fiscal year as follows:

7 “(A) 40 percent of such funds for tier one
8 grants; and

9 “(B) 60 percent of such funds for tier two
10 grants.

11 “(2) LIMITATIONS.—

12 “(A) LIMITATIONS ON TIER ONE
13 GRANTS.—The Secretary shall provide financial
14 assistance to not more than 10 eligible recipi-
15 ents through tier one grants under this section.

16 “(B) LIMITATIONS ON TIER TWO
17 GRANTS.—In allocating tier two grants under
18 this section, the Secretary shall ensure a geo-
19 graphically equitable distribution of financial
20 assistance through such grants.

21 “(3) CONSIDERATIONS.—

22 “(A) AWARD OF TIER ONE GRANTS.—The
23 Secretary shall provide tier one grants under
24 this section to eligible recipients based on a
25 consideration of—

1 “(i) whether the eligible recipient
2 meets the requirements of subsection
3 (f)(2);

4 “(ii) the criteria listed in subsection
5 (h)(4)(B); and

6 “(iii) the limitations described in
7 paragraph (2).

8 “(B) AWARD OF TIER TWO GRANTS.—The
9 Secretary shall provide tier two grants under
10 this section to each eligible recipient with an
11 approved metropolitan mobility plan based on a
12 consideration of—

13 “(i) whether the eligible recipient
14 meets the requirements of subsection
15 (f)(3);

16 “(ii) the criteria listed in subsection
17 (h)(4)(B); and

18 “(iii) the limitations described in
19 paragraph (2)(B).

20 “(4) SUBALLOCATION OF FUNDS.—A recipient
21 of a grant under this subsection may suballocate
22 funds from a grant to an eligible subrecipient to
23 carry out project under this section.

24 “(j) FULL FUNDING GRANT AGREEMENTS.—

1 “(1) TERMS.—The Secretary may enter into a
2 full funding grant agreement with an eligible recipi-
3 ent to provide assistance under this section. Any
4 such agreement shall—

5 “(A) establish the terms of participation by
6 the Government in the eligible recipient’s met-
7 ropolitan mobility plan under this section;

8 “(B) establish the maximum amount of
9 Government financial assistance for the plan;

10 “(C) cover the period of time for imple-
11 menting the plan, including, if necessary, a pe-
12 riod extending beyond the period of an author-
13 ization;

14 “(D) make timely and efficient manage-
15 ment of the plan easier according to the laws of
16 the United States;

17 “(E) include, subject to paragraph
18 (2)(D)(ii), an agreement between the Secretary
19 and the eligible recipient for the collection and
20 analysis of information to identify the impacts
21 of each project and activity for which Federal
22 assistance is provided under the full funding
23 grant agreement in relation to the performance
24 targets established in the agreement; and

1 “(F) incorporate the performance targets
2 established in the agreement.

3 “(2) SPECIAL FINANCIAL RULES.—

4 “(A) IN GENERAL.—A full funding grant
5 agreement under this subsection obligates an
6 amount of available budget authority specified
7 in law and may include a commitment, contin-
8 gent on amounts to be specified in law in ad-
9 vance for commitments under this paragraph,
10 to obligate an additional amount from future
11 available budget authority specified in law.

12 “(B) STATEMENT OF CONTINGENT COM-
13 MITMENT.—The agreement shall state that the
14 contingent commitment is not an obligation of
15 the Government.

16 “(C) INTEREST AND OTHER FINANCING
17 COSTS.—Interest and other financing costs of
18 carrying out a part of the eligible recipient’s
19 metropolitan mobility plan within a reasonable
20 time shall be an eligible cost under the agree-
21 ment, except that such costs may not be more
22 than the cost of the most favorable financing
23 terms reasonably available to the eligible recipi-
24 ent at the time of borrowing and the eligible re-
25 cipient must certify, in a way satisfactory to the

1 Secretary, that the eligible recipient has shown
2 reasonable diligence in seeking the most favor-
3 able financing terms.

4 “(D) INFORMATION COLLECTION AND
5 ANALYSIS AGREEMENT.—

6 “(i) ELIGIBLE COST.—Preparation of
7 the agreement under paragraph (1)(E)
8 shall be an eligible project cost under the
9 full funding grant agreement.

10 “(ii) CONTENTS OF PLAN.—The
11 agreement under paragraph (1)(E) shall
12 provide for—

13 “(I) documentation of predicted
14 system performance in relation to
15 each performance target established in
16 the agreement; and

17 “(II) collection of data sufficient
18 to determine whether each perform-
19 ance target established in the agree-
20 ment is achieved within the period of
21 time provided in the agreement.

22 “(E) EXECUTION OF PLAN.—The amount
23 stipulated in the full funding grant agreement
24 under this paragraph for a metropolitan mobil-
25 ity plan shall be sufficient to execute the plan.

1 “(3) ADMINISTRATION.—Any project or activity
2 included in a metropolitan mobility plan and eligible
3 to receive funding under this section shall be admin-
4 istered in accordance with subsection (o).

5 “(k) NOTIFICATION OF CONGRESS.—At least 21 days
6 before entering into a full funding grant agreement for
7 a metropolitan mobility plan under this section, the Sec-
8 retary shall notify, in writing, the Committee on Transpor-
9 tation and Infrastructure of the House of Representatives
10 and the Committees on Banking, Housing, and Urban Af-
11 fairs and Environment and Public Works of the Senate
12 of the proposed grant agreement. The Secretary shall in-
13 clude with the notification a copy of the proposed agree-
14 ment as well as the Secretary’s evaluation of the plan.

15 “(l) PERFORMANCE MANAGEMENT.—

16 “(1) IN GENERAL.—As part of a full funding
17 grant agreement made under subsection (j)—

18 “(A) the Secretary shall identify perform-
19 ance areas for the eligible recipient entering
20 into the agreement, including—

21 “(i) reducing delay hours on high-
22 ways, arterials, and public transportation
23 systems within the urbanized area;

24 “(ii) improving travel time reliability
25 within the urbanized area;

1 “(iii) reducing transportation-related
2 fatalities, serious injuries, and crashes
3 within the urbanized area served by the eli-
4 gible recipient;

5 “(iv) improving the ability to accom-
6 modate commercial vehicles within the ur-
7 banized area;

8 “(v) improving regional productivity
9 within the urbanized area;

10 “(vi) improving public transportation
11 access within the urbanized area;

12 “(vii) reducing vehicle emissions,
13 noise, and other environmental impacts
14 within the urbanized area; and

15 “(viii) reducing the percentage share
16 of travel within the urbanized area made
17 by single occupancy vehicles;

18 “(B) the Secretary shall establish quantifi-
19 able performance measures for the eligible re-
20 cipient for each performance area identified
21 under subparagraph (A); and

22 “(C) the eligible recipient shall carry out a
23 performance-based transportation planning
24 process that supports the development of a met-
25 ropolitan mobility plan by the eligible recipient

1 and shall designate target levels of performance
2 for each performance area identified under sub-
3 paragraph (A) to track progress within the ur-
4 banized area.

5 “(2) ANNUAL REPORT.—Beginning in fiscal
6 year 2012, and in each fiscal year thereafter, an eli-
7 gible recipient receiving Federal assistance under
8 this section in that fiscal year shall submit to the
9 Secretary, at the time prescribed by the Secretary,
10 an annual report that, at a minimum—

11 “(A) lists and describes the projects and
12 activities carried out by the eligible recipient
13 during the fiscal year under its metropolitan
14 mobility plan;

15 “(B) describes and analyzes the impact of
16 the projects and activities contained in the met-
17 ropolitan mobility plan in relation to the objec-
18 tives of this section;

19 “(C) in any case in which the Federal as-
20 sistance is provided under a full funding grant
21 agreement—

22 “(i) evaluates the degree to which the
23 eligible recipient during the fiscal year met
24 its performance targets designated under
25 paragraph (1)(C); and

1 “(ii) provides a rationale for any in-
2 stance in which the eligible recipient in im-
3 plementing the metropolitan mobility plan
4 failed to achieve one or more of such per-
5 formance targets.

6 “(3) REVIEW OF CERTAIN ANNUAL REPORTS.—

7 “(A) IN GENERAL.—Not later than 2
8 months after the date of receipt of an annual
9 report under this subsection from an eligible re-
10 cipient that entered into a full funding grant
11 agreement with the Secretary under this sec-
12 tion, the Secretary shall review and assess the
13 annual report to determine, at a minimum—

14 “(i) the eligible recipient’s progress
15 relative to the performance targets des-
16 ignated under paragraph (1)(C); and

17 “(ii) the time remaining for the eligi-
18 ble recipient to achieve those performance
19 targets.

20 “(B) RESUBMISSION.—

21 “(i) IN GENERAL.—If the Secretary
22 determines, based on a review of an annual
23 report under subparagraph (A), that the
24 eligible recipient has failed to demonstrate
25 progress in achieving one of its perform-

1 ance targets designated under paragraph
2 (1)(C), the Secretary shall require the eli-
3 gible recipient to resubmit to the Secretary
4 for approval the metropolitan mobility plan
5 of the eligible recipient with the modifica-
6 tions that the Secretary determines nec-
7 essary to enable the eligible recipient to
8 meet the performance target.

9 “(ii) SUSPENSION OF PROJECT AP-
10 PROVALS.—Until an eligible recipient de-
11 scribed in clause (i) resubmits its metro-
12 politan mobility plan and the Secretary ap-
13 proves the resubmitted plan, the Secretary
14 shall not provide approvals for projects and
15 activities contained in the metropolitan
16 mobility plan previously submitted by the
17 eligible recipient.

18 “(m) GOVERNMENT’S SHARE OF COSTS.—For a
19 grant to carry out a project or activity contained in a met-
20 ropolitan mobility plan under this section, the Federal
21 Government’s share of the costs shall be 80 percent of
22 the cost of each project or activity carried out under the
23 grant. The eligible recipient may provide additional local
24 matching amounts.

1 “(n) AVAILABILITY OF AMOUNTS.—An amount made
2 available or appropriated to carry out this section shall
3 remain available for 3 fiscal years after the fiscal year in
4 which the amount is made available or appropriated. Any
5 of such amounts that are unobligated at the end of the
6 3-fiscal-year period may be used by the Secretary for any
7 purpose under this section.

8 “(o) TERMS, CONDITIONS, AND GRANT ADMINISTRA-
9 TION.—

10 “(1) TITLE 49 PROJECTS.—Except as otherwise
11 provided by this section, a grant for any project or
12 activity included in a metropolitan mobility plan
13 under subsection (h) that is eligible to receive Fed-
14 eral assistance under chapter 53 of title 49 shall be
15 subject to the requirements of section 5307 of title
16 49.

17 “(2) TITLE 23 PROJECTS.—Except as otherwise
18 provided by this section, a grant for any project in-
19 cluded within the metropolitan mobility plan under
20 subsection (h) that is not eligible to receive Federal
21 assistance under chapter 53 of title 49 shall be sub-
22 ject to the requirements of this title.

23 “(3) OTHER TERMS AND CONDITIONS.—In ad-
24 dition to the requirements of paragraphs (1) and
25 (2), the Secretary shall require that all grants under

1 this section be subject to such terms, conditions, and
2 requirements as the Secretary decides are necessary
3 or appropriate to carry out this section.

4 “(p) METROPOLITAN INFRASTRUCTURE BANK.—An
5 eligible recipient that has a metropolitan mobility plan ap-
6 proved under this section may enter into a cooperative
7 agreement with the Secretary under section 612 for the
8 establishment of a metropolitan infrastructure bank for
9 making loans and providing other forms of credit assist-
10 ance to public and private entities carrying out or pro-
11 posing to carry out projects and activities described in the
12 eligible recipient’s metropolitan mobility plan.

13 “(q) USE OF TOLLS.—Notwithstanding section 301,
14 the Secretary may permit Federal participation under this
15 section in a toll facility in an urbanized area that is subject
16 to a metropolitan mobility plan approved under this sec-
17 tion. Such participation shall be in accordance with a toll
18 agreement entered into with the Secretary that meets the
19 requirements of section 129(a)(3).

20 “(r) REPORTS ON METROPOLITAN MOBILITY PRO-
21 GRAM.—

22 “(1) ANNUAL REPORT ON PROGRAM.—Not later
23 than November 30, 2011, and November 30 of each
24 year thereafter, the Secretary shall submit to the
25 Committee on Transportation and Infrastructure of

1 the House of Representatives and the Committees
2 on Environment and Public Works and Banking,
3 Housing, and Urban Affairs of the Senate a report
4 that includes, at a minimum—

5 “(A) a report on metropolitan mobility
6 plans that the Secretary has approved under
7 this section and a summary of the annual re-
8 ports submitted to the Secretary under sub-
9 section (1)(2);

10 “(B) an evaluation of the degree to which
11 an eligible recipient receiving Federal assistance
12 through a full funding grant agreement under
13 this section met its performance targets des-
14 ignated under the agreement; and

15 “(C) such recommendations as the Sec-
16 retary may have for improvements to the pro-
17 gram authorized by this section.

18 “(2) ANNUAL GAO REVIEW OF PROGRAM.—The
19 Comptroller General shall—

20 “(A) conduct an annual review of—

21 “(i) the processes and procedures for
22 evaluating and selecting metropolitan mo-
23 bility plans for funding under this section;
24 and

1 “(ii) the Secretary’s implementation
2 of such processes and procedures; and

3 “(B) report to Congress on the results of
4 such review by May 31 of each year.

5 “(s) DEFINITIONS.—In this section, the following
6 definitions apply:

7 “(1) ELIGIBLE RECIPIENT.—The term ‘eligible
8 recipient’ means an entity that meets the require-
9 ments of subsection (f).

10 “(2) ELIGIBLE SUBRECIPIENT.—The term ‘eli-
11 gible subrecipient’ means a State or local govern-
12 mental authority, federally-recognized Indian tribe,
13 or other organization with the authority to finance,
14 build, operate, or maintain toll or toll-free facilities
15 or an organization engaged in the business of pro-
16 viding public transportation that receives a grant
17 under this section indirectly through a metropolitan
18 transportation organization.

19 “(3) LOW-COST CONGESTION MANAGEMENT
20 STRATEGY.—The term ‘low-cost congestion manage-
21 ment strategy’ includes strategies and systems, such
22 as incident management systems and traffic light
23 signalization, designed to optimize traffic flows.

24 “(4) METROPOLITAN PLANNING ORGANIZATION;
25 MPO.—The term ‘metropolitan planning organiza-

1 tion' or 'MPO' means an organization designated as
 2 a metropolitan planning organization under section
 3 134(b) of this title or 5303(b) of title 49.

4 “(5) PUBLIC-PRIVATE PARTNERSHIP AGREE-
 5 MENT.—The term ‘public-private partnership agree-
 6 ment’ has the meaning given that term in section
 7 112(h).

8 “(6) URBANIZED AREA.—The term ‘urbanized
 9 area’ has the meaning given that term under section
 10 134(b) of this title, or 5303(b) of title 49, with a
 11 population greater than 500,000.”.

12 (c) CLERICAL AMENDMENT.—The table of chapters
 13 for title 23 is amended by adding at the end the following:

“7. **Intermodalism** **701**”.

14 **SEC. 1206. PROJECTS OF NATIONAL SIGNIFICANCE.**

15 (a) IN GENERAL.—Chapter 7 (as added by this Act)
 16 is amended by adding at the end the following:

17 **“§ 702. Projects of national significance program**

18 “(a) ESTABLISHMENT.—The Secretary shall estab-
 19 lish a program in accordance with section 5503(c)(4) of
 20 title 49 to provide grants to States for projects of national
 21 significance.

22 “(b) PURPOSES.—The purposes of the projects of na-
 23 tional significance program shall be to—

24 “(1) provide Federal assistance to critical high-
 25 cost transportation infrastructure facilities that—

1 “(A) generate national economic and mo-
2 bility benefits, including improving economic
3 productivity by facilitating international trade,
4 relieving congestion, and improving transpor-
5 tation safety by facilitating passenger and
6 freight movement; and

7 “(B) can not easily be addressed or funded
8 through State apportionments of Federal sur-
9 face transportation funds;

10 “(2) maximize the benefits of Federal invest-
11 ment in such projects by encouraging States to sup-
12 plement Federal grant assistance with other funding
13 sources and methods of finance; and

14 “(3) strengthen the connection between the use
15 of Federal surface transportation funding and the
16 accomplishment of national performance outcomes.

17 “(c) PROJECT COST.—To be eligible for assistance
18 under this section, a project shall have eligible project
19 costs that are reasonably anticipated to equal or exceed
20 the lesser of—

21 “(1) \$500,000,000; or

22 “(2)(A) in the case of a project located in a sin-
23 gle State, 75 percent of the amount apportioned
24 under chapter 1 to the State for the most recent fis-
25 cal year; or

1 “(B) in the case of a project located in more
2 than one State, 75 percent of the greatest amount
3 apportioned under chapter 1 to any one of such
4 States for the most recent fiscal year.

5 “(d) PROJECT TYPE.—

6 “(1) IN GENERAL.—To be eligible for assist-
7 ance under this section, a project shall be a capital
8 project—

9 “(A) that is eligible for Federal assistance
10 under this title or chapter 53 of title 49;

11 “(B) for an international bridge or tunnel
12 for which an international entity authorized
13 under Federal or State law is responsible;

14 “(C) for a public freight rail facility or a
15 private freight rail facility providing public ben-
16 efit for highway users;

17 “(D) for an intermodal freight transfer fa-
18 cility;

19 “(E) for a means of access to a facility de-
20 scribed in subparagraph (C) or (D);

21 “(F) for a service improvement for a facil-
22 ity described in subparagraph (C) or (D) (in-
23 cluding a capital investment for an intelligent
24 transportation system); or

1 “(G) that comprises a series of projects de-
2 scribed in subparagraphs (C) through (F) with
3 the common objective of improving the flow of
4 goods.

5 “(2) PORT PROJECTS.—A project located within
6 the boundaries of a port terminal may only be eligi-
7 ble for assistance under this section if the project is
8 for such surface transportation infrastructure modi-
9 fications as are necessary to facilitate direct inter-
10 modal interchange, transfer, and access into and out
11 of the port.

12 “(e) PROJECT FUNDING.—

13 “(1) FUNDING SOURCES.—The non-Federal
14 share of the cost of an eligible project may be fund-
15 ed through a combination of private and public sec-
16 tor funds, including investment of public funds in
17 private sector facility improvements.

18 “(2) NEED FOR FEDERAL SUPPORT.—To be eli-
19 gible for assistance under this section, the Secretary
20 must determine, based on information provided by
21 the applicant, that the project cannot be readily and
22 efficiently carried out without Federal support and
23 participation.

24 “(3) NON-FEDERAL FINANCIAL COMMIT-
25 MENT.—

1 “(A) IN GENERAL.—To be eligible for as-
2 sistance under this section—

3 “(i) a project must be supported by
4 an acceptable degree of non-Federal finan-
5 cial commitments; and

6 “(ii) the applicant for such assistance
7 shall demonstrate to the satisfaction of the
8 Secretary one or more stable and depend-
9 able financing sources to construct, main-
10 tain, and operate the infrastructure facility
11 for which the project is to be carried out.

12 “(B) EVALUATION OF PROJECT.—For pur-
13 poses of subparagraph (A), the Secretary shall
14 require that—

15 “(i) the proposed project plan pro-
16 vides for the availability of contingency
17 amounts that the Secretary determines to
18 be reasonable to cover unanticipated cost
19 increases; and

20 “(ii) each proposed non-Federal
21 source of capital and operating financing is
22 stable, reliable, and available within the
23 proposed project timetable.

24 “(C) CONSIDERATIONS.—In assessing the
25 stability, reliability, and availability of proposed

1 sources of non-Federal financing under this
2 paragraph, the Secretary shall consider—

3 “(i) existing financial commitments;

4 “(ii) the degree to which financing
5 sources are dedicated to the purposes pro-
6 posed;

7 “(iii) any debt obligation that exists
8 or is proposed by the recipient for the pro-
9 posed project; and

10 “(iv) the extent to which the project
11 has a non-Federal financial commitment
12 that exceeds the required non-Federal
13 share of the cost of the project.

14 “(f) CONSISTENCY WITH PLANS.—To be eligible for
15 assistance under this section, a project shall be consistent
16 with—

17 “(1) for each State in which all or a portion of
18 the project is located, the long-range statewide
19 transportation plan and statewide transportation im-
20 provement program required by section 135 and the
21 State freight plan required by section 119;

22 “(2) for each metropolitan planning area in
23 which all or a portion of the project is located, the
24 transportation plan and transportation improvement
25 program required by section 134;

1 “(3) in the case of a project that is located in
2 a corridor subject to a freight corridor plan under
3 section 119(i), the freight corridor plan; and

4 “(4) the national transportation strategic plan
5 developed under section 703.

6 “(g) APPLICATIONS.—

7 “(1) IN GENERAL.—Each State seeking a grant
8 under this section for a project shall submit to the
9 Secretary an application in such form and in accord-
10 ance with such requirements as the Secretary shall
11 establish.

12 “(2) CONTENTS.—An application under this
13 subsection shall include, at a minimum, a project de-
14 livery schedule that meets the requirements of sec-
15 tion 106(h).

16 “(3) APPLICATION FOR MULTISTATE
17 PROJECT.—In the case of a project to be located in
18 more than one State, the application for the project
19 may be submitted by all of such States, with one
20 State acting as the lead for the project.

21 “(4) COLLABORATION IN DEVELOPING APPLICA-
22 TIONS.—The Secretary shall encourage States, in
23 developing applications to submit under this section,
24 to collaborate with other public and private entities
25 with an interest in the project for which the State

1 is seeking Federal assistance, including regional and
2 local governments, shippers, carriers, and freight-re-
3 lated associations, as appropriate.

4 “(h) COMPETITIVE GRANT SELECTION AND CRI-
5 TERIA FOR GRANTS.—

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

7 “(A) establish criteria for selecting among
8 projects that meet the eligibility requirements
9 specified in subsections (c), (d), (e), and (f);

10 “(B) conduct a national solicitation for ap-
11 plications; and

12 “(C) award grants on a competitive basis.

13 “(2) SELECTION CRITERIA.—In selecting a
14 project under this section, the Secretary shall con-
15 sider the extent to which the project—

16 “(A) is located within, or will otherwise
17 beneficially impact, a corridor or region that ex-
18periences high volumes of passenger or freight
19 traffic and related traffic congestion, taking
20 into account—

21 “(i) the current and projected future
22 volumes of passenger and freight travel
23 within the corridor or region;

24 “(ii) the extent to which freight traffic
25 in the corridor has increased since the date

1 of enactment of the North American Free
2 Trade Agreement Implementation Act (16
3 U.S.C. 4401 et seq.); and

4 “(iii) the economic, environmental,
5 and other costs arising from congestion in
6 the corridor or region;

7 “(B) is projected to reduce congestion and
8 increase the speed, reliability, and accessibility
9 of passenger or freight movement, including im-
10 pacts in the State, region, and Nation;

11 “(C) is projected to generate national eco-
12 nomic benefits, including creating or sustaining
13 jobs, expanding business opportunities, and im-
14 pacting the gross domestic product;

15 “(D) will facilitate regional mobility, acces-
16 sibility, and economic growth and development
17 in areas underserved by existing highway infra-
18 structure;

19 “(E) is projected to improve transportation
20 safety, including reducing transportation acci-
21 dents, injuries, and fatalities;

22 “(F) is projected to otherwise enhance the
23 national transportation system;

1 “(G) uses new technologies, including intel-
2 ligent transportation systems, that enhance the
3 efficiency of the project;

4 “(H) helps maintain or protect the envi-
5 ronment;

6 “(I) will be supported by, in addition to
7 Federal grant assistance under this section,
8 other sources of funding and methods of fi-
9 nance, including—

10 “(i) any other source of Federal
11 transportation funding;

12 “(ii) a contribution from a State, re-
13 gional, or local governmental entity or a
14 private organization; and

15 “(iii) nongrant assistance, including a
16 loan or other credit assistance or direct
17 user charges.

18 “(3) PROJECT EVALUATION AND RATING.—The
19 Secretary shall evaluate and rate, based on the selec-
20 tion criteria described in paragraph (2), each project
21 for which an application is submitted under this sec-
22 tion. In rating the projects, the Secretary shall pro-
23 vide, in addition to the overall project rating, indi-
24 vidual ratings for each of the criteria described in
25 paragraph (2).

1 “(i) REGULATIONS.—Not later than 180 days after
2 the date of enactment of this section, the Secretary shall
3 issue regulations to carry out this section.

4 “(j) LETTERS OF INTENT, FULL FUNDING GRANT
5 AGREEMENTS, AND EARLY SYSTEM WORK AGREE-
6 MENTS.—

7 “(1) LETTER OF INTENT.—

8 “(A) IN GENERAL.—The Secretary may
9 issue a letter of intent to an applicant announc-
10 ing an intention to obligate, for a project under
11 this section, an amount from future available
12 budget authority specified in law that is not
13 more than the amount stipulated as the finan-
14 cial participation of the Secretary in the
15 project.

16 “(B) TREATMENT.—The issuance of a let-
17 ter of intent under subparagraph (A) is deemed
18 not to be an obligation under sections 1108(e),
19 1108(d), 1501, and 1502(a) of title 31 or an
20 administrative commitment.

21 “(C) OBLIGATION OR COMMITMENT.—An
22 obligation or administrative commitment for a
23 project under this section may be made only
24 when contract authority is allocated to the
25 project.

1 “(2) FULL FUNDING GRANT AGREEMENTS.—

2 “(A) IN GENERAL.—A project financed
3 under this section shall be carried out through
4 a full funding grant agreement entered into by
5 the Secretary and the applicant for the project.
6 The Secretary shall enter into a full funding
7 grant agreement under this subsection based on
8 the evaluations and ratings required under sub-
9 section (h)(3).

10 “(B) TERMS.—If the Secretary makes a
11 full funding grant agreement with an applicant,
12 the agreement shall—

13 “(i) establish the terms of participa-
14 tion by the United States Government in a
15 project under this section;

16 “(ii) establish the maximum amount
17 of Government financial assistance for the
18 project;

19 “(iii) cover the period of time for com-
20 pleting the project, including, if necessary,
21 a period extending beyond the period of an
22 authorization;

23 “(iv) make timely and efficient man-
24 agement of the project easier according to
25 the laws of the United States; and

1 “(v) identify quantifiable performance
2 outcomes that the project must achieve by
3 not later than 2 years subsequent to the
4 date of substantial completion of the
5 project, including outcomes related to the
6 program objectives and any budgetary or
7 project development milestones or objec-
8 tives that the Secretary may specify.

9 “(C) SPECIAL FINANCIAL RULES.—

10 “(i) IN GENERAL.—A full funding
11 grant agreement under this paragraph ob-
12 ligates an amount of available budget au-
13 thority specified in law and may include a
14 commitment, contingent on amounts to be
15 specified in law in advance for commit-
16 ments under this paragraph, to obligate an
17 additional amount from future available
18 budget authority specified in law.

19 “(ii) STATEMENT OF CONTINGENT
20 COMMITMENT.—The agreement shall state
21 that the contingent commitment is not an
22 obligation of the Government.

23 “(iii) INTEREST AND OTHER FINANC-
24 ING COSTS.—Interest and other financing
25 costs of efficiently carrying out a part of

1 the project within a reasonable time shall
2 be eligible project costs under a full fund-
3 ing grant agreement; except that eligible
4 costs may not be more than the cost of the
5 most favorable financing terms reasonably
6 available for the project at the time of bor-
7 rowing. The applicant shall certify, in a
8 way satisfactory to the Secretary, that the
9 applicant has shown reasonable diligence in
10 seeking the most favorable financing
11 terms.

12 “(D) BEFORE AND AFTER STUDY.—

13 “(i) IN GENERAL.—A full funding
14 grant agreement under this paragraph
15 shall require the applicant to conduct a
16 study that—

17 “(I) describes and analyzes the
18 impact of the project in relation to the
19 program purposes;

20 “(II) evaluates the degree to
21 which the project has met its perform-
22 ance outcomes; and

23 “(III) provides a rationale for
24 any instance in which the project did

1 not meet one or more performance
2 outcomes.

3 “(ii) INFORMATION COLLECTION AND
4 ANALYSIS PLAN.—

5 “(I) SUBMISSION OF PLAN.—Ap-
6 plicants seeking a full funding grant
7 agreement under this paragraph shall
8 submit a complete plan for the collec-
9 tion and analysis of information to
10 identify the impacts of the project in
11 relation to program objectives and the
12 project’s performance outcomes. Prep-
13 aration of the plan shall be an eligible
14 project cost under the full funding
15 grant agreement.

16 “(II) CONTENTS OF PLAN.—The
17 plan submitted under subclause (I)
18 shall provide for—

19 “(aa) the collection of data
20 on the current performance of
21 the portion of the surface trans-
22 portation network that is likely to
23 be impacted by the project;

24 “(bb) documentation of the
25 predicted impacts of the project

1 in relation to program purposes
2 and the project's performance
3 outcomes;

4 “(cc) collection of data on
5 the relevant portion of the sur-
6 face transportation network 2
7 years after the date of substan-
8 tial completion of the project, in-
9 cluding information analogous to
10 that described in item (aa); and

11 “(dd) analysis of the consist-
12 ency of predicted project out-
13 comes with the after data.

14 “(E) COLLECTION OF DATA ON CURRENT
15 SYSTEM.—To be eligible for a full funding
16 grant agreement under this paragraph, the re-
17 cipient shall have collected data on the current
18 system, according to the plan required, before
19 the beginning of construction of the proposed
20 project. Collection of this data shall be an eligi-
21 ble project cost under the full funding grant
22 agreement.

23 “(3) EARLY SYSTEM WORK AGREEMENTS.—

24 “(A) CONDITIONS.—The Secretary may
25 make an early systems work agreement with an

1 applicant if a record of decision under the Na-
2 tional Environmental Policy Act of 1969 (42
3 U.S.C. 4321 et seq.) has been issued on the
4 project and the Secretary finds there is reason
5 to believe a full funding grant agreement for
6 the project will be made.

7 “(B) CONTENTS.—

8 “(i) IN GENERAL.—A work agreement
9 under this subsection obligates an amount
10 of available budget authority specified in
11 law and shall provide for reimbursement of
12 preliminary costs of carrying out the
13 project, including land acquisition, timely
14 procurement of system elements for which
15 specifications are decided, and other activi-
16 ties the Secretary decides are appropriate
17 to make efficient, long-term project man-
18 agement easier.

19 “(ii) PERIOD COVERED.—A work
20 agreement under this paragraph shall
21 cover the period of time the Secretary con-
22 siders appropriate. The period may extend
23 beyond the period of current authorization.

24 “(iii) INTEREST AND OTHER FINANC-
25 ING COSTS.—Interest and other financing

1 costs of efficiently carrying out the work
2 agreement within a reasonable time shall
3 be eligible project costs under the agree-
4 ment; except that eligible costs may not be
5 more than the cost of the most favorable
6 financing terms reasonably available for
7 the project at the time of borrowing. The
8 applicant shall certify, in a way satisfac-
9 tory to the Secretary, that the applicant
10 has shown reasonable diligence in seeking
11 the most favorable financing terms.

12 “(iv) FAILURE TO CARRY OUT
13 PROJECT.—If an applicant does not carry
14 out the project for reasons within the con-
15 trol of the applicant, the applicant shall
16 repay all Government payments made
17 under the work agreement plus reasonable
18 interest and penalty charges the Secretary
19 establishes in the agreement.

20 “(4) LIMITATION ON AMOUNTS.—The total esti-
21 mated amount of future obligations of the Govern-
22 ment and contingent commitments to incur obliga-
23 tions covered by all outstanding letters of intent, full
24 funding grant agreements, and early system work
25 agreements under this subsection for projects of na-

1 tional significance may be not more than the greater
2 of the amount authorized to carry out this section
3 for such projects or an amount equivalent to the last
4 3 fiscal years of funding authorized to carry out this
5 section, less an amount the Secretary reasonably es-
6 timates is necessary for grants under this section for
7 such projects that are not covered by a letter or
8 agreement. The total amount covered by new letters
9 and contingent commitments included in full funding
10 grant agreements and early systems work agree-
11 ments for such projects may be not more than a lim-
12 itation specified in law.

13 “(5) NOTIFICATION.—At least 10 days before
14 issuing a letter under paragraph (1) and at least 21
15 days before entering into a full funding grant agree-
16 ment under paragraph (2), the Secretary shall notify
17 in writing the Committee on Transportation and In-
18 frastructure of the House of Representatives and the
19 Committee on Environment and Public Works and
20 the Committee on Commerce, Science, and Trans-
21 portation of the Senate of the proposed letter or
22 agreement. The Secretary shall include with the no-
23 tification a copy of the proposed letter or agreement
24 as well as the evaluations and ratings for the
25 project.

1 “(k) GRANT REQUIREMENTS.—

2 “(1) IN GENERAL.—A grant for a project under
3 this section shall be subject to the requirements of
4 title 23, United States Code.

5 “(2) OTHER TERMS AND CONDITIONS.—In ad-
6 dition to the requirements under paragraph (1), the
7 Secretary shall require that all grants under this
8 section be subject to any other terms, conditions,
9 and requirements that the Secretary decides are nec-
10 essary or appropriate for purposes of this section.

11 “(l) GOVERNMENT’S SHARE OF PROJECT COST.—

12 “(1) IN GENERAL.—Based on engineering stud-
13 ies, studies of economic feasibility, and information
14 on the expected use of equipment or facilities, the
15 Secretary shall estimate the cost of a project receiv-
16 ing assistance under this section. A grant for the
17 project is for 80 percent of the project cost, unless
18 the grant recipient requests a lower grant percent-
19 age.

20 “(2) REMAINDER OF NET PROJECT COST.—If
21 the Secretary determines that the originally defined
22 project is completed at a cost that is significantly
23 below the original estimate, the Secretary shall—

24 “(A) refund to the Government the propor-
25 tion of the remainder equal to the proportional

1 share of the original project cost funded by
2 Federal assistance under this section; and

3 “(B) authorize the project sponsor to use
4 any additional remainder for any activity eligi-
5 ble to receive Federal assistance under this title
6 or chapter 53 of title 49.

7 “(m) FISCAL CAPACITY CONSIDERATIONS.—If the
8 Secretary gives priority consideration to financing projects
9 that include more than the non-Government share re-
10 quired under subsection (l) the Secretary shall give equal
11 consideration to differences in the fiscal capacity of State
12 and local governments.

13 “(n) TRANSFER OF FUNDS TO THE GENERAL SERV-
14 ICES ADMINISTRATION.—

15 “(1) STATE FUNDS.—At the request of a bor-
16 der State, funds provided to a State under this sec-
17 tion may be transferred to the General Services Ad-
18 ministration for the purpose of funding a project of
19 national significance under this section if—

20 “(A) the Secretary determines, after con-
21 sultation with the transportation department of
22 the border State, that the General Services Ad-
23 ministration should carry out the project; and

24 “(B) the General Services Administration
25 agrees to accept the transfer of, and to admin-

1 ister, those funds in accordance with this sec-
2 tion.

3 “(2) NON-FEDERAL SHARE.—

4 “(A) IN GENERAL.—A border State that
5 makes a request under paragraph (1) shall pro-
6 vide directly to the General Services Adminis-
7 tration the non-Federal share of the cost of the
8 eligible project.

9 “(B) NO AUGMENTATION OF APPROPRIA-
10 TIONS.—Funds provided by a border State
11 under subparagraph (A)—

12 “(i) shall not be considered to be an
13 augmentation of the appropriations made
14 available to the General Services Adminis-
15 tration; and

16 “(ii) shall be—

17 “(I) administered, subject to
18 paragraph (1)(B), in accordance with
19 the procedures of the General Services
20 Administration; but

21 “(II) available for obligation in
22 the same manner as if the funds were
23 apportioned under chapter 1.

24 “(3) OBLIGATION AUTHORITY.—Obligation au-
25 thority shall be transferred to the General Services

1 Administration for a project in the same manner
2 and amount as the funds provided for the project
3 under paragraph (1).

4 “(o) REVIEW AND REPORTS.—

5 “(1) ANNUAL REPORT ON PROJECTS.—Not
6 later than the first Monday in February of each
7 year, the Secretary shall submit to the Committee
8 on Transportation and Infrastructure of the House
9 of Representatives and the Committee on Environ-
10 ment and Public Works and the Committee on Com-
11 merce, Science, and Transportation of the Senate a
12 report on projects that the Secretary has funded, or
13 proposes to fund, under this section. The annual re-
14 port under this paragraph shall include—

15 “(A) project evaluations and ratings, as re-
16 quired under subsection (h); and

17 “(B) such recommendations as the Sec-
18 retary may have for improvements to the pro-
19 gram authorized by this section.

20 “(2) BEFORE AND AFTER STUDY REPORTS.—

21 Not later than the first Monday of August of each
22 year, the Secretary shall submit to the committees
23 referred to in paragraph (1) a report containing a
24 summary of the results of the studies conducted

1 under subsection (j)(2)(D) that were completed dur-
2 ing the preceding year.

3 “(3) INDEPENDENT REVIEW.—

4 “(A) PARTICIPATION OF NATIONAL ACAD-
5 EMIES.—Not later than 6 months after the date
6 of first award of grants under this section, the
7 Secretary shall enter into appropriate arrange-
8 ments with the Transportation Research Board
9 of the National Academies to permit the Trans-
10 portation Research Board to conduct an inde-
11 pendent review of the process and procedures
12 by which the Secretary has evaluated, rated,
13 and funded projects of national significance.

14 “(B) REPORT TO CONGRESS.—Not later
15 than 18 months after the first award of grants
16 under this section, the Transportation Research
17 Board shall submit a report on the results of its
18 review to the Secretary and the committees re-
19 ferred to in paragraph (1).

20 “(C) AUTHORIZATION OF APPROPRIA-
21 TIONS.—There is authorized to be appropriated
22 out of the Highway Trust Fund (other than the
23 Mass Transit Account) to carry out this para-
24 graph **[\$]** for each of fiscal years 2010 and
25 2011.

1 “(p) EXPEDITED PROJECT ADVANCEMENT.—The
2 Secretary shall expedite the advancement of projects of
3 national significance under this section in conjunction with
4 the Office of Expedited Project Delivery established under
5 section 330.

6 “(q) APPLICABILITY OF CHAPTER 1.—Funds made
7 available to carry out this section shall be available for
8 obligation and administered in the same manner as if such
9 funds were apportioned under chapter 1, except that such
10 funds shall remain available until expended.

11 “(r) DEFINITIONS.—In this section, the following
12 definitions apply:

13 “(1) BORDER STATE.—The term ‘border State’
14 means any State that has an international land bor-
15 der with Canada or Mexico.

16 “(2) ELIGIBLE PROJECT COSTS.—The term ‘eli-
17 gible project costs’ means the costs of—

18 “(A) development phase activities, includ-
19 ing planning, feasibility analysis, revenue fore-
20 casting, environmental review, engineering and
21 design work, and other preconstruction activi-
22 ties;

23 “(B) construction, reconstruction, rehabili-
24 tation, and acquisition of real property (includ-
25 ing land related to the project and improve-

1 ments to land), environmental mitigation, con-
2 struction contingencies, acquisition of equip-
3 ment, and operational improvements; and

4 “(C) the collection and analysis of data re-
5 lated to the projected and actual impacts of the
6 project.

7 “(3) ELIGIBLE PROJECT.—The term ‘eligible
8 project’ means a project that is eligible for assist-
9 ance under subsections (c), (d), (e), and (f).

10 “(4) METROPOLITAN PLANNING AREA.—The
11 term ‘metropolitan planning area’ has the meaning
12 such term has in section 134(b).

13 “(5) PERFORMANCE OUTCOMES.—The term
14 ‘performance outcomes’ means the quantifiable out-
15 comes required under a full funding grant agree-
16 ment under subsection (j)(2)(B)(v).

17 “(6) PROGRAM PURPOSES.—The term ‘program
18 purposes’ means the purposes set forth in subsection
19 (b).

20 “(7) PROJECT OF NATIONAL SIGNIFICANCE.—
21 The term ‘project of national significance’ means a
22 project funded under this section.”.

23 (b) CLERICAL AMENDMENT.—The analysis for chap-
24 ter 7 (as added by this Act) is amended by adding at the
25 end the following:

“702. Projects of national significance program.”.

1 (c) CONFORMING AMENDMENTS.—

2 (1) PROJECTS OF NATIONAL AND REGIONAL
3 SIGNIFICANCE.—Section 1301 of SAFETEA-LU
4 (23 U.S.C. 101 note; 119 Stat. 1198) is repealed.

5 (2) NATIONAL CORRIDOR INFRASTRUCTURE IM-
6 PROVEMENT PROGRAM.—Section 1302 of
7 SAFETEA-LU (23 U.S.C. 101 note; 119 Stat.
8 1204) is repealed.

9 (3) COORDINATED BORDER INFRASTRUCTURE
10 PROGRAM.—Section 1303 of SAFETEA-LU (23
11 U.S.C. 101 note; 119 Stat. 1207) is repealed.

12 **SEC. 1207. NATIONAL TRANSPORTATION STRATEGIC PLAN.**

13 (a) NATIONAL TRANSPORTATION STRATEGIC
14 PLAN.—Chapter 7 (as added by this Act) is amended by
15 adding at the end the following:

16 **“§ 703. National transportation strategic plan**

17 **“(a) DEVELOPMENT.—**

18 **“(1) DEVELOPMENT OF INITIAL PLAN.—**

19 **“(A) SOLICITATION.—**Not later than 60
20 days after the date of enactment of this section,
21 the Under Secretary of Transportation for
22 Intermodalism shall publish in the Federal Reg-
23 ister a solicitation for States to submit projects
24 to be included in the national transportation
25 strategic plan.

1 “(B) SUBMISSION OF STATE PROJECT PRO-
2 POSALS.—Not later than 60 days after the pub-
3 lishing of the solicitation under subparagraph
4 (A), each State, in consultation with the entities
5 referred to in section 135(f)(2), shall submit to
6 the Under Secretary a list of recommended
7 projects located in the State to be included in
8 the national transportation strategic plan. In
9 recommending such projects, a State shall con-
10 sider elements of the plan described in para-
11 graph (2).

12 “(C) REVIEW OF PROJECT PROPOSALS.—

13 “(i) IN GENERAL.—Not later than 60
14 days after receiving State submissions
15 under subparagraph (B), the Under Sec-
16 retary shall review each such submission,
17 and shall select projects described in such
18 submissions for inclusion in the national
19 transportation strategic plan.

20 “(ii) FAILURE TO SUBMIT PROJECT
21 PROPOSALS.—If a State does not submit
22 by the deadline under subparagraph (B) a
23 list of projects for inclusion in the national
24 transportation strategic plan, the Under
25 Secretary shall determine the projects, if

1 any, in that State that shall be included in
2 such plan.

3 “(iii) BASIS FOR SELECTION.—In se-
4 lecting projects for inclusion in the na-
5 tional transportation strategic plan under
6 clauses (i) and (ii), the Under Secretary
7 shall consider, at a minimum—

8 “(I) the recommendations sub-
9 mitted by States under subparagraph
10 (B);

11 “(II) the ability of projects to
12 generate national economic benefits,
13 including—

14 “(aa) improvements to eco-
15 nomic productivity through con-
16 gestion relief; and

17 “(bb) improvements to pas-
18 senger and freight movement;

19 “(III) the ability of projects to
20 improve mobility by increasing trans-
21 portation options for passengers and
22 freight; and

23 “(IV) the degree to which
24 projects create intermodal links be-
25 tween different modes of transpor-

1 tation, including passenger or freight
2 rail, transit, airports, seaports, and
3 navigable inland waterways.

4 “(2) ELEMENTS OF THE PLAN.—The national
5 transportation strategic plan shall be modeled after
6 the statewide strategic long-range plans developed
7 pursuant to section 135(f) and shall include, at a
8 minimum, the following:

9 “(A) IDENTIFICATION OF NATIONALLY
10 SIGNIFICANT TRANSPORTATION PROJECTS.—

11 The national transportation strategic plan shall
12 identify transportation projects (including
13 major highway, transit, freight rail, intercity
14 passenger rail, multimodal and intermodal facil-
15 ity, and intermodal connector projects) that fa-
16 cilitate the development of a national transpor-
17 tation system, giving emphasis to those facilities
18 that serve important national and regional
19 transportation functions.

20 “(B) IDENTIFICATION OF REGIONALLY
21 SIGNIFICANT TRANSPORTATION PROJECTS.—

22 The national transportation strategic plan shall
23 identify transportation projects (including
24 major highway, transit, freight rail, intercity
25 passenger rail, multimodal and intermodal facil-

1 ity, and intermodal connector projects) that fa-
2 cilitate the development of an integrated re-
3 gional transportation system, giving emphasis
4 to those projects that serve important national
5 and regional transportation functions.

6 “(C) INTERCONNECTIVITY BETWEEN
7 STATES.—The national transportation strategic
8 plan shall provide for a level of interconnectivity
9 among transportation facilities at State borders.

10 “(D) IDENTIFICATION OF POTENTIAL
11 HIGH-SPEED RAIL AND SHORT SEA SHIPPING
12 ROUTES.—The national transportation strategic
13 plan shall identify potential high-speed pas-
14 senger rail projects and routes and potential
15 short sea shipping projects and routes.

16 “(E) COST ESTIMATES FOR PROJECTS IN
17 NATIONAL TRANSPORTATION STRATEGIC
18 PLAN.—The national transportation strategic
19 plan shall include estimates of the costs of each
20 of the projects and strategies identified in sub-
21 paragraph (A) and a total cost for all of the
22 projects and strategies identified in the plan.

23 “(3) PROCESS.—Not later than April 30, 2012,
24 and at least once every 2 years thereafter, the Under
25 Secretary, in consultation with State departments of

1 transportation, shall update the national transpor-
2 tation strategic plan. The Under Secretary shall sub-
3 mit the updated plan to the Committee on Transpor-
4 tation and Infrastructure of the House of Represent-
5 atives and the Committees on Environment and
6 Public Works, Banking, Housing, and Urban Af-
7 fairs, and Commerce, Science, and Transportation of
8 the Senate.

9 “(b) DISSEMINATION OF TRANSPORTATION STATIS-
10 TICS AND DATA FOR DEVELOPMENT OF LONG-RANGE
11 TRANSPORTATION STRATEGIC PLANS.—The Secretary
12 shall develop and disseminate to the States relevant long-
13 range transportation data and statistics that a State or
14 the Under Secretary, as the case may be, shall use in the
15 development of statewide strategic long-range transpor-
16 tation plans and the national transportation strategic
17 plan, including—

18 “(1) 20-year projections of population growth
19 in each State;

20 “(2) 20-year projections from the Department
21 of Transportation’s Freight Analysis Framework (in
22 this subsection referred to as ‘FAF’), including pro-
23 jections for annual average daily truck flow on spe-
24 cific highway routes or segments of routes;

1 “(3) 20-year projections from the Department
2 of Transportation’s Highway Performance Moni-
3 toring System (in this subsection referred to as
4 ‘HPMS’) of estimated peak period congestion on
5 major highway routes or segments of routes and in
6 metropolitan areas;

7 “(4) HPMS and FAF estimates of traffic vol-
8 umes on segments of highway that are projected to
9 be classified as moderately or highly congested in 20
10 years;

11 “(5) 20-year HPMS and FAF projections for
12 highway bottlenecks;

13 “(6) 20-year projections of transit use in urban-
14 ized areas, including for each urbanized area a com-
15 parison of—

16 “(A) estimated ridership growth and esti-
17 mated public transportation revenue vehicle
18 miles; to

19 “(B) both current and projected transit
20 system capacity and asset conditions;

21 “(7) 20-year projections of aviation passenger
22 enplanements and cargo ton miles flown;

23 “(8) 20-year projections of increases in un-
24 manned aerial system and general aviation active
25 aircraft and hours flown;

1 the public authority (including the State trans-
2 portation department) having jurisdiction over
3 the highway, bridge, or tunnel must enter into
4 an agreement with the Secretary that includes
5 provisions sufficient to satisfy the requirements
6 of this paragraph.

7 “(B) ADMINISTRATION AND MONITORING
8 OF TOLL AGREEMENTS.—The Secretary, acting
9 through the Office of Public Benefit, shall ad-
10 minister toll agreements entered into under this
11 paragraph and monitor the compliance of public
12 authorities with such agreements.

13 “(C) PRIMARY USES OF TOLL REVE-
14 NUES.—All toll revenues received from oper-
15 ation of the toll facility shall be used first for
16 debt service, for reasonable return on invest-
17 ment of any private person financing the
18 project, and for the costs necessary for the
19 proper operation and maintenance of the toll fa-
20 cility, including reconstruction, resurfacing, res-
21 toration, and rehabilitation.

22 “(D) ELIGIBLE USES OF EXCESS TOLL
23 REVENUES.—

24 “(i) IN GENERAL.—Subject to sub-
25 section (d), if the public authority certifies

1 annually that the tolled facility is being
2 adequately maintained and that the re-
3 quirements of subparagraphs (A) and (C)
4 have been met, the public authority may
5 use any additional toll revenues generated
6 from the tolled facility only for—

7 “(I) projects for which Federal
8 funds may be obligated by a State
9 under this title or chapter 53 of title
10 49; and

11 “(II) operating costs of equip-
12 ment and facilities for use in public
13 transportation.

14 “(ii) LOCATION.—A project receiving
15 toll revenues under clause (i) shall be lo-
16 cated in, and equipment and facilities re-
17 ceiving operating costs from toll revenues
18 under clause (i) shall provide public trans-
19 portation service in—

20 “(I) the same travel corridor as
21 the tolled facility (if the toll is applied
22 to a single facility); or

23 “(II) the area impacted by the
24 toll (if the toll is applied on a cordon
25 or area-wide basis).

1 “(E) PROHIBITION ON NONCOMPETE
2 AGREEMENTS.—The public authority shall not
3 enter into an agreement with a private person
4 under which the State is prevented from im-
5 proving or expanding the capacity of public
6 roads in the same travel corridor.

7 “(F) PUBLIC COMMENT.—

8 “(i) IN GENERAL.—The public author-
9 ity shall offer the public a reasonable op-
10 portunity to comment on the rate schedule
11 of any proposed toll before the initial im-
12 plementation of tolling on the facility and
13 before any substantial modification to such
14 rate schedule (other than changes in toll
15 rates consistent with the original rate
16 schedule).

17 “(ii) METHODS.—In carrying out
18 clause (i), the public authority, to the max-
19 imum extent practicable, shall hold public
20 meetings at convenient and accessible loca-
21 tions and times and make information per-
22 taining to the proposed toll rate schedule
23 available in electronically accessible format
24 and means, such as the World Wide Web,
25 as appropriate to afford reasonable oppor-

1 tunity for consideration of public informa-
2 tion under clause (i).

3 “(G) REVIEW BY SECRETARY.—

4 “ (i) INITIAL REVIEW.—The Secretary
5 shall review the rate schedule of any pro-
6 posed toll before the initial implementation
7 of tolling on the facility, and shall only ap-
8 prove such rate schedule if, in the Sec-
9 retary’s judgment, the rate schedule—

10 “ (I) provides for only just and
11 reasonable toll rates and toll rate in-
12 creases;

13 “ (II) allows no private person re-
14 sponsible for financing a project on
15 the facility or otherwise responsible
16 for the facility’s maintenance and op-
17 erations to achieve more than a rea-
18 sonable rate of return on investment;
19 and

20 “ (III) has no substantial negative
21 impacts on interstate commerce or
22 travel.

23 “ (ii) REVIEW UPON SUBSTANTIAL
24 CHANGE.—The public authority (or any
25 other private or public entity with author-

1 ity to modify toll rates on the toll facility)
2 shall not make any substantial modifica-
3 tion to the initial toll rate schedule (apart
4 from changes in toll rates consistent with
5 the original rate schedule) without first al-
6 lowing the Secretary to review and approve
7 or not approve the proposed modification.

8 “(iii) TERMS FOR APPROVAL.—The
9 Secretary shall only approve any such
10 modified rate schedule if, in the Sec-
11 retary’s judgment, the modification would
12 allow for—

13 “(I) just and reasonable toll in-
14 creases; and

15 “(II) any private person respon-
16 sible for financing a project on the fa-
17 cility or otherwise responsible for the
18 facility’s maintenance and operations
19 to achieve no more than a reasonable
20 rate of return on investment.

21 “(iv) PROVISION OF INFORMATION.—
22 The public authority (or any other private
23 or public entity with authority to modify
24 toll rates on the toll facility) shall provide
25 the Secretary with information regarding

1 the proposed toll rate schedule sufficient,
2 in the judgment of the Secretary, to allow
3 the Secretary to conduct any reviews and
4 make any approvals or disapprovals under
5 this subparagraph.

6 “(v) JUDICIAL REVIEW.—An approval
7 or disapproval of a toll rate schedule issued
8 by the Secretary under this subparagraph
9 shall be subject to judicial review under
10 chapter 7 of title 5, if a claim for the re-
11 view is filed on or before the 90th day fol-
12 lowing the date on which the approval or
13 disapproval is issued.

14 “(H) MITIGATION MEASURES.—Before in-
15 stituting tolls on the facility, the public author-
16 ity shall—

17 “(i) consider, to the satisfaction of the
18 Secretary, any substantial negative impacts
19 that the toll would likely impose on inter-
20 state commerce or travel;

21 “(ii) provide operational improvements
22 and transit service sufficient, as deter-
23 mined by the Secretary, to accommodate
24 any substantial amount of travel that is

1 projected to be diverted from the facility
2 due to the collection of the toll; and

3 “(iii) provide measures, such as toll
4 discounts or credits, that are sufficient, in
5 the judgment of the Secretary, to mitigate
6 the impact of the toll on low-income trav-
7 elers.

8 “(I) AVAILABILITY OF TOLL RATE DATA.—
9 The public authority shall make toll rate data
10 for each tolled facility located on the National
11 Highway System publicly available in an inter-
12 operable electronic format that complies with
13 the requirements, standards, and performance
14 specifications established under the rule re-
15 quired by section 1301(e) of the Surface Trans-
16 portation Authorization Act of 2009.

17 “(J) PUBLIC NOTICE.—The public author-
18 ity shall make the toll agreement available to
19 the public in electronically accessible format
20 and means, such as the World Wide Web.”.

21 (b) ADDITIONAL TOLL PROVISIONS.—Section 129 is
22 amended by adding at the end the following:

23 “(d) HOV LANES.—

24 “(1) FEDERAL PARTICIPATION.—Notwith-
25 standing section 301, the Secretary may permit Fed-

1 eral participation under this section in a high occu-
2 pancy vehicle facility—

3 “(A) in which the operators of low occu-
4 pancy vehicles or low emission or energy-effi-
5 cient vehicles pay a toll in order to use the fa-
6 cility; and

7 “(B) for which the State agency with re-
8 sponsibility for ownership or operation of such
9 lanes makes an annual certification that the fa-
10 cility complies with the requirements of section
11 166(d).

12 “(2) SPECIAL RULE FOR USE OF REVENUES.—
13 Notwithstanding subsection (a)(3)(D), after com-
14 plying with subsection (a)(3)(C), the State shall use
15 any additional toll revenues generated from a tolled
16 high occupancy vehicle facility for capital, mainte-
17 nance and operating costs of equipment and facili-
18 ties for use in public transportation within the same
19 travel corridor as the tolled facility.

20 “(e) VARIABLE TOLLS IN DESIGNATED AREAS.—
21 Notwithstanding section 301, the Secretary may permit
22 Federal participation in toll facilities that institute vari-
23 able tolls as part of a metropolitan mobility plan in accord-
24 ance with section 701(q).

25 “(f) EXISTING AGREEMENTS.—

1 “(1) IN GENERAL.—If, before the date of enact-
2 ment of this subsection, a toll agreement or coopera-
3 tive agreement has been executed under one of the
4 sections referred to in paragraph (2), the agreement
5 shall remain valid and subject to such terms and
6 conditions as were in effect under the agreement on
7 the day before such date of enactment if—

8 “(A) a final decision under the National
9 Environmental Policy Act of 1969 (42 U.S.C.
10 4321 et seq.) has been issued for the project
11 that is the subject of such agreement; or

12 “(B) a contract has been executed for the
13 construction, development, or operation of the
14 facility that is the subject of such agreement.

15 “(2) PREVIOUS TOLL AUTHORITIES.—The sec-
16 tions referred to in paragraph (1) include the fol-
17 lowing:

18 “(A) This section.

19 “(B) Section 119(e), as in effect on the
20 day before the date of enactment of the Inter-
21 modal Surface Transportation Efficiency Act of
22 1991 (Public Law 102–240).

23 “(C) Section 166.

1 “(D) Section 1012(b) of the Intermodal
2 Surface Transportation Efficiency Act (23
3 U.S.C. 149 note; 105 Stat. 1938).

4 “(E) Section 1216(b) of the Transpor-
5 tation Equity Act for the 21st Century (23
6 U.S.C. 129 note; 112 Stat. 212).

7 “(F) Sections 1604(b) and 1604(c) of
8 SAFETEA-LU (23 U.S.C. 129 note; 119 Stat.
9 1250).

10 “(g) DEFINITIONS.—In this section, the following
11 definitions apply:

12 “(1) LOW OCCUPANCY VEHICLE.—The term
13 ‘low occupancy vehicle’ means a vehicle that is au-
14 thorized to use a high occupancy vehicle facility
15 under section 166(b)(4).

16 “(2) LOW EMISSION OR ENERGY-EFFICIENT VE-
17 HICLE.—The term ‘low emission or energy-efficient
18 vehicle’ means a vehicle that is authorized to use a
19 high occupancy vehicle facility under section
20 166(b)(5).

21 “(3) OFFICE OF [PUBLIC BENEFIT].—The term
22 ‘Office of Public Benefit’ means the office estab-
23 lished by section 332.”.

24 (c) TECHNICAL AMENDMENTS.—Section 129 is fur-
25 ther amended—

1 (1) in subsection (b) by inserting “AP-
2 PROACHES TO FERRIES.—” before “Notwith-
3 standing”;

4 (2) in subsection (c) by inserting “FERRY
5 BOATS AND TERMINAL FACILITIES.—” before “Not-
6 withstanding”; and

7 (3) by striking “and repair” and inserting “re-
8 pair”.

9 (d) CONFORMING AMENDMENTS.—

10 (1) REPEAL OF OTHER TOLLING PROVISIONS.—

11 The following provisions of law are repealed:

12 (A) Section 1012(b) of the Intermodal
13 Surface Transportation Efficiency Act (23
14 U.S.C. 149 note; 105 Stat. 1938).

15 (B) Section 1216(b) of the Transportation
16 Equity Act for the 21st Century (23 U.S.C.
17 129 note; 112 Stat. 212).

18 (C) Section 1604(b) of SAFETEA-LU (23
19 U.S.C. 129 note; 119 Stat. 1250)

20 (D) Section 1604(c) of SAFETEA-LU
21 (23 U.S.C. 129 note; 119 Stat. 1250).

22 (2) PROCEEDS FROM SALE OR LEASE OF REAL
23 PROPERTY.—Section 156(c) is amended—

24 (A) by striking “The Federal” and insert-
25 ing the following:

1 “(1) IN GENERAL.—The Federal”; and

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

3 “(2) SPECIAL RULE FOR TOLLED FACILITIES.—

4 The Federal share of net income from the revenues
5 obtained by a State under subsection (a) with re-
6 spect to a facility tolled under section 129 shall be
7 used by the State for projects eligible under this
8 title, or for projects eligible chapter 53 of title 49,
9 that are located in the same travel corridor as the
10 tolled facility.”.

11 (3) FREEDOM FROM TOLLS.—Section 301 is
12 amended by striking “with respect to certain toll
13 bridges and tunnels”.

14 (e) INTEROPERABILITY OF TOLL COLLECTION DE-
15 VICES.—

16 (1) ESTABLISHMENT OF STANDARD.—Not later
17 than 18 months after the date of enactment of this
18 Act, the Secretary, by rulemaking, shall establish a
19 national standard for the interoperability of elec-
20 tronic toll collection devices for all toll facilities on
21 the National Highway System.

22 (2) ADOPTION OF STANDARD.—Not later than
23 two years after the Secretary’s establishment of the
24 national standard under paragraph (1), all toll facili-

1 ties on the National Highway System shall adopt
2 such standard.

3 **SEC. 1302. TRANSPORTATION INFRASTRUCTURE FINANCE**
4 **AND INNOVATION ACT AMENDMENTS.**

5 (a) ELIGIBILITY AND PROJECT SELECTION.—Section
6 602(e) is amended by striking “section 5333(a) of title
7 49” and inserting “sections 5333(a), 5333(b), and
8 24405(a) of title 49”.

9 (b) SECURED LOANS.—Section 603(b)(2) is amended
10 by striking “33 percent” and inserting “49 percent”.

11 (c) LINES OF CREDIT.—Section 604(b)(2) is amend-
12 ed by striking “33 percent” and inserting “49 percent”.

13 (d) FUNDING.—Section 608(a) is amended—

14 (1) in paragraph (1) by striking “\$122,000,000
15 for each of fiscal years 2005 through 2009” and in-
16 serting “**[\$]** for each of fiscal years 2010 through
17 2015”; and

18 (2) in paragraph (3) by striking “\$2,200,000
19 for each of fiscal years 2005 through 2009” and in-
20 serting “**[\$]** for each of fiscal years 2010 through
21 2015”.

22 **SEC. 1303. STATE INFRASTRUCTURE BANKS.**

23 (a) FUNDING.—Section 610(d) is amended—

24 (1) in paragraph (1)(A) by striking “104(b)(4),
25 and 144” and inserting “and 104(b)(4)”; and

1 (2) by striking “fiscal years 2005 through
2 2009” each place it appears and inserting “fiscal
3 years 2010 through 2015”.

4 (b) PROGRAM ADMINISTRATION.—Section 610(k) is
5 amended by striking “fiscal years 2005 through 2009”
6 each place it appears and inserting “fiscal years 2010
7 through 2015”.

8 **SEC. 1304. METROPOLITAN INFRASTRUCTURE BANKS.**

9 (a) IN GENERAL.—Chapter 6 (as amended by this
10 Act) is amended by adding at the end the following:

11 **“§ 612. Metropolitan infrastructure banks**

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

14 “(1) CAPITAL PROJECT.—The term ‘capital
15 project’ has the meaning given that term in section
16 5302 of title 49.

17 “(2) CAPITALIZATION.—The term ‘capitaliza-
18 tion’ means the process used for depositing funds as
19 initial capital into a metropolitan infrastructure
20 bank to establish the bank.

21 “(3) COOPERATIVE AGREEMENT.—The term
22 ‘cooperative agreement’ means written consent be-
23 tween the Secretary and a metropolitan planning or-
24 ganization that sets forth the manner in which the

1 metropolitan infrastructure bank established under
2 this section will be administered.

3 “(4) GUARANTEE.—The term ‘guarantee’
4 means a contract entered into by a metropolitan in-
5 frastructure bank in which the bank agrees to take
6 responsibility for all or a portion of a project spon-
7 sor’s financial obligations for a project under speci-
8 fied conditions.

9 “(5) INITIAL ASSISTANCE.—The term ‘initial
10 assistance’ means the first round of funds that are
11 loaned or used for credit enhancement by a metro-
12 politan infrastructure bank for projects eligible for
13 assistance under this section.

14 “(6) LEVERAGE.—The term ‘leverage’ means a
15 financial structure used to increase funds in a met-
16 ropolitan infrastructure bank through the issuance
17 of debt instruments.

18 “(7) LEVERAGED.—The term ‘leveraged’, as
19 used with respect to a metropolitan infrastructure
20 bank, means that the bank has total potential liabil-
21 ities that exceed the capital of the bank.

22 “(8) LOAN.—The term ‘loan’ means any form
23 of direct financial assistance from a metropolitan in-
24 frastructure bank that is required to be repaid over

1 a period of time and that is provided to a project
2 sponsor for all or part of the costs of the project.

3 “(9) METROPOLITAN INFRASTRUCTURE
4 BANK.—The term ‘metropolitan infrastructure bank’
5 means a Federally-assisted infrastructure bank cre-
6 ated, established, capitalized, and administered by a
7 metropolitan planning organization for the purpose
8 of making loans or other forms of credit available to
9 public and private entities for eligible metropolitan
10 mobility projects.

11 “(10) METROPOLITAN PLANNING ORGANIZA-
12 TION.—The term ‘metropolitan planning organiza-
13 tion’ means the policy board of an organization cre-
14 ated as a result of the designation process in section
15 134.

16 “(11) METROPOLITAN MOBILITY AND ACCESS
17 PROGRAM.—The term ‘metropolitan mobility and ac-
18 cess program’ means the metropolitan mobility and
19 access program established under section 701.

20 “(12) METROPOLITAN MOBILITY PLAN.—The
21 term ‘metropolitan mobility plan’ means a plan de-
22 veloped by a metropolitan planning organization
23 under the metropolitan mobility and access program.

24 “(13) OTHER FORMS OF CREDIT ASSIST-
25 ANCE.—The term ‘other forms of credit assistance’

1 includes any use of funds in a metropolitan infra-
2 structure bank—

3 “(A) to provide credit enhancements;

4 “(B) to serve as a capital reserve for bond
5 or debt instrument financing;

6 “(C) to subsidize interest rates;

7 “(D) to insure or guarantee letters of cred-
8 it and credit instruments against credit risk of
9 loss;

10 “(E) to finance capital lease agreements
11 for transit capital projects;

12 “(F) to provide bond or debt financing in-
13 strument security; and

14 “(G) to provide other forms of debt financ-
15 ing and methods of leveraging funds that are
16 approved by the Secretary and that relate to
17 the project with respect to which such assist-
18 ance is being provided.

19 “(b) COOPERATIVE AGREEMENTS.—

20 “(1) IN GENERAL.—Subject to the provisions of
21 this section, the Secretary may enter into coopera-
22 tive agreements with metropolitan planning organi-
23 zations for the establishment of metropolitan infra-
24 structure banks for making loans and providing
25 other forms of credit assistance to public and private

1 entities carrying out or proposing to carry out
2 projects eligible for assistance under this section.

3 “(2) REQUIREMENTS.—To be eligible to enter
4 into a cooperative agreement under paragraph (1),
5 the metropolitan planning organization shall—

6 “(A) have in effect a metropolitan mobility
7 plan approved by the Secretary; and

8 “(B) be a recipient of a grant under the
9 metropolitan mobility and access program.

10 “(c) FUNDING.—

11 “(1) DEPOSITS INTO INFRASTRUCTURE
12 BANKS.—The Secretary may permit an eligible met-
13 ropolitan planning organization that has established
14 a metropolitan infrastructure bank pursuant to a co-
15 operative agreement entered into under subsection
16 (b) to deposit into the bank not to exceed **【__】** per-
17 cent of the funds available to the metropolitan plan-
18 ning organization for a fiscal year under the metro-
19 politan mobility and access program.

20 “(2) CAPITAL GRANTS.—Federal funds depos-
21 ited into a metropolitan infrastructure bank shall
22 constitute for purposes of this section a capitaliza-
23 tion grant for the bank.

24 “(3) DISCONTINUANCE OF FUNDING.—If the
25 Secretary determines that a metropolitan planning

1 organization is not implementing the organization's
2 metropolitan infrastructure bank in accordance with
3 a cooperative agreement entered into under sub-
4 section (b), the Secretary may prohibit the metro-
5 politan planning organization from contributing ad-
6 ditional Federal funds to the bank.

7 “(d) FORMS OF ASSISTANCE FROM METROPOLITAN
8 INFRASTRUCTURE BANKS.—A metropolitan infrastruc-
9 ture bank established under this section may make loans
10 or provide other forms of credit assistance to a public or
11 private entity in an amount equal to all or a part of the
12 cost of carrying out a project eligible for assistance under
13 this section. The amount of any loan or other form of
14 credit assistance provided for the project may be subordi-
15 nated to any other debt financing for the project. Initial
16 assistance provided with respect to a project from Federal
17 funds deposited into a metropolitan infrastructure bank
18 under this section may not be made in the form of a grant.

19 “(e) ELIGIBLE PROJECTS.—Funds in a metropolitan
20 infrastructure bank established under this section may be
21 used only to provide assistance for projects eligible for as-
22 sistance under this title and capital projects defined in sec-
23 tion 5302 of title 49.

24 “(f) METROPOLITAN INFRASTRUCTURE BANK RE-
25 QUIREMENTS.—In order to establish a metropolitan infra-

1 structure bank under this section, the metropolitan plan-
2 ning organization establishing the bank shall—

3 “(1) deposit in cash into the bank from non-
4 Federal sources an amount not less than per-
5 cent of the amount of each capitalization grant;

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

11 “(3) ensure that investment income derived
12 from funds deposited in the bank are—

13 “(A) credited to the bank;

14 “(B) available for use in providing loans
15 and other forms of credit assistance to projects
16 eligible for assistance from the bank; and

17 “(C) invested in United States Treasury
18 securities, bank deposits, or such other financ-
19 ing instruments as the Secretary may approve
20 to earn interest to enhance the leveraging of
21 projects assisted by the bank;

22 “(4) ensure that any loan from the bank will
23 bear interest at or below market interest rates, as
24 determined by the metropolitan planning organiza-

1 tion, to make the project that is the subject of the
2 loan feasible;

3 “(5) ensure that repayment of any loan from
4 the bank will commence not later than 5 years after
5 the project has been completed or, in the case of a
6 highway project, the facility has opened to traffic,
7 whichever is later;

8 “(6) ensure that the term for repaying any loan
9 will not exceed 30 years after the date of the first
10 payment on the loan; and

11 “(7) require the bank to make an annual report
12 to the Secretary on its status not later than Sep-
13 tember 30 of each year and such other reports as
14 the Secretary may require under guidelines issued to
15 carry out this section.

16 “(g) APPLICABILITY OF FEDERAL LAW.—

17 “(1) IN GENERAL.—Subject to paragraph (3),
18 the requirements of this title and title 49 that would
19 otherwise apply to funds made available under this
20 title or title 49 and projects assisted with those
21 funds shall apply to—

22 “(A) funds made available under this title
23 or title 49 and contributed to an infrastructure
24 bank established under this section, including

1 the non-Federal contribution required under
2 subsection (f); and

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

10 “(2) REPAYMENTS.—The requirements of this
11 title and title 49 shall apply to repayments from
12 non-Federal sources to an infrastructure bank from
13 projects assisted by the bank. Such a repayment
14 shall be considered to be Federal funds.

15 “(h) UNITED STATES NOT OBLIGATED.—The de-
16 posit of Federal funds into a metropolitan infrastructure
17 bank established under this section shall not be construed
18 as a commitment, guarantee, or obligation on the part of
19 the United States to any third party, nor shall any third
20 party have any right against the United States for pay-
21 ment solely by virtue of the contribution. Any security or
22 debt-financing instrument issued by the infrastructure
23 bank shall expressly state that the security or instrument
24 does not constitute a commitment, guarantee, or obliga-
25 tion of the United States.

1 “(i) MANAGEMENT OF FEDERAL FUNDS.—Sections
2 3335 and 6503 of title 31 shall not apply to funds depos-
3 ited into a metropolitan infrastructure bank under this
4 section.

5 “(j) PROGRAM ADMINISTRATION.—For each of fiscal
6 years 2010 through 2015, a metropolitan planning organi-
7 zation may expend not to exceed 2 percent of the Federal
8 funds contributed to a metropolitan infrastructure bank
9 established by the metropolitan planning organization
10 under this section to pay the reasonable costs of admin-
11 istering the bank.”.

12 (b) CLERICAL AMENDMENT.—The analysis for chap-
13 ter 6 (as amended by this Act) is amended by adding at
14 the end the following:

“Sec. 612. Metropolitan infrastructure banks.”.

15 **Subtitle D—High Priority Projects**

16 **SEC. 1401. HIGH-PRIORITY PROJECTS PROGRAM.**

17 **【to be supplied】**

18 **SEC. 1402. PROJECT AUTHORIZATIONS.**

19 **【to be supplied】**

20 **SEC. 1403. TECHNICAL AMENDMENTS TO TRANSPORTATION** 21 **PROJECTS.**

22 **【to be supplied】**

23 **SEC. 1404. USE OF EXCESS FUNDS AND FUNDS FOR INAC-** 24 **TIVE PROJECTS.**

25 **【to be supplied】**

1 **Subtitle E—Miscellaneous**

2 **SEC. 1501. PROJECT APPROVAL AND OVERSIGHT.**

3 (a) MAJOR PROJECTS.—Section 106(h) is amend-
4 ed—

5 (1) in paragraph (1)—

6 (A) by striking “and” at the end of sub-
7 paragraph (A); and

8 (B) by striking subparagraph (B) and in-
9 serting the following:

10 “(B) a project delivery schedule; and

11 “(C) an annual financial plan.”;

12 (2) by redesignating paragraph (3) as para-
13 graph (4);

14 (3) by inserting after paragraph (2) the fol-
15 lowing:

16 “(3) PROJECT DELIVERY SCHEDULE.—A
17 project delivery schedule shall—

18 “(A) be submitted to the Secretary before
19 the completion of the environmental review
20 process for the project under the National Envi-
21 ronmental Policy Act of 1969 (42 U.S.C. 4321
22 et seq.);

23 “(B) document the expected start and
24 completion dates for each phase of the project
25 and any other relevant milestones in the project

1 delivery timeline from the completion of the en-
2 vironmental review process for the project
3 through completion of the project; and

4 “(C) be revised upon any substantial
5 change in the project delivery timeline.”; and

6 (4) in paragraph (4)(A) (as redesignated by
7 paragraph (2) of this subsection) by inserting “, in-
8 cluding any project financing costs” before the semi-
9 colon.

10 (b) OTHER PROJECTS.—Section 106(i) is amended—

11 (1) by striking “A recipient” and inserting the
12 following:

13 “(1) IN GENERAL.—A recipient”; and

14 (2) by adding at the end the following:

15 “(2) PROJECTS REQUIRING ENVIRONMENTAL
16 IMPACT STATEMENTS.—A recipient of Federal finan-
17 cial assistance for a project under this title that re-
18 quires an environmental impact statement under the
19 National Environmental Policy Act of 1969 (42
20 U.S.C. 4321 et seq.), and that is not covered by sub-
21 section (h), shall prepare a project delivery schedule
22 in accordance with subsection (h)(3). Project deliv-
23 ery schedules prepared under this subsection shall be
24 submitted to the Secretary.”.

1 **SEC. 1502. STANDARDS.**

2 (a) IN GENERAL.—Section 109(a)(1) is amended by
3 inserting before the semicolon the following: “and con-
4 sistent with comprehensive street design policies and prin-
5 ciples and practical design standards”.

6 (b) DESIGN CRITERIA FOR NATIONAL HIGHWAY SYS-
7 TEM.—Section 109(c) is amended—

8 (1) in paragraph (1) by striking “may take into
9 account” and inserting “shall take into account”;
10 and

11 (2) in paragraph (2) by striking “may develop”
12 and inserting “shall develop”.

13 (c) PROTECTION OF NONMOTORIZED TRANSPOR-
14 TATION TRAFFIC.—Section 109(m) is amended by insert-
15 ing before the period at the end the following: “to provide
16 a safe and continuous route for all nonmotorized and light
17 motorecycle traffic”.

18 (d) DEFINITIONS.—Section 109 is amended by add-
19 ing at the end the following:

20 “(r) DEFINITIONS.—In this section, the following
21 definitions apply:

22 “(1) COMPREHENSIVE STREET DESIGN POLICY
23 OR PRINCIPLE.—The term ‘comprehensive street de-
24 sign policy or principle’ has the meaning given that
25 term in section 331.

1 “(2) PRACTICAL DESIGN STANDARD.—The term
2 ‘practical design standard’ has the meaning given
3 that term in section 331.”.

4 (e) GUIDANCE ON COMPREHENSIVE STREET DESIGN
5 PRINCIPLES.—Not later than one year after the date of
6 enactment of this Act, the Secretary, in consultation with
7 the Office of Livability, shall issue guidance on the De-
8 partment’s implementation of the requirements related to
9 comprehensive street design policies and principles and
10 practical design standards under section 109(a) of title 23,
11 United States Code.

12 **SEC. 1503. REVENUE ALIGNED BUDGET AUTHORITY.**

 【to be supplied】

13 **SEC. 1504. PUBLIC-PRIVATE PARTNERSHIP AGREEMENTS.**

14 Section 112 is amended by adding at the end the fol-
15 lowing:

16 “(h) PUBLIC-PRIVATE PARTNERSHIP AGREE-
17 MENTS.—

18 “(1) IN GENERAL.—The Secretary shall re-
19 quire, as a condition of the Secretary’s approval of
20 any contract awarded under subsection (b), that in-
21 volves a public-private partnership agreement that—

22 “(A) the public authority meet each of the
23 requirements of paragraph (2); and

1 “(B) the contract include provisions suffi-
2 cient to meet each of the requirements of para-
3 graph (3).

4 “(2) ACTIONS BEFORE CONTRACT AWARD.—

5 “(A) VALUE-FOR-MONEY ASSESSMENT.—

6 “(i) IN GENERAL.—Before awarding a
7 contract under subsection (b) for a project
8 that involves a public-private partnership
9 agreement, the public authority shall ana-
10 lyze the potential project to assess whether
11 the use of a public-private partnership
12 agreement, as proposed for the potential
13 project, would provide value compared with
14 traditional public delivery methods.

15 “(ii) CONSIDERATIONS.—An assess-
16 ment under clause (i) shall include consid-
17 eration, at a minimum, of the following
18 factors:

19 “(I) The potential life-cycle cost
20 and delivery timeframe of the project
21 under traditional public delivery meth-
22 ods as compared to under the ap-
23 proach proposed by the private part-
24 ner.

1 “(II) Benefits or costs associated
2 with any transfer of risk to the pri-
3 vate partner pursuant to the public-
4 private partnership agreement.

5 “(III) Other benefits or costs,
6 whether quantitative or qualitative,
7 associated with public delivery of the
8 project.

9 “(B) TRANSPARENCY.—

10 “(i) IN GENERAL.—Before awarding
11 any contract under subsection (b) for a
12 project that involves a public-private part-
13 nership agreement, the public authority
14 shall make available to the public key
15 terms of the contract to be awarded, in-
16 cluding [__].

17 “(ii) PROPRIETARY INFORMATION.—
18 The public disclosure requirement under
19 clause (i) shall not extend to any informa-
20 tion in a project proposal that is, in the
21 judgment of the public authority, confiden-
22 tial or proprietary.

23 “(C) OPPORTUNITY FOR PUBLIC COM-
24 MENT.—

1 “(i) IN GENERAL.—Before awarding a
2 contract under subsection (b) for a project
3 that involves a public-private partnership
4 agreement, the public authority shall offer
5 interested parties a reasonable opportunity
6 to comment on the proposed agreement.

7 “(ii) METHODS.—In carrying out
8 clause (i), the public authority shall, to the
9 maximum extent practicable—

10 “(I) hold any public meetings at
11 convenient and accessible locations
12 and times; and

13 “(II) make information per-
14 taining to the proposed agreement
15 available in electronically accessible
16 format and means, such as the World
17 Wide Web, as appropriate to afford
18 reasonable opportunity for consider-
19 ation of public information under
20 clause (i).

21 “(3) CONTRACT PROVISIONS.—Any contract
22 awarded under subsection (b) for a project that in-
23 volves a public-private partnership agreement shall
24 include provisions sufficient to meet each of the fol-
25 lowing requirements:

1 “(A) ACCESS TO FACILITY.—

2 “ (i) IN GENERAL.—The contract shall
3 include provisions that prohibit the closing
4 of the highway facility or portions thereof
5 to vehicular traffic except in specifically
6 enumerated circumstances, such as for
7 routine and capital maintenance or acci-
8 dent clearance, or as provided in clauses
9 (ii) and (iii).

10 “(ii) SPECIAL LANES.—The contract
11 may include provisions that allow the pri-
12 vate partner to—

13 “ (I) prohibit trucks from using
14 one or more designated lanes on the
15 highway facility, or from using such
16 lanes at designated times;

17 “ (II) prohibit all vehicles other
18 than trucks from using one or more
19 designated lanes on the highway facil-
20 ity; and

21 “ (III) operate one or more lanes
22 on the highway facility as a HOV fa-
23 cility, subject to the requirements of
24 section 166.

1 “(iii) MOTORCYCLES AND BICY-
2 CLES.—The private partner may restrict
3 use of the highway facility by motoreycles
4 or bicycles (or both) if the private partner
5 certifies to the Secretary that such use
6 would create a safety hazard and the Sec-
7 retary accepts the certification.

8 “(iv) UNPERMITTED CLOSURES.—The
9 contract shall include provisions that allow
10 the public authority to enter and take con-
11 trol of the highway facility and reopen it
12 for operation in cases in which the private
13 partner closes the highway facility in viola-
14 tion of the provisions described in clause
15 (i).

16 “(v) EMERGENCY ACCESS.—

17 “(I) IN GENERAL.—The contract
18 shall provide for the highway facility
19 to be opened for evacuations for peri-
20 ods in which the Governor of the
21 State has declared a state of emer-
22 gency or the President has declared
23 such event to be a major disaster for
24 the purposes of the Robert T. Staf-
25 ford Disaster Relief and Emergency

1 Assistance Act (42 U.S.C. 5121 et
2 seq.).

3 “(II) PROHIBITION OF TOLLS.—
4 The contract shall prohibit the private
5 partner from charging tolls to users of
6 the highway facility during periods of
7 evacuation under subclause (I).

8 “(B) PROHIBITION ON NONCOMPETE
9 AGREEMENTS.—The contract shall not include
10 any provision under which the State is pre-
11 vented from improving or expanding the capac-
12 ity of public roads in the same travel corridor
13 as the highway facility.

14 “(C) EARLY TERMINATION FOR CONVEN-
15 IENCE.—The contract shall include provisions
16 to allow the public authority the option of re-
17 claiming ownership of the highway facility be-
18 fore the end of the term of the public-private
19 partnership agreement. In order to exercise this
20 option, the public authority shall be required to
21 provide fair market value compensation to the
22 private partner.

23 “(D) HANDBACK STANDARDS.—The con-
24 tract shall set forth standards that the highway
25 facility must meet or must be brought up to by

1 the private partner at the end of the term of
2 the public-private partnership agreement. Such
3 standards shall provide that the highway facility
4 is in an appropriate state of repair, given its
5 life expectancy, at the time at which it reverts
6 to the control of the public authority.

7 “(4) DEFINITIONS.—In this subsection, the fol-
8 lowing definitions apply:

9 “(A) HIGHWAY FACILITY.—The term
10 ‘highway facility’ means a highway, whether ex-
11 isting or planned, for which a public authority
12 and a private partner enter into a public-private
13 partnership agreement under this subsection.

14 “(B) HOV FACILITY.—The term ‘HOV fa-
15 cility’ has the meaning given that term in sec-
16 tion 166.

17 “(C) PRIVATE PARTNER.—

18 “(i) IN GENERAL.—The term ‘private
19 partner’ means a private sector entity that
20 enters into a public-private partnership
21 agreement under this subsection.

22 “(ii) INCLUSIONS.—A private partner
23 may be a natural person, corporation, part-
24 nership, limited liability company, founda-
25 tion, joint venture, business trust, non-

1 profit entity, other business entity, or any
2 combination thereof.

3 “(D) PUBLIC-PRIVATE PARTNERSHIP
4 AGREEMENT.—The term ‘public-private part-
5 nership agreement’ means a contractual agree-
6 ment formed between a State or other public
7 entity and a private partner in which the pri-
8 vate partner agrees to operate and maintain a
9 highway facility in exchange for a financial re-
10 turn. Such a return may or may not include the
11 authority to collect and retain toll revenues paid
12 by users of the highway facility.

13 “(E) PUBLIC AUTHORITY.—The term
14 ‘public authority’ means the State or other pub-
15 lic entity that owns a facility that is, or is pro-
16 posed to be, subject to a public-private partner-
17 ship agreement.

18 “(F) TRUCK.—The term ‘truck’ means any
19 self-propelled or towed motor vehicle used on a
20 highway in commerce to transport property,
21 when the vehicle—

22 “(i) has a gross vehicle weight rating
23 or gross vehicle weight of at least 10,001
24 pounds, whichever is greater; or

1 “(ii) is used in transporting material
2 found by the Secretary to be hazardous
3 under section 5103 of title 49 and trans-
4 ported in a quantity requiring placarding
5 under regulations prescribed by the Sec-
6 retary under section 5103 of title 49.”.

7 **SEC. 1505. PREVAILING RATE OF WAGE.**

8 Section 113 is amended to read as follows:

9 **“§ 113. Prevailing rate of wage**

10 “(a) IN GENERAL.—The Secretary shall take such
11 action as may be necessary to ensure that all laborers and
12 mechanics employed by contractors and subcontractors on
13 construction work performed on projects assisted in whole
14 or in part by and through the Federal Government pursu-
15 ant to this title be paid wages at rates not less than those
16 prevailing on projects of a character similar in the locality,
17 as determined by the Secretary of Labor in accordance
18 with subchapter IV of chapter 31 of title 40. With respect
19 to the labor standards specified in this section, the Sec-
20 retary of Labor shall have the authority and functions set
21 forth in Reorganization Plan Numbered 14 of 1950 (64
22 Stat. 1267) and section 3145 of title 40.

23 “(b) APPRENTICESHIP AND SKILL TRAINING PRO-
24 GRAMS.—The provisions of this section shall not be appli-
25 cable to employment pursuant to apprenticeship and skill

1 training programs that have been certified by the Sec-
2 retary as promoting equal employment opportunity in con-
3 nection with Federal-aid highway construction pro-
4 grams.”.

5 **SEC. 1506. EMERGENCY RELIEF.**

6 (a) FEDERAL SHARE PAYABLE.—Section 120(e) is
7 amended by striking the last two sentences.

8 (b) ELIGIBILITY.—Section 125(d) is amended to read
9 as follows:

10 “(d) ELIGIBILITY.—

11 “(1) IN GENERAL.—Subject to the require-
12 ments of this subsection, the Secretary may expend
13 funds from the emergency fund authorized by this
14 section for the repair or reconstruction of Federal-
15 aid highways in accordance with the provisions of
16 this chapter.

17 “(2) MAXIMUM OBLIGATIONS FOR SINGLE
18 EVENT.—Obligations for projects under this section,
19 including those on highways, roads, and trails re-
20 ferred to in subsection (e), resulting from a single
21 natural disaster or a single catastrophic failure in a
22 State shall not exceed \$100,000,000.

23 “(3) MAXIMUM TOTAL PROJECT COSTS.—

24 “(A) IN GENERAL.—The total cost of a
25 project carried out under this section may not

1 exceed the cost of repair or reconstruction of a
2 comparable facility.

3 “(B) COMPARABLE FACILITY DEFINED.—
4 In this paragraph with respect to bridges and
5 in section 144, the term ‘comparable facility’
6 means a facility that meets the current geo-
7 metric and construction standards required for
8 the types and volume of traffic that the facility
9 will carry over its design life.

10 “(4) DEBRIS REMOVAL.—The costs of debris
11 removal shall be an eligible expense under this sec-
12 tion only for—

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

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

23 “(5) TERRITORIES.—The total obligations for
24 projects under this section in a fiscal year in the
25 Virgin Islands, Guam, American Samoa, and the

1 Commonwealth of the Northern Mariana Islands
2 shall not exceed \$20,000,000.

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

11 “(7) APPLICATIONS; EMERGENCY DECLARA-
12 TIONS.—Except as to highways, roads, and trails re-
13 ferred to in subsection (e), no funds shall be ex-
14 pended under this section unless—

15 “(A) the Secretary has received an applica-
16 tion for assistance from the State transpor-
17 tation department; and

18 “(B) an emergency has been declared by
19 the Governor of the State and concurred in by
20 the Secretary, except that if the President has
21 declared the emergency to be a major disaster
22 for the purposes of the Robert T. Stafford Dis-
23 aster Relief and Emergency Assistance Act (42
24 U.S.C. 5121 et seq.) concurrence of the Sec-
25 retary is not required.”.

1 (c) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated for each fiscal year such
3 sums as may be necessary for allocations by the Secretary
4 described in subsections (a) and (b) of section 125 of title
5 23, United States Code, if the total of those allocations
6 in such fiscal year are in excess of \$100,000,000.

7 (d) RULEMAKING.—Not later than 6 months after
8 the date of enactment of this Act, the Secretary shall ini-
9 tiate a rulemaking to update regulations governing the
10 emergency relief program under section 125 of title 23,
11 United States Code, to—

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

15 (2) determine whether to raise the threshold for
16 an eligible event and raise such threshold if war-
17 ranted; and

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

20 (e) IMPROVING PROGRAM IMPLEMENTATION.—The
21 Secretary shall take steps to—

22 (1) improve training for Federal and State offi-
23 cials on emergency relief requirements and proc-
24 esses;

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

4 (3) address program differences with the dis-
5 aster assistance program of the Federal Emergency
6 Management Agency; and

7 (4) provide guidance on performing benefit-cost
8 analysis to justify betterments.

9 **SEC. 1507. HIGHWAY-RAIL CROSSINGS.**

10 (a) PROJECTS TO ELIMINATE HAZARDS.—Section
11 130(a) is amended—

12 (1) by inserting “PROJECTS TO ELIMINATE
13 HAZARDS.—” before “Subject to”;

14 (2) by striking “in accordance with section 104
15 of this title” and inserting “to carry out the highway
16 safety improvement program under section 148”
17 each place it appears.

18 (b) CLASSIFICATION OF PROJECTS.—Section 130(b)
19 is amended by inserting “CLASSIFICATION OF
20 PROJECTS.—” before “The Secretary”.

21 (c) NET BENEFIT TO RAILROADS.—Section 130(c) is
22 amended by inserting “NET BENEFIT TO RAILROADS.—
23 ” before “Any railroad”.

24 (d) SURVEY AND SCHEDULE OF PROJECTS.—Section
25 130(d) is amended—

1 (1) by striking “Each State” and inserting the
2 following:

3 “(1) IN GENERAL.—Each State”; and

4 (2) by adding at the end the following:

5 “(2) CONSISTENCY WITH OTHER REQUIRE-
6 MENTS.—The survey and schedule of a State shall
7 be consistent with—

8 “(A) the State’s strategic highway safety
9 plan developed under section 148;

10 “(B) for fiscal year 2012 and thereafter,
11 the State’s HSIP investment plan developed
12 under section 148; and

13 “(C) as applicable, the State’s highway-rail
14 grade crossing safety action plan developed
15 under section 202 of the Rail Safety Improve-
16 ment Act of 2008 (49 U.S.C. 22501 note; 122
17 Stat. 4868).”.

18 (e) FUNDS FOR PROTECTIVE DEVICES.—The first
19 sentence of section 130(e)(1) is amended by—

20 (1) striking “for a fiscal year” and inserting
21 “for fiscal years 2010 and 2011”; and

22 (2) striking “at least \$220,000,000” and in-
23 serting “[**\$**]”.

24 (f) APPORTIONMENT.—Section 130(f) is amended by
25 [**to be supplied**].

1 (g) ANNUAL REPORT; EXPENDITURE OF FUNDS.—
2 Section 130 is amended by striking subsections (g) and
3 (k) and redesignating subsections (h), (i), (j), and (l) as
4 subsections (g), (h), (i), and (j), respectively.

5 (h) USE OF FUNDS FOR MATCHING.—Section 130(g)
6 (as redesignated by subsection (f) of this section) is
7 amended by striking “Funds authorized to be appro-
8 priated to carry out this section” and inserting “Funds
9 apportioned to carry out section 148”.

10 (i) BICYCLE AND PEDESTRIAN SAFETY.—Section
11 130(i) (as redesignated by subsection (f) of this section)
12 is amended—

13 (1) in the subsection heading by inserting “AND
14 PEDESTRIAN” after “BICYCLE”; and

15 (2) by inserting “and pedestrian” after “bicy-
16 cle”.

17 (j) REFERENCES TO HIGHWAY-RAIL CROSSINGS.—
18 Section 130 is amended—

19 (1) in the section heading by striking “**Rail-**
20 **way-highway**” and inserting “**Highway-rail**”;
21 and

22 (2) by striking “railway-highway” each place it
23 appears and inserting “highway-rail”.

1 (k) CLERICAL AMENDMENT.—The analysis for chap-
2 ter 1 is amended by striking the item relating to section
3 130 and inserting the following:

“130. Highway-rail crossings.”.

4 **SEC. 1508. METROPOLITAN PLANNING.**

5 (a) POLICY.—Section 134(a) is amended—

6 (1) in paragraph (1)—

7 (A) by striking “minimizing” and inserting
8 “reducing”;

9 (B) by inserting “, reliance on foreign oil,
10 impacts on the environment, surface transpor-
11 tation-related greenhouse gas emissions,” after
12 “consumption”; and

13 (C) by striking “and” at the end;

14 (2) by striking the period at the end of para-
15 graph (2) and inserting “; and” ; and

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

17 “(3) encourage and promote the livability and
18 sustainability of all communities, increase coordina-
19 tion among land use, housing, and transportation
20 plans and projects, and increase surface transpor-
21 tation system connectivity and intermodality through
22 metropolitan and statewide transportation planning
23 processes identified in this chapter.”.

24 (b) RURAL PLANNING ORGANIZATION DEFINED.—

25 Section 134(b) is amended—

1 (1) by redesignating paragraphs (5) and (6) as
2 paragraphs (6) and (7), respectively; and

3 (2) by inserting after paragraph (4) the fol-
4 lowing:

5 “(5) RURAL PLANNING ORGANIZATION.—The
6 term ‘rural planning organization’ means an organi-
7 zation designated by a State to enhance the plan-
8 ning, coordination, and implementation of statewide
9 transportation plans and programs in areas with a
10 population of less than 50,000 individuals, with an
11 emphasis on addressing the needs of such areas of
12 the State.”.

13 (c) DESIGNATION OF MPOS.—Section 134(d) is
14 amended—

15 (1) in paragraph (1)—

16 (A) by striking “50,000” and inserting
17 “100,000”; and

18 (B) by striking “named” and inserting
19 “determined”;

20 (2) in paragraph (2) by striking “that serves an
21 area designated as a transportation management
22 area”; and

23 (3) in paragraph (2)(B) by inserting “public
24 transit systems and other” after “operate”.

1 (d) COORDINATION IN MULTISTATE AREAS.—Section
2 134(f) is amended—

3 (1) in paragraph (1)—

4 (A) by striking “encourage” and inserting
5 “require”; and

6 (B) by striking “provide” and inserting
7 “coordinate”; and

8 (2) by striking paragraph (3).

9 (e) SCOPE OF PLANNING PROCESS.—Section
10 134(h)(1)(E) is amended—

11 (1) by inserting “sustainability, and livability,
12 reduce surface transportation-related greenhouse gas
13 emissions, reliance on foreign oil, adapt to the ef-
14 fects of climate change,” after “energy conserva-
15 tion,”;

16 (2) by inserting “and public health” after
17 “quality of life”; and

18 (3) by inserting “, including housing and land
19 use patterns” after “development patterns”.

20 (f) CAPITAL INVESTMENT AND OTHER STRATE-
21 GIES.—Section 134(i)(2)(E) is amended—

22 (1) in subparagraph (A) by inserting “and
23 other relevant data and factors disseminated by the
24 Secretary pursuant to section ____” after “sub-
25 section (h)”;

1 (2)(A) by striking “and” after “infrastructure”
2 and inserting “, to”; and

3 (B) by inserting before the period the following:
4 “, and to provide for the incorporation of practical
5 design standards as defined in section 331”.

6 (g) CONSULTATION IN DEVELOPMENT OF TRANS-
7 PORTATION PLAN.—Section 134(i)(4)(A) is amended by
8 inserting “public health, housing, transportation,” after
9 “conservation,”.

10 (h) TRANSPORTATION MANAGEMENT AREAS.—Sec-
11 tion 134(k) is amended—

12 (1) by striking the parenthetical phrase in para-
13 graph (4)(A) and inserting the following: “(exclud-
14 ing projects carried out under the critical asset in-
15 vestment program under section 150 and freight im-
16 provement program under section 119)”;

17 (2) by repealing paragraph (5); and

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

19 “(6) EMISSIONS REDUCTION PROCESS.—

20 “(A) IN GENERAL.—Within a metropolitan
21 planning area serving a transportation manage-
22 ment area, the transportation planning process
23 under this section shall address transportation-
24 related greenhouse gas emissions by including
25 emission reduction targets and strategies.

1 “(B) ESTABLISHMENT OF EMISSIONS RE-
2 DUCTION TARGETS AND STRATEGIES.—

3 “(i) IN GENERAL.—Not later than one
4 year after the promulgation of the final
5 regulations required under section 841 of
6 the Clean Air Act, each metropolitan plan-
7 ning organization shall develop surface
8 transportation-related greenhouse gas
9 emission reduction targets, as well as
10 strategies to meet such targets, as part of
11 the transportation planning process under
12 this section. If more than one metropolitan
13 planning organization has been designated
14 within a metropolitan planning area serv-
15 ing a transportation management area,
16 each such metropolitan planning organiza-
17 tion shall work cooperatively with other
18 such organization to develop the surface
19 transportation-related greenhouse gas
20 emission reduction targets required under
21 this subparagraph.

22 “(ii) MINIMUM REQUIREMENTS.—
23 Each metropolitan planning organization
24 that develops targets and strategies re-
25 quired under clause (i) shall demonstrate

1 progress in stabilizing and reducing trans-
2 portation-related greenhouse gas emissions
3 in each metropolitan planning area serving
4 a surface transportation management area.
5 The targets and strategies shall, at a min-
6 imum,

7 “(I) be based on the models and
8 methodologies established in the final
9 regulations required under section
10 841 of the Clean Air Act;

11 “(II) address sources of surface
12 transportation-related greenhouse gas
13 emissions and contribute to achieve-
14 ment of the national transportation-
15 related greenhouse gas emissions re-
16 duction goals;

17 “(III) include efforts to increase
18 public transportation ridership; and

19 “(IV) include efforts to increase
20 walking, bicycling, and other forms of
21 nonmotorized transportation.

22 “(C) PUBLIC NOTICE.—Each metropolitan
23 planning organization shall make its emission
24 reduction targets and strategies, and an anal-

1 ysis of the anticipated effects thereof, available
2 to the public through its Web site.

3 “(D) ENFORCEMENT.—If the Secretary
4 finds that a metropolitan planning organization
5 has failed to develop, submit, or publish its
6 emission reduction targets and strategies, the
7 Secretary shall not certify that the require-
8 ments of this section are met with respect to
9 the metropolitan planning process of such orga-
10 nization.”.

11 (i) CERTIFICATION; MPO DATABASE; PERFORMANCE
12 MANAGEMENT.—Section 134 is further amended by add-
13 ing at the end the following:

14 “(q) CERTIFICATION.—

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

16 “(A) ensure that the metropolitan planning
17 process of a metropolitan planning organization
18 is being carried out in accordance with applica-
19 ble provisions of Federal law; and

20 “(B) certify, subject to paragraph (2), not
21 less than once every 4 years, that the require-
22 ments of this section are met with respect to
23 such process.

24 “(2) REQUIREMENTS FOR CERTIFICATION.—

25 The Secretary shall establish certification require-

1 ments which include performance measures for met-
2 ropolitan planning organizations that serve an ur-
3 banized area with a population of more than
4 100,000 individuals. The requirements shall ensure,
5 at a minimum, the following:

6 “(A) The transportation planning process
7 complies with the requirements of this section
8 and other applicable requirements of Federal
9 law.

10 “(B) There is a TIP for the metropolitan
11 planning area that has been approved by the
12 metropolitan planning organization and the
13 Governor.

14 “(C) Voting members of the metropolitan
15 planning organization are represented in pro-
16 portion to the population of each political sub-
17 division to the total population the metropolitan
18 planning area.

19 “(D) The metropolitan planning organiza-
20 tion has met or is likely to meet the perform-
21 ance targets and requirements established
22 under subsection (s).

23 “(3) EFFECT OF FAILURE TO CERTIFY.—

24 “(A) WITHHOLDING OF FUNDS.—If a met-
25 ropolitan planning process of a metropolitan

1 planning organization is not certified under this
2 section, the Secretary may withhold up to 20
3 percent of the funds attributable to the metro-
4 politan planning area of the metropolitan plan-
5 ning organization for projects funded under this
6 title and chapter 53 of title 49.

7 “(B) RESTORATION OF WITHHELD
8 FUNDS.—The withheld funds shall be restored
9 to the metropolitan planning area at such time
10 as the metropolitan planning process is certified
11 by the Secretary.

12 “(4) REVIEW OF CERTIFICATION.—In making
13 certification determinations under this paragraph,
14 the Secretary shall provide for public involvement
15 appropriate to the metropolitan area under review.

16 “(r) NATIONAL MPO DATABASE.—

17 “(1) IN GENERAL.—To assist in meeting the
18 need for information of individual metropolitan plan-
19 ning organizations, Federal, State, and local govern-
20 ments, and the public, the Secretary shall establish
21 and maintain a reporting system and national data-
22 base, using uniform categories to accumulate metro-
23 politan planning organization structural, financial,
24 operating, planning, programming, and performance
25 information and using a uniform system of accounts.

1 “(2) REQUEST AND RECEIVE INFORMATION.—

2 In establishing and maintaining the reporting sys-
3 tem, the Secretary may request and receive appro-
4 priate information from any source.

5 “(3) DEADLINE.—Not later than 6 months
6 after the date of enactment of this subsection, the
7 Secretary shall establish the reporting system and
8 national database described in paragraph (1).

9 “(s) MPO PERFORMANCE MANAGEMENT.—

10 “(1) IN GENERAL.—To improve the outcomes
11 of the transportation planning process under this
12 section, metropolitan planning organizations shall
13 implement a system of performance management in
14 accordance with paragraphs (2) and (3).

15 “(2) ESTABLISHMENT OF PERFORMANCE MEAS-
16 URES.—

17 “(A) IN GENERAL.—Not later than one
18 year after the date of enactment of this sub-
19 section, the Secretary, in consultation with met-
20 ropolitan planning organizations and States,
21 shall establish qualitative and quantitative per-
22 formance measures for each of the following
23 metropolitan planning organizations:

24 “(i) Those that serve an urbanized
25 area with a population of more than

1 100,000 individuals but less than
2 1,000,000 individuals.

3 “(ii) Those that serve an urbanized
4 area with a population of more than
5 1,000,000 individuals.

6 “(B) MINIMUM REQUIREMENTS.—The per-
7 formance measures established under this sub-
8 section shall—

9 “(i) be based, at a minimum, on data
10 collected in the MPO Database under sub-
11 section (r);

12 “(ii) be based, at a minimum, on best
13 practices of current metropolitan planning
14 organization performance management sys-
15 tems and strategies;

16 “(iii) measure, at a minimum, the de-
17 gree to which the long-range transpor-
18 tation plan reduces congestion, improves
19 mobility and safety, increases the state of
20 good repair of surface transportation as-
21 sets, decreases surface transportation-re-
22 lated emissions and energy consumption, is
23 consistent with land use plans, and in-
24 creases the connectivity of and access to
25 the surface transportation system; and

1 “(iv) include, at a minimum, any
2 other information the Secretary considers
3 appropriate.

4 “(C) ADDITIONAL REQUIREMENTS FOR
5 LARGE METROPOLITAN REGIONS.—In addition
6 to the minimum requirements established under
7 subparagraph (B), the performance measures
8 for urbanized areas with a population of more
9 than 1,000,000 shall include a measurement of
10 the degree to which the long-range transpor-
11 tation plan is developed through an assessment,
12 at a minimum, of the following:

13 “(i) Land use patterns that support
14 improved mobility and reduced dependency
15 on single-occupant motor vehicle trips.

16 “(ii) An adequate supply of housing
17 for all income levels.

18 “(iii) Limited impacts on valuable
19 farmland, natural resources, and air qual-
20 ity.

21 “(iv) A reduction in greenhouse gas
22 emissions.

23 “(v) An increase in water and energy
24 conservation and efficiency.

1 “(vi) An improvement in the livability
2 of communities.

3 “(3) ESTABLISHMENT OF PERFORMANCE TAR-
4 GETS.—Not later than 18 months after the date of
5 enactment of this subsection, each metropolitan
6 planning organization shall establish a target level of
7 performance—

8 “(A) in relation to each of the performance
9 measures established under paragraph (2); and

10 “(B) against which the metropolitan plan-
11 ning organization will measure improvement in
12 meeting such performance measures.

13 “(4) REPORTING REQUIREMENTS.—Each met-
14 ropolitan planning organization shall submit to the
15 Secretary, and publish annually, a report docu-
16 menting the progress that the metropolitan planning
17 organization has made in meeting the performance
18 targets it established under paragraph (3).”.

19 (j) SPECIAL RULES FOR SMALL METROPOLITAN
20 PLANNING ORGANIZATIONS.—

21 (1) CONTINUATION OF APPLICABILITY OF SEC-
22 TION 134.—Notwithstanding the amendment made
23 by subsection (c)(1) and not later the 180th day
24 after the date of enactment of this Act, a metropoli-
25 tan planning organization that serves an urbanized

1 area with a population of more than 50,000 and less
2 than 100,000 and that is subject to the provisions
3 of section 134 of title 23, United States Code, on
4 the day before the date of enactment of this Act
5 shall continue to be subject to such provisions, as in
6 effect on such day until the population exceeds
7 100,000 if the Governor and units of general pur-
8 pose local government that together represent at
9 least 75 percent of the affected population including
10 the largest incorporated city (based on population)
11 as determined by the Bureau of the Census) agree
12 to continue to be subject to the provisions.

13 (2) TREATMENT.—A metropolitan planning or-
14 ganization described in paragraph (1) shall be treat-
15 ed, for purposes of this title, title 23, United States
16 Code, chapter 53 of title 49, United States Code, the
17 Safe, Accountable, Flexible, Efficient Transportation
18 Equity Act: A Legacy for Users, and the Transpor-
19 tation Equity Act for the 21st Century, as a metro-
20 politan planning organization that is subject to the
21 provisions of section 134 of title 23, United States
22 Code, as in effect on the day before the date of en-
23 actment of this Act.

1 **SEC. 1509. STATEWIDE PLANNING.**

2 (a) GENERAL REQUIREMENTS.—Section 135(a)(3) is
3 amended by inserting “include consultation with the State
4 bicycle and pedestrian coordinator established under sec-
5 tion 217(c) and with the State safe routes to school coordi-
6 nator established under section 152(e)(3), shall” after
7 “program shall”.

8 (b) SCOPE OF PLANNING PROCESS.—Section
9 135(d)(1)(E) is amended—

10 (1) by inserting “sustainability and livability,
11 reduce surface transportation-related greenhouse gas
12 emissions and reliance on foreign oil, and adapt to
13 the effects of climate change),” after “energy con-
14 servation”;

15 (2) by inserting “public health” after “quality
16 of life”; and

17 (3) by inserting “, including housing and land
18 use patterns” after “development patterns”.

19 (c) STATEWIDE STRATEGIC LONG-RANGE TRANS-
20 PORTATION PLAN.—

21 (1) DEVELOPMENT OF LONG-RANGE PLAN.—
22 Section 135(f) is amended—

23 (A) by striking the subsection heading and
24 inserting the following: “STATEWIDE STRA-
25 TEGIC LONG-RANGE TRANSPORTATION PLAN”;

1 (B) by striking paragraph (1) and insert-
2 ing the following:

3 “(1) DEVELOPMENT OF LONG-RANGE PLAN.—

4 “(A) IN GENERAL.—Each State shall de-
5 velop a statewide strategic long-range transpor-
6 tation plan, with a minimum 20-year forecast
7 period for all areas of the State, that provides
8 for the development and implementation of the
9 intermodal interconnected transportation sys-
10 tem of the State.

11 “(B) STRATEGIC TRANSPORTATION PLAN
12 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 statistics
17 disseminated by the Secretary pursuant to
18 section 703(b) for such State.

19 “(ii) PROJECTS OF STATEWIDE, RE-
20 GIONAL, AND NATIONAL SIGNIFICANCE.—
21 The State shall identify transportation
22 projects across all modes of transportation
23 in the State that have statewide, regional,
24 and national significance. In identifying
25 such projects, each State shall consider the

1 information disseminated by the Secretary
2 pursuant to section 703(b) for such State.

3 “(iii) STATES WITH CONGESTED AIR-
4 PORTS.—If a State has an airport in its
5 jurisdiction that had at least one percent
6 of all delayed aircraft operations in the
7 United States, the statewide strategic
8 transportation plan shall include measures
9 to alleviate congestion at that airport ei-
10 ther through expansion or the development
11 of additional facilities.

12 “(iv) STATES WITH CONGESTED
13 FREIGHT RAIL CORRIDORS.—If data from
14 the Department of Transportation and the
15 freight railroad industry indicate that a
16 State has freight railroad corridors that
17 operate at levels of service that are at or
18 exceed capacity, the statewide strategic
19 transportation plan shall include measures
20 by which the State department of trans-
21 portation and the freight railroads provide
22 relief for the congested corridors.

23 “(v) STATES WITH DEEP DRAFT
24 PORTS.—If a State has a deep draft port,
25 the statewide strategic transportation plan

1 shall take into account any plan for expansion
2 at that port and any projected increase
3 in shipping traffic at that port.

4 “(vi) STATES WITH NAVIGABLE IN-
5 LAND WATERWAYS.—Each State that has
6 navigable inland waterways shall include in
7 its statewide strategic transportation plan
8 any plans to use those waterways to facilitate
9 the efficient and reliable transportation
10 of freight and people.

11 “(vii) PROJECT
12 INTERCONNECTIVITY.—In developing a
13 statewide strategic long-range transportation
14 plan, the State shall provide for
15 interconnectivity for freight and passengers
16 among different facilities and among different
17 modes of transportation

18 “(viii) COST ESTIMATES FOR
19 PROJECTS THAT ARE OF STATEWIDE, REGIONAL,
20 AND NATIONAL IMPORTANCE.—In
21 developing the statewide strategic long-
22 range transportation plan, the State shall
23 include estimates of the costs of each of
24 the projects identified in clause (ii).”

25 (C) in paragraph (2)—

1 (i) subparagraph (B) by striking the
2 last sentence and inserting the following:
3 “If a State has designated one or more
4 rural planning organizations, the Statewide
5 transportation plan shall be developed in
6 coordination with each such rural planning
7 organization.”; and

8 (ii) in subparagraph (D)(i) by insert-
9 ing “air quality, public health, housing,
10 and transportation,” after “conservation,”;
11 and

12 (D) in paragraph (7) by inserting “includ-
13 ing the incorporation of practical design stand-
14 ards as defined in section 331” after “meas-
15 ures”; and

16 (E) by inserting at the end the following:
17 “(9) EMISSIONS REDUCTION PROCESS.—

18 “(A) IN GENERAL.—Within a State, the
19 transportation planning process under this sec-
20 tion shall address transportation-related green-
21 house gas emissions by including emission re-
22 duction targets and strategies.

23 “(B) ESTABLISHMENT OF EMISSIONS RE-
24 Duction TARGETS AND STRATEGIES.—

1 “(i) IN GENERAL.—Not later than one
2 year after the promulgation of the final
3 regulations required under section 841 of
4 the Clean Air Act, each State shall develop
5 surface transportation-related greenhouse
6 gas emission reduction targets, as well as
7 strategies to meet such targets, as part of
8 the transportation planning process under
9 this section.

10 “(ii) MINIMUM REQUIREMENTS.—
11 Each State that develops targets and strat-
12 egies required by clause (i) shall dem-
13 onstrate progress in stabilizing and reduc-
14 ing transportation-related greenhouse gas
15 emissions in such State. The targets and
16 strategies shall, at a minimum—

17 “(I) be based on the models and
18 methodologies established in the final
19 regulations required under section
20 841 of the Clean Air Act;

21 “(II) address sources of surface
22 transportation-related greenhouse gas
23 emissions and contribute to achieve-
24 ment of the national transportation-

1 related greenhouse gas emissions re-
2 duction goals;

3 “(III) include efforts to increase
4 public transportation ridership; and

5 “(IV) include efforts to increase
6 walking, bicycling, and other forms of
7 nonmotorized transportation.

8 “(C) PUBLIC NOTICE.—Each State shall
9 make its emission reduction targets and strate-
10 gies, and an analysis of the anticipated effects
11 thereof, available to the public through its Web
12 site.

13 “(D) ENFORCEMENT.—If the Secretary
14 finds that a State has failed to develop, submit,
15 or publish its emission reduction targets and
16 strategies, the Secretary shall not certify that
17 the requirements of this section are met with
18 respect to such State.”.

19 (2) PLAN UPDATE.—Not later than September
20 30, 2011, each State shall update its long-range
21 transportation plan to comply with the requirements
22 of section 703.

23 (d) STATEWIDE TRANSPORTATION IMPROVEMENT
24 PLAN.—Section 135(g) is amended—

1 (1) in subparagraph (2)(B) by striking the last
2 sentence and inserting the following: “If a State has
3 designated one or more rural planning organizations,
4 the Statewide transportation plan shall be developed
5 in coordination with each such rural planning orga-
6 nization.”; and

7 (2) in the second sentence of paragraph (5) by
8 striking “on the National” and all that follows
9 through “maintenance program under this title” and
10 inserting the following: “under the critical asset in-
11 vestment and freight improvement programs”.

12 (e) PERFORMANCE MANAGEMENT.—Section 135 is
13 further amended by adding at the end the following:

14 “(k) STATE PERFORMANCE MANAGEMENT.—

15 “(1) IN GENERAL.—To improve the outcomes
16 of the transportation planning process under this
17 section, States shall implement a system of perform-
18 ance management in accordance with paragraphs (2)
19 and (3).

20 “(2) ESTABLISHMENT OF PERFORMANCE MEAS-
21 URES.—

22 “(A) IN GENERAL.—Not later than one
23 year after the date of enactment of this sub-
24 section, the Secretary, in consultation with each

1 State, shall establish qualitative and quan-
2 titative performance measures for the State.

3 “(B) MINIMUM REQUIREMENTS.—The per-
4 formance measures established under this sub-
5 section shall—

6 “(i) be based, at a minimum, on best
7 practices of current State management
8 systems and strategies;

9 “(ii) measure, at a minimum, the de-
10 gree to which the long-range transpor-
11 tation plan reduces congestion, improves
12 mobility and safety, increases the state of
13 good repair of surface transportation as-
14 sets, decreases surface transportation-re-
15 lated emissions and energy consumption, is
16 consistent with land use plans, and in-
17 creases the connectivity of and access to
18 the surface transportation system; and

19 “(iii) include, at a minimum, any
20 other information the Secretary considers
21 appropriate.

22 “(3) ESTABLISHMENT OF PERFORMANCE TAR-
23 GETS.—Not later than 18 months after the date of
24 enactment of this subsection, each State shall estab-
25 lish a target level of performance—

1 “(A) in relation to each of the performance
2 measures established under paragraph (2); and

3 “(B) against which the State will measure
4 improvement in meeting such performance
5 measures.

6 “(4) REPORTING REQUIREMENTS.—Each State
7 shall submit to the Secretary, and publish annually,
8 a report documenting the progress that the State
9 has made in meeting the performance targets it es-
10 tablished under paragraph (3).

11 “(5) WITHHOLDING OF FUNDS.—If the Sec-
12 retary finds that a State has failed to meet the per-
13 formance requirements established under this sec-
14 tion, the Secretary may withhold up to 20 percent
15 of the funds made available for expenditure by the
16 State pursuant to section 505.

17 “(6) RESTORATION OF WITHHELD FUNDS.—
18 The withheld funds shall be restored to the State at
19 such time as the Secretary determines the State is
20 meeting its performance targets.”.

21 **SEC. 1510. PROJECT DELIVERY.**

22 (a) ADVANCED ACQUISITION OF REAL PROPERTY.—
23 Section 108 is amended—

24 (1) in subsection (c)(2)(G) by striking “both
25 the Secretary and the Administrator of the Environ-

1 mental Protection Agency have concurred” and in-
2 serting “the Secretary has determined”; and

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

4 “(d) CONSIDERATION OF LONG-RANGE TRANSPOR-
5 TATION NEEDS.—The Secretary is authorized to encour-
6 age States and other public authorities, where practicable,
7 to acquire transportation rights-of-way that are sufficient
8 to accommodate long-range transportation needs, where
9 possible through the acquisition of broad rights-of-way
10 that have the capacity for future expansion over a 50- to
11 100-year period and that have the potential to accommo-
12 date one or more transportation modes.”.

13 (b) DEFINITION OF PLANNING PRODUCT.—Section
14 139(a) is amended—

15 (1) by redesignating paragraphs (6) through
16 (8) as paragraphs (7) through (9), respectively; and

17 (2) by inserting after paragraph (5) the fol-
18 lowing:

19 “(6) PLANNING PRODUCT.—The term ‘planning
20 product’ means a decision, analysis, study, or other
21 documented result of an evaluation or decision-
22 making process carried out during transportation
23 planning.”.

24 (c) PROGRAMMATIC COMPLIANCE.—Section 139(b) is
25 amended—

1 (1) in paragraph (2) by inserting “, and any re-
2 requirements established under this section may be
3 satisfied,” after “exercised”; and

4 (2) by adding at the end the following:

5 “(3) PROGRAMMATIC APPROACHES.—The Sec-
6 retary may modify the procedures developed under
7 this section to encourage programmatic approaches
8 and strategies with respect to environmental pro-
9 grams and permits.”.

10 (d) PROJECT INITIATION.—Section 139(e) is amend-
11 ed by adding at the end the following: “The project spon-
12 sor may satisfy this requirement by submitting to the Sec-
13 retary a draft notice for publication in the Federal Reg-
14 ister announcing the preparation of an environmental im-
15 pact statement for the project that contains the informa-
16 tion required under this subsection.”.

17 (e) COORDINATION PLAN.—Section 139(g)(1)(A) is
18 amended by striking “project or category of projects” and
19 inserting “project, category of projects, or program of
20 projects”.

21 (f) INTEGRATION OF PLANNING AND ENVIRON-
22 MENTAL REVIEW.—Section 139 is amended by adding at
23 the end the following:

24 “(m) INTEGRATION OF PLANNING AND ENVIRON-
25 MENTAL REVIEW.—

1 “(1) INCORPORATION BY REFERENCE OF PLAN-
2 NING PRODUCTS FOR USE IN THE ENVIRONMENTAL
3 REVIEW PROCESS.—

4 “(A) IN GENERAL.—Subject to the condi-
5 tions set forth in paragraph (4), the Federal
6 lead agency for a project, at the request of the
7 project sponsors, may incorporate by reference
8 a planning product—

9 “(i) in any environmental analysis and
10 documentation under the National Envi-
11 ronmental Policy Act of 1969; and

12 “(ii) in any other environmental re-
13 view of the project.

14 “(B) PARTIAL INCORPORATION BY REF-
15 ERENCE OF PLANNING PRODUCTS.—The Fed-
16 eral lead agency may incorporate by reference a
17 planning product under subparagraph (A) in its
18 entirety or may select portions for incorporation
19 by reference.

20 “(C) TIMING.—A determination under
21 subparagraph (A) concerning incorporation by
22 reference of a planning product typically should
23 be made at the time the lead agencies decide
24 the appropriate scope of environmental review
25 for the project, but may occur later.

1 “(2) PURPOSE AND INTENT.—

2 “(A) PURPOSE.—The purpose of this sub-
3 section is to establish the authority and provide
4 procedures for achieving integrated planning
5 and environmental review processes to—

6 “(i) enable statewide and metropolitan
7 planning processes to more effectively serve
8 as the foundation for project decisions;

9 “(ii) foster better decisionmaking;

10 “(iii) reduce duplication in work;

11 “(iv) avoid delays in transportation
12 improvements; and

13 “(v) lead to better transportation and
14 environmental results for communities and
15 the United States.

16 “(B) INTENT.—This subsection—

17 “(i) is consistent with and is enacted
18 in furtherance of sections 101 and 102 of
19 the National Environmental Policy Act of
20 1969 (42 U.S.C. 4331 and 4332), parts
21 1500 through 1508 of title 40, Code of
22 Federal Regulations, and section 109 of
23 this title;

24 “(ii) should be broadly construed and
25 may be applied to any project, class of

1 projects, or program of projects carried out
2 under this title or chapter 53 of title 49;

3 “(iii) does not apply the National En-
4 vironmental Policy Act of 1969 to the
5 transportation planning process conducted
6 under this title or chapter 53 of title 49
7 and initiation of the National Environ-
8 mental Policy Act of 1969 process as a
9 part of, or concurrently with, transpor-
10 tation planning activities does not subject
11 transportation plans and programs to the
12 National Environmental Policy Act of
13 1969;

14 “(iv) does not preclude application of
15 the National Environmental Policy Act of
16 1969 to the transportation planning proc-
17 ess; and

18 “(v) does not affect the use of plan-
19 ning products in the National Environ-
20 mental Policy Act of 1969 process pursu-
21 ant to other authorities under law or re-
22 strict the initiation of the National Envi-
23 ronmental Policy Act of 1969 process dur-
24 ing planning.

25 “(3) APPLICABILITY.—

1 “(A) PLANNING DECISIONS.—Planning de-
2 cisions that may be incorporated by reference
3 pursuant to this subsection include—

4 “(i) a purpose and need statement for
5 the project, including whether tolling, pri-
6 vate financial assistance, or other special
7 financial measures are necessary to imple-
8 ment the project and will be included in
9 the statement;

10 “(ii) travel corridor location, including
11 project termini;

12 “(iii) modal choice, including a deci-
13 sion to implement corridor or subarea
14 study recommendations to advance dif-
15 ferent modal solutions as separate projects
16 with independent utility;

17 “(iv) elimination of unreasonable al-
18 ternatives and selection of the range of
19 reasonable alternatives for detailed study
20 during the National Environmental Policy
21 Act of 1969 process;

22 “(v) basic description of the environ-
23 mental setting;

24 “(vi) methodologies for analysis; and

1 “(vii) identification of programmatic
2 level mitigation for potential impacts that
3 the Federal lead agency, in consultation
4 with local, tribal, State, and Federal re-
5 source agencies, determines are most effec-
6 tively addressed at a regional or national
7 program level, including—

8 “(I) system-level measures to
9 avoid, minimize, or mitigate impacts
10 of proposed transportation invest-
11 ments on environmental resources, in-
12 cluding regional ecosystem and water
13 resources; and

14 “(II) potential mitigation activi-
15 ties, locations, and investments.

16 “(B) PLANNING ANALYSES.—Planning
17 analyses that may be incorporated by reference
18 pursuant to this subsection include studies of
19 past, current, or predicted future—

20 “(i) travel demands;

21 “(ii) regional development and
22 growth;

23 “(iii) local land use, growth manage-
24 ment, and development;

25 “(iv) population and employment;

1 “(v) natural and built environmental
2 conditions;

3 “(vi) environmental resources and en-
4 vironmentally sensitive areas;

5 “(vii) potential environmental effects,
6 including the identification of resources of
7 concern and potential cumulative effects on
8 those resources, as a result of a statewide
9 or regional cumulative effects assessment;
10 and

11 “(viii) mitigation needs for a proposed
12 action or for programmatic level mitigation
13 for potential effects that the Federal lead
14 agency determines are most effectively ad-
15 dressed at a regional or national program
16 level.

17 “(4) CONDITIONS.—Incorporation by reference
18 of a planning product under this subsection is sub-
19 ject to a determination by the Federal lead agency,
20 in consultation with lead agencies, cooperating agen-
21 cies, and project sponsors as appropriate, that the
22 following conditions have been met:

23 “(A) The planning product was developed
24 through a planning process conducted pursuant
25 to applicable Federal law.

1 “(B) The planning process included broad
2 multidisciplinary consideration of systems-level
3 or corridor-wide transportation needs and po-
4 tential effects.

5 “(C) During the planning process, notice
6 was provided through publication or other
7 means to Federal, State, and local government
8 agencies and Indian tribal governments that
9 might have an interest in the proposed project,
10 and to members of the general public, of the
11 planning products that the planning process in-
12 tends to produce and that are intended to be
13 relied on during the National Environmental
14 Policy Act of 1969 and other environmental re-
15 views, and those parties have been provided an
16 appropriate opportunity to participate in the
17 planning process leading to such planning prod-
18 uct.

19 “(D) Prior to determining the scope of en-
20 vironmental review, the lead agencies have
21 made documentation relating to the planning
22 product available to Federal, State, and local
23 governmental agencies, Indian tribal govern-
24 ments that may have an interest in the pro-

1 posed action, and members of the general pub-
2 lic.

3 “(E) There is no significant new informa-
4 tion or new circumstance that has a reasonable
5 likelihood of affecting the continued validity or
6 appropriateness of the planning product.

7 “(F) The planning product is based on re-
8 liable and reasonably current data and, in the
9 case of an analysis, is based on reasonable and
10 scientifically acceptable methodologies.

11 “(G) The planning product is documented
12 in sufficient detail to support the decision or
13 the results of the analysis and to meet require-
14 ments for use of the information in the environ-
15 mental review process.

16 “(H) The planning product is appropriate
17 for incorporation by reference and use in the
18 environmental review process for the project.

19 “(5) EFFECT OF INCORPORATION BY REF-
20 ERENCE.—Any planning product incorporated by
21 reference by the Federal lead agency in accordance
22 with this subsection shall not be reconsidered or
23 made the subject of additional interagency consulta-
24 tion during environmental review of a project unless
25 the Federal lead agency, in consultation with lead

1 agencies, cooperating agencies, and project sponsors
2 as appropriate, determines that there is significant
3 new information or new circumstances that affect
4 the continued validity or appropriateness of the
5 planning product that has been incorporated by ref-
6 erence. Any planning product incorporated by ref-
7 erence by the Federal lead agency in accordance
8 with this subsection may be relied upon and used by
9 other Federal agencies in carrying out their reviews
10 of the project.”.

11 (g) TIMEFRAME FOR RECORD OF DECISION.—Sec-
12 tion 139 is further amended by adding at the end the fol-
13 lowing:

14 “(n) TIMEFRAME FOR RECORD OF DECISION.—

15 “(1) IN GENERAL.—Subject to paragraph (2),
16 the Secretary shall issue a record of decision and
17 allow a project to advance to the final design stage
18 not later than 120 days after the final environ-
19 mental impact statement for the project is com-
20 pleted.

21 “(2) ALLOWABLE DELAYS.—

22 “(A) IN GENERAL.—Notwithstanding para-
23 graph (1), advancement of a project under the
24 time requirement under paragraph (1) may be
25 delayed only—

1 “(i) for the time the project sponsor
2 may request; or

3 “(ii) during the time the Secretary
4 finds, after reasonable notice and an op-
5 portunity for comment, that the project
6 sponsor has not complied substantially
7 with the provisions of this chapter applica-
8 ble to the project and the provisions of the
9 National Environmental Policy Act of
10 1969.

11 “(B) EXPLANATORY STATEMENT.—Not
12 later than 10 days after imposing a delay under
13 subparagraph (A)(ii), the Secretary shall give
14 the project sponsor a written statement explain-
15 ing the reasons for the delay and describing ac-
16 tions the project sponsor must take to end the
17 delay.

18 “(C) REPORT.—At least once every 6
19 months, the Secretary shall submit to the Com-
20 mittee on Transportation and Infrastructure of
21 the House of Representatives and the Com-
22 mittee on Environment and Public Works of the
23 Senate a report describing each situation in
24 which the Secretary has not met the time re-
25 quirement under paragraph (1) or delayed a

1 time requirement under subparagraph (A)(ii).
2 The report shall explain the reasons for the
3 delay and include a plan for achieving timely
4 completion of the Secretary's review.”.

5 (h) SURFACE TRANSPORTATION PROJECT DELIVERY
6 PILOT PROGRAM.—Section 327(b) is amended—

7 (1) by striking paragraph (1) and inserting the
8 following:

9 “(1) PARTICIPATING STATES.—

10 “(A) IN GENERAL.—All States are eligible
11 to participate in the program.

12 “(B) SPECIAL RULE.—Any State partici-
13 pating in the program under this section on
14 September 30, 2009, shall be permitted by the
15 Secretary to continue to participate in the pro-
16 gram and such State shall not have to submit
17 an application under paragraph (2) in order to
18 participate in the program.”; and

19 (2) in paragraph (2) by striking “this section,
20 the Secretary shall promulgate” and inserting “the
21 Surface Transportation Authorization Act of 2009,
22 the Secretary shall amend, as appropriate,”.

1 **SEC. 1511. DISADVANTAGED BUSINESS ENTERPRISE PRO-**
2 **GRAM.**

3 (a) PURPOSE.—It is the purpose of the disadvan-
4 tagged business enterprise program to ensure that
5 minority- and women-owned businesses have a full and
6 fair opportunity to compete in projects and contracts re-
7 ceiving Federal assistance under titles I, III, and V of this
8 Act and section 403 of title 23, United States Code, and
9 to ensure that the Federal Government does not subsidize
10 discrimination in private or locally funded surface trans-
11 portation-related industries.

12 (b) FINDINGS.—Congress finds the following:

13 (1) While significant progress has occurred due
14 to the enactment of the disadvantaged business en-
15 terprise program, discrimination continues to be a
16 significant barrier for minority- and women-owned
17 businesses seeking to do business in federally-as-
18 sisted surface transportation markets. This con-
19 tinuing discrimination merits the continuation of the
20 disadvantaged business enterprise program.

21 (2) Discrimination poses serious barriers to the
22 full participation of women business owners and mi-
23 nority business owners, including African Americans,
24 Hispanic Americans, Asian Americans, and Native
25 Americans in federally-assisted surface transpor-
26 tation projects and contracts.

1 (3) Discrimination impacts minority and women
2 business owners in every geographic region of the
3 United States and throughout surface transpor-
4 tation-related industries.

5 (4) Discrimination has impacted many aspects
6 of surface transportation-related business, includ-
7 ing—

8 (A) the availability of venture capital and
9 credit;

10 (B) the availability of bonding and insur-
11 ance;

12 (C) the ability to obtain licensing and cer-
13 tification;

14 (D) public and private bidding and quoting
15 procedures;

16 (E) the pricing of supplies and services;

17 (F) business training, education, and ap-
18 prenticeship programs; and

19 (G) professional support organizations and
20 informal networks through which business op-
21 portunities are often established.

22 (5) Congress has received voluminous evidence
23 of discrimination against minority and women busi-
24 ness owners in surface transportation-related indus-
25 tries, including—

1 (A) statistical analyses demonstrating sig-
2 nificant disparities in the utilization of
3 minority- and women-owned businesses in fed-
4 erally and locally funded surface transportation-
5 related contracting;

6 (B) statistical analyses of private sector
7 disparities in business success by minority- and
8 women-owned businesses in surface transpor-
9 tation-related industries;

10 (C) research compiling anecdotal reports of
11 discrimination by individual minority and
12 women business owners;

13 (D) individual reports of discrimination by
14 minority and women business owners and the
15 organizations and individuals who represent mi-
16 nority and women business owners;

17 (E) analyses demonstrating significant re-
18 ductions in the participation of minority and
19 women businesses in jurisdictions that have re-
20 duced or eliminated their minority- and women-
21 owned business programs;

22 (F) statistical analyses showing significant
23 disparities in the credit available to minority-
24 and women-owned businesses;

1 (G) research and statistical analyses dem-
2 onstrating how discrimination negatively im-
3 pacts firm formation, growth, and success;

4 (H) experience of State departments of
5 transportation, public transit agencies, metro-
6 politan planning organizations, and other local-
7 ities demonstrating that race- and gender-neu-
8 tral efforts alone are insufficient to remedy dis-
9 crimination; and

10 (I) other qualitative and quantitative evi-
11 dence of discrimination against minority- and
12 women-owned businesses in surface transpor-
13 tation-related industries.

14 (6) All of this evidence provides a strong basis
15 for the continuation of the disadvantaged business
16 enterprise program.

17 (7) Congress has received and reviewed recent
18 comprehensive and compelling evidence of discrimi-
19 nation from many different sources, including con-
20 gressional hearings and roundtables, scientific re-
21 ports, reports issued by public and private agencies,
22 news stories, reports of discrimination by organiza-
23 tions and individuals, and discrimination lawsuits.

24 (c) GENERAL RULE.—Except to the extent that the
25 Secretary determines otherwise, not less than 10 percent

1 of the amounts made available for any program under ti-
2 tles I, III, and V of this Act and section 403 of title 23,
3 United States Code, shall be expended through small busi-
4 ness concerns owned and controlled by socially and eco-
5 nomically disadvantaged individuals.

6 (d) ANNUAL LISTING OF DISADVANTAGED BUSINESS
7 ENTERPRISES.—Each State shall annually—

8 (1) survey and compile a list of the small busi-
9 ness concerns referred to in subsection (c) and the
10 location of the concerns in the State; and

11 (2) notify the Secretary, in writing, of the per-
12 centage of the concerns that are controlled by
13 women, by socially and economically disadvantaged
14 individuals (other than women), and by individuals
15 who are women and are otherwise socially and eco-
16 nomically disadvantaged individuals.

17 (e) UNIFORM CERTIFICATION.—The Secretary shall
18 establish minimum uniform criteria for State governments
19 to use in certifying whether a concern qualifies for pur-
20 poses of this subsection. The minimum uniform criteria
21 shall include, but not be limited to, on-site visits, personal
22 interviews, licenses, analysis of stock ownership, listing of
23 equipment, analysis of bonding capacity, listing of work
24 completed, resume of principal owners, financial capacity,
25 and type of work preferred.

1 (f) COMPLIANCE WITH COURT ORDERS.—Nothing in
2 this subsection limits the eligibility of an entity or person
3 to receive funds made available under titles I, III, and V
4 of this Act and section 403 of title 23, United States Code,
5 if the entity or person is prevented, in whole or in part,
6 from complying with subsection (c) because a Federal
7 court issues a final order in which the court finds that
8 the requirement of subsection (c), or the program estab-
9 lished under subsection (c), is unconstitutional.

10 (g) PERSONAL NET WORTH CAP.—

11 (1) REGULATIONS.—Not later than 180 days
12 after the date of enactment of this Act, the Sec-
13 retary shall issue final regulations to adjust the per-
14 sonal net worth cap used in determining whether an
15 individual is economically disadvantaged for pur-
16 poses of qualifying under the definition contained in
17 subsection (k)(1) of this section and section 26.67 of
18 title 49, Code of Federal Regulations. The regula-
19 tions shall correct for the impact of inflation since
20 the Small Business Administration established the
21 personal net worth cap at \$750,000 in 1989.

22 (2) ANNUAL ADJUSTMENT.—Following the ini-
23 tial adjustment under paragraph (1), the Secretary
24 shall adjust, on June 30 of each year thereafter, the
25 personal net worth cap to account for changes, oc-

1 curring in the preceding 12-month period, in the
2 Consumer Price Index of All Urban Consumers
3 (United States city average, all items) published by
4 the Secretary of Labor.

5 (h) EXCLUSION OF RETIREMENT BENEFITS.—

6 (1) IN GENERAL.—In calculating a business
7 owner's personal net worth, any funds held in a
8 qualified retirement account owned by the business
9 owner shall be excluded, subject to regulations to be
10 issued by the Secretary.

11 (2) REGULATIONS.—Not later than one year
12 after the date of enactment of this Act, the Sec-
13 retary shall issue final regulations to implement
14 paragraph (1), including consideration of appro-
15 priate safeguards, such as a limit on the amount of
16 such accounts, to prevent circumvention of personal
17 net worth requirements.

18 (i) PROHIBITION ON EXCESSIVE OR DISCRIMINATORY
19 BONDING REQUIREMENTS.—

20 (1) IN GENERAL.—The Secretary shall establish
21 a program to eliminate barriers to small business
22 participation in Federally-assisted surface transpor-
23 tation contracts by prohibiting excessive, unreason-
24 able, or discriminatory bonding requirements for any

1 project funded under titles I, III, and V of this Act,
2 or section 403 of title 23, United States Code.

3 (2) REGULATIONS.—Not later than one year
4 after the date of enactment of this subsection, the
5 Secretary shall issue a final rule to establish the pro-
6 gram under paragraph (1).

7 (j) TRAINING PROGRAM FOR CERTIFICATION OF DIS-
8 ADVANTAGED BUSINESS ENTERPRISES.—

9 (1) IN GENERAL.—Not later than one year
10 after the date of enactment of this Act, the Sec-
11 retary shall establish a mandatory training program
12 for persons described in paragraph (3) on certifying
13 whether a small business concern qualifies as a small
14 business concern owned and controlled by socially
15 and economically disadvantaged individuals under
16 this section.

17 (2) IMPLEMENTATION.—The training program
18 may be implemented by one or more private entities
19 approved by the Secretary.

20 (3) PARTICIPANTS.—A person referred to in
21 paragraph (1) is an official or agent of a State de-
22 partment of transportation—

23 (A) who is required to provide a written
24 assurance under this section that the State de-

1 partment of transportation will meet the per-
2 centage goal of subsection (c); or

3 (B) who is responsible for determining
4 whether or not a small business concern quali-
5 fies as a small business concern owned and con-
6 trolled by socially and economically disadvan-
7 taged individuals under this section.

8 (4) FUNDING.—Of the funds made available
9 under section 104(a)(1) of title 23, United States
10 Code, the Secretary shall provide not less than **[\$]**
11 for each of fiscal years 2010 through 2015 to carry
12 out this subsection and to support other programs
13 and activities of the Secretary related to the partici-
14 pation of small business concerns owned and con-
15 trolled by socially and economically disadvantaged
16 individuals in surface transportation-related con-
17 tracts.

18 (5) REPORT.—Not later than 24 months after
19 the date of enactment of this Act, the Secretary
20 shall submit to the Committee on Transportation
21 and Infrastructure of the House of Representatives
22 and Committee on Commerce, Science, and Trans-
23 portation of the Senate a report on the results of the
24 training program conducted under paragraph (1).

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

3 (1) SMALL BUSINESS CONCERN.—The term
4 “small business concern” has the meaning given
5 that term in section 3 of the Small Business Act (15
6 U.S.C. 632), except that the term shall not include
7 any concern, or group of concerns controlled by the
8 same socially and economically disadvantaged indi-
9 vidual or individuals, that has average annual gross
10 receipts over the preceding 3 fiscal years in excess
11 of \$22,410,000, as adjusted annually by the Sec-
12 retary for inflation.

13 (2) SOCIALLY AND ECONOMICALLY DISADVAN-
14 TAGED INDIVIDUALS.—The term “socially and eco-
15 nomically disadvantaged individuals” has the mean-
16 ing given that term in section 8(d) of the Small
17 Business Act (15 U.S.C. 637(d)) and relevant sub-
18 contracting regulations issued pursuant to that Act,
19 except that women shall be presumed to be socially
20 and economically disadvantaged individuals for pur-
21 poses of this subsection.

22 **SEC. 1512. HIGHWAY BRIDGE INVENTORIES, STANDARDS,**
23 **AND INSPECTIONS.**

24 (a) IN GENERAL.—Section 144 is amended to read
25 as follows:

1 **“§ 144. Highway bridge inventories, standards, and**
2 **inspections**

3 “(a) FINDINGS AND DECLARATION.—Congress finds
4 and declares that it is in the vital interest of the United
5 States to—

6 “(1) inventory and inspect the condition of
7 highway bridges;

8 “(2) calculate the load rating of those bridges;
9 and

10 “(3) improve the condition of those bridges
11 through preservation, protection, replacement, and
12 rehabilitation of bridges that the States and the Sec-
13 retary determine are structurally deficient or func-
14 tionally obsolete.

15 “(b) INVENTORIES.—The Secretary, in consultation
16 with the States and Federal agencies with jurisdiction over
17 highway bridges, shall—

18 “(1) inventory all those bridges on public roads
19 that are bridges over waterways, other topographical
20 barriers, other highways, and railroads;

21 “(2) identify each bridge inventoried under
22 paragraph (1) that is structurally deficient or func-
23 tionally obsolete;

24 “(3) assign a risk-based priority for replace-
25 ment or rehabilitation of each structurally deficient
26 bridge after consideration of safety, serviceability,

1 and essentiality for public use and public safety, in-
2 cluding the potential impacts to emergency evacu-
3 ation routes and to regional and national freight and
4 passenger mobility if the serviceability of the bridge
5 is restricted or diminished; and

6 “(4) determine the cost of replacing each struc-
7 turally deficient bridge with a comparable facility or
8 of rehabilitating the bridge.

9 “(c) NATIONAL BRIDGE INSPECTION STANDARDS.—

10 “(1) IN GENERAL.—The Secretary shall main-
11 tain inspection standards for the proper safety in-
12 spection and evaluation of all highway bridges. The
13 standards under this subsection shall be designed to
14 ensure uniformity in the conduct of such inspections
15 and evaluations.

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

19 “(A) specify, in detail, the method by
20 which such inspections shall be carried out by
21 the States and Federal agencies with jurisdic-
22 tion over highway bridges;

23 “(B) establish the maximum time period
24 between inspections in accordance with para-
25 graph (3);

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

3 “(D) require each State and each Federal
4 agency with jurisdiction over highway bridges to
5 maintain and make available to the Secretary
6 upon request—

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

11 “(ii) current inventory data for all
12 highway bridges reflecting the findings of
13 the most recent highway bridge inspections
14 conducted;

15 “(E) establish a procedure for national
16 certification of highway bridge inspectors;

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

23 “(i) the standards established under
24 this subsection; and

1 “(ii) the calculation or reevaluation of
2 bridge load ratings under subsection (f)(2);
3 and

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

10 “(i) critical findings relating to struc-
11 tural or safety-related deficiencies of high-
12 way bridges; and

13 “(ii) monitoring activities and correc-
14 tive actions taken in response to such a
15 finding; and

16 “(H) provide for testing with a state-of-
17 the-art technology that detects rate of growth
18 activity of fatigue cracks as small as 0.01
19 inches on steel bridges exhibiting fatigue dam-
20 age or bridges with fatigue susceptible members
21 and provides for long-term remote structural
22 monitoring capability.

23 “(3) FREQUENCY OF BRIDGE INSPECTIONS.—

24 “(A) IN GENERAL.—Subject to subpara-
25 graph (B), the standards established under

1 paragraph (1), at a minimum, shall provide
2 for—

3 “(i) annual routine inspections of
4 structurally deficient highway bridges
5 using the best practicable technologies and
6 methods;

7 “(ii) annual hands-on inspections of
8 fracture critical members, as such terms
9 are defined in section 650.305 of title 23,
10 Code of Federal Regulations (as in effect
11 on the date of enactment of the Surface
12 Transportation Authorization Act of
13 2009); and

14 “(iii) biennial routine inspections of
15 highway bridges that have not been deter-
16 mined to be structurally deficient.

17 “(B) EXCEPTIONS.—

18 “(i) EXTENSIONS.—Upon the request
19 of a State or Federal agency, the Secretary
20 may extend, to a maximum period of 48
21 months, the time between required routine
22 inspections of a highway bridge that has
23 not been determined to be structurally de-
24 ficient if the Secretary determines that—

1 “(I) the extension is appropriate
2 based on criteria that include the age,
3 design, traffic characteristics, and any
4 known deficiency of the bridge; and

5 “(II) granting the extension will
6 increase the overall safety of the
7 bridge inventory of the State or Fed-
8 eral agency by allowing the State or
9 Federal agency to focus its inspection
10 resources on the bridges most in need
11 of attention.

12 “(ii) ALTERNATIVE APPROACH TO DE-
13 TERMINING INSPECTION FREQUENCY.—
14 Not later than 2 years after the date of en-
15 actment of the Surface Transportation Au-
16 thorization Act of 2009, the Secretary, in
17 consultation with the States, shall develop
18 and establish an alternative approach for
19 determining bridge inspection frequencies
20 based on factors such as condition, struc-
21 ture type, and age of the structure. In de-
22 veloping the approach, the Secretary shall
23 combine different levels of inspection inten-
24 sity and scope with clear standards for in-
25 spector education, training, and qualifica-

1 tions to achieve effective inspections, im-
2 provement in the quality of inspections,
3 and efficient resource utilization.

4 “(d) TRAINING PROGRAM FOR BRIDGE INSPEC-
5 TORS.—

6 “(1) IN GENERAL.—The Secretary, in coopera-
7 tion with State transportation departments, shall
8 maintain a program designed to train appropriate
9 individuals to carry out highway bridge inspections.

10 “(2) REVISIONS.—The Secretary shall revise
11 the program from time to time to take into account
12 new and improved techniques.

13 “(3) SCOPE.—The Secretary shall expand the
14 scope of the training program as necessary to ensure
15 that all persons conducting highway bridge inspec-
16 tions receive appropriate training and certification
17 under the program.

18 “(e) AVAILABILITY OF FUNDS.—The Secretary may
19 use funds made available under section 104(a) to carry
20 out subsections (c) and (d) of this section.

21 “(f) REQUIREMENTS FOR FEDERAL APPROVALS.—

22 “(1) IN GENERAL.—The Secretary shall not ap-
23 prove the obligation of funds for a bridge project to
24 be carried out by a State or Federal agency under
25 section 119, 133, 148, 150, or 204 unless the State

1 or Federal agency is complying with the require-
2 ments of this subsection and subsection (o).

3 “(2) INSPECTIONS.—The State or Federal
4 agency shall, in accordance with the standards es-
5 tablished under subsection (c), inspect all highway
6 bridges described in subsection (b) that are located
7 in the State and provide updated information on the
8 bridges to the Secretary for inclusion in the national
9 bridge inventory.

10 “(3) CALCULATION OF LOAD RATINGS.—The
11 State or Federal agency shall—

12 “(A) not later than 2 years after the date
13 of enactment of the Surface Transportation Au-
14 thorization Act of 2009, calculate the load rat-
15 ing or reevaluate and as appropriate recalculate
16 the existing load rating for all highway bridges
17 described in subsection (b) that are located in
18 the State or within the Federal agency’s juris-
19 diction;

20 “(B) at least once every 2 years thereafter,
21 reevaluate and, as appropriate, recalculate the
22 load rating for each such bridge; and

23 “(C) ensure the proper posting of safe
24 load-carrying capacities for bridges unable to

1 carry the maximum loads allowable under State
2 routine permitting or State legal load limits.

3 “(4) PERFORMANCE PLANS.—

4 “(A) DEVELOPMENT OF PLANS.—Not later
5 than 2 years after the date of enactment of the
6 Surface Transportation Authorization Act of
7 2009, the State or Federal agency, in consulta-
8 tion with local governments that have jurisdic-
9 tion over highway bridges, shall develop and im-
10 plement a plan for—

11 “(i) the inspection of highway bridges
12 described in subsection (b) that are located
13 in the State or within the Federal agency’s
14 jurisdiction; and

15 “(ii) the rehabilitation and replace-
16 ment of—

17 “(I) bridges, other than those lo-
18 cated on the National Highway Sys-
19 tem, that are structurally deficient;
20 and

21 “(II) bridges that are function-
22 ally obsolete.

23 “(B) HISTORIC BRIDGES.—A plan of a
24 State or Federal agency under this paragraph
25 may provide for more frequent, in-depth inspec-

1 tion of a historic bridge located in the State or
2 within the Federal agency’s jurisdiction in lieu
3 of replacement of the bridge if the Secretary de-
4 termines that—

5 “(i) it is appropriate based on criteria
6 that include the age, design, traffic charac-
7 teristics, and any known deficiency of the
8 bridge; and

9 “(ii) granting the exception will in-
10 crease the overall safety of the bridge in-
11 ventory of the State or Federal agency by
12 allowing the State or Federal agency to
13 focus its inspection resources on the
14 bridges most in need of attention.

15 “(C) CONSISTENCY WITH CRITICAL ASSET
16 PRESERVATION INVESTMENT PLAN.—A plan de-
17 veloped by a State under this paragraph shall
18 be consistent with the State’s critical asset
19 preservation investment plan under section 150.

20 “(D) UPDATES.—A State or Federal agen-
21 cy shall update a plan developed under this
22 paragraph on a biennial basis.

23 “(5) BRIDGE MANAGEMENT SYSTEM.—Notwith-
24 standing section 303(c), the State shall develop and
25 implement a bridge management system that meets

1 the requirements of the regulations issued under sec-
2 tion 303.

3 “(g) APPLICABILITY OF GENERAL BRIDGE ACT OF
4 1946.—Notwithstanding any other provision of law, the
5 General Bridge Act of 1946 (33 U.S.C. 525 et seq.) shall
6 apply to bridges authorized to be replaced, in whole or in
7 part, by this section, except that subsection (b) of section
8 502 of such Act of 1946 (33 U.S.C. 525(b)) and section
9 9 of the Act of March 3, 1899 (33 U.S.C. 401) shall not
10 apply to any bridge constructed, reconstructed, rehabili-
11 tated, or replaced with assistance under this title, if such
12 bridge is over waters that—

13 “(1) are not used and are not susceptible to use
14 in their natural condition or by reasonable improve-
15 ment as a means to transport interstate or foreign
16 commerce; and

17 “(2) are—

18 “(A) not tidal; or

19 “(B) if tidal, used only by recreational
20 boating, fishing, and other small vessels less
21 than 21 feet in length.

22 “(h) INFORMATION AND REPORTS.—

23 “(1) UPDATES OF INFORMATION.—The Sec-
24 retary shall annually revise, as necessary, the infor-
25 mation required under subsection (b).

1 “(2) REPORTS TO CONGRESS.—Concurrently
2 with the President’s annual budget submission to
3 Congress under section 1105(a) of title 31, the Sec-
4 retary shall submit to the Committee on Transpor-
5 tation and Infrastructure of the House of Represent-
6 atives and the Committee on Environment and Pub-
7 lic Works of the Senate a report containing—

8 “(A) a summary of the information up-
9 dated under paragraph (1);

10 “(B) a description of the priority assigned,
11 on a national basis, for the replacement or re-
12 habilitation of each deficient bridge on a Fed-
13 eral-aid highway;

14 “(C) a summary of the Department’s re-
15 views during that year of State compliance with
16 the national bridge inspection standards estab-
17 lished under subsection (e); and

18 “(D) such recommendations as the Sec-
19 retary may have for improvements to the activi-
20 ties authorized by this section.

21 “(i) ELIGIBILITY OF CERTAIN BRIDGES.—Notwith-
22 standing any other provision of law (other than subsection
23 (e) of this section and sections 119, 133, 148, and 150),
24 any bridge that is owned and operated by an agency that
25 does not have taxing powers and whose functions include

1 operating a federally assisted public transit system sub-
2 sidized by toll revenues shall be eligible for assistance
3 under sections 119, 133, 148, and 150, but the amount
4 of such assistance shall in no event exceed the cumulative
5 amount that the agency has expended for capital and oper-
6 ating costs to subsidize the transit system. Before author-
7 izing an expenditure of funds under this subsection, the
8 Secretary shall determine that the applicant agency has
9 insufficient reserves, surpluses, and projected revenues
10 (over and above those required for bridge and transit cap-
11 ital and operating costs) to fund the necessary bridge re-
12 placement or rehabilitation project. Any non-Federal
13 funds expended for the seismic retrofit of the bridge may
14 be credited toward the non-Federal share required as a
15 condition of receipt of any Federal funds for seismic ret-
16 rofit of the bridge made available after the date of the
17 expenditure.

18 “(j) REPLACEMENT OF DESTROYED BRIDGES AND
19 FERRYBOAT SERVICE.—

20 “(1) GENERAL RULE.—Notwithstanding any
21 other provision of law, a State may utilize any of the
22 funds provided under section 119, 133, or 150 to
23 construct a bridge that—

1 “(A) replaces any low water crossing (re-
2 gardless of the length of such low water cross-
3 ing);

4 “(B) replaces any bridge that was de-
5 stroyed prior to 1965;

6 “(C) replaces any ferry that was in exist-
7 ence on January 1, 1984; or

8 “(D) replaces any road bridges rendered
9 obsolete as a result of Corps of Engineers flood
10 control or channelization projects and not re-
11 built with funds from the Corps of Engineers.

12 “(2) FEDERAL SHARE.—The Federal share
13 payable on any bridge construction carried out under
14 paragraph (1) shall be 80 percent of the cost of such
15 construction.

16 “(k) PROGRAM FOR BRIDGES NOT ON FEDERAL-AID
17 HIGHWAYS.—

18 “(1) CREDIT FOR CERTAIN CONTRIBUTIONS.—
19 Notwithstanding any other provision of law, with re-
20 spect to any project not on a Federal-aid highway
21 for the replacement of a bridge or rehabilitation of
22 a bridge that meets the requirements of paragraph
23 (2), any amount expended after April 2, 1987, from
24 State and local sources for such project in excess of
25 20 percent of the cost of construction of the project

1 may be credited to the non-Federal share of the cost
2 of the projects in the State that are eligible for Fed-
3 eral funds under section 119, 133, 148, or 150.
4 Such crediting shall be in accordance with such pro-
5 cedures as the Secretary may establish.

6 “(2) ELIGIBILITY.—A project meets the re-
7 quirements of this paragraph, if the project—

8 “(A) is wholly funded from State and local
9 sources;

10 “(B) is eligible for Federal funds under
11 section 133;

12 “(C) is noncontroversial;

13 “(D) is certified by the State to have been
14 carried out in accordance with all standards ap-
15 plicable to projects under this section and sec-
16 tion 133; and

17 “(E) is determined by the Secretary upon
18 completion to be no longer a deficient bridge.

19 “(1) ACTIVITIES RELATED TO HISTORIC BRIDGES.—

20 “(1) COORDINATION.—The Secretary, in co-
21 operation with the States and Federal agencies, shall
22 implement the activities described in this section in
23 a manner that encourages the inventory, retention,
24 rehabilitation, adaptive reuse, and future study of
25 historic bridges.

1 “(2) INVENTORY OF BRIDGES FOR HISTORIC
2 SIGNIFICANCE.—The Secretary may, at the request
3 of a State or Federal agency, inventory bridges, on
4 and off Federal-aid highways, for historic signifi-
5 cance.

6 “(3) ELIGIBILITY.—Reasonable costs associated
7 with actions to preserve, or reduce the impact of a
8 project under this chapter on, the historic integrity
9 of historic bridges shall be eligible as reimbursable
10 project costs under section 133 if the load capacity
11 and safety features of the bridge are adequate to
12 serve the intended use for the life of the bridge, ex-
13 cept that in the case of a bridge that is no longer
14 used for motorized vehicular traffic, the costs eligible
15 as reimbursable project costs pursuant to this sub-
16 section shall not exceed the estimated cost of demoli-
17 tion of such bridge.

18 “(4) PRESERVATION.—

19 “(A) IN GENERAL.—Any State or Federal
20 agency that proposes to demolish a historic
21 bridge for a replacement project with funds
22 made available to carry out section 119, 133,
23 148, or 150 shall first make the bridge avail-
24 able for donation to a State, Federal agency, lo-
25 cality, or responsible private entity if such

1 State, Federal agency, locality, or responsible
2 entity enters into an agreement to—

3 “(i) maintain the bridge and the fea-
4 tures that give it its historic significance;
5 and

6 “(ii) assume all future legal and fi-
7 nancial responsibility for the bridge, which
8 may include an agreement to hold the
9 State transportation department or Fed-
10 eral agency harmless in any liability action.

11 “(B) ELIGIBILITY OF COSTS.—Costs in-
12 curred by the State or Federal agency to pre-
13 serve the historic bridge, including funds made
14 available to the State, Federal agency, locality,
15 or private entity to enable it to accept the
16 bridge, shall be eligible as reimbursable project
17 costs under section 119 or 133 up to an
18 amount not to exceed the cost of demolition.
19 Any bridge preserved pursuant to this para-
20 graph shall thereafter not be eligible for any
21 other funds authorized pursuant to this title.

22 “(m) APPLICABILITY OF STATE STANDARDS FOR
23 PROJECTS.—To be eligible to receive assistance under sec-
24 tion 119, 133, or 148, a bridge project not on a Federal-
25 aid highway shall be designed, constructed, operated, and

1 maintained in accordance with State laws, regulations, di-
2 rectives, safety standards, design standards, and construc-
3 tion standards.

4 “(n) ANNUAL MATERIALS REPORT ON NEW BRIDGE
5 CONSTRUCTION AND BRIDGE REHABILITATION.—The
6 Secretary shall publish annually in the Federal Register
7 a report describing construction materials used in new
8 Federal-aid bridge construction and bridge rehabilitation
9 projects.

10 “(o) STATE INSPECTION OF PRIVATELY OWNED OR
11 OPERATED BORDER BRIDGES.—

12 “(1) PRIVATE BORDER BRIDGE INSPECTION
13 AND PUBLIC AVAILABILITY OF INFORMATION.—A
14 State shall inspect, or cause to be inspected, in com-
15 pliance with the national bridge inspection standards
16 established under subsection (c), any private border
17 bridge within its jurisdiction and shall make avail-
18 able to the public the information collected from
19 such inspection.

20 “(2) REPORT.—Each State shall submit an an-
21 nual report to the Secretary containing a certifi-
22 cation that the State has, to the maximum extent
23 practicable, complied with the requirements of para-
24 graph (1).

1 “(3) INABILITY TO VERIFY COMPLIANCE.—If a
2 State is unable, on or before the 90th day following
3 the date on which a private border bridge is required
4 to be inspected under paragraph (1), to verify that
5 the inspection has occurred, the State shall prevent
6 access to the bridge by closing appropriate access
7 roads. The State shall continue to prevent access to
8 the bridge in this manner until such date as the
9 State can confirm, to the satisfaction of the Sec-
10 retary, that an inspection in accordance with para-
11 graph (1) has occurred.

12 “(p) LIMITATION ON STATUTORY CONSTRUCTION.—
13 Nothing in subsection (f) shall be construed to interfere
14 with the authority of the Secretary or the Administrator
15 of the Federal Highway Administration under any other
16 provision of law or regulation to take any other action to
17 ensure compliance by a State or Federal agency with the
18 requirements of the national bridge inspection standards
19 established under subsection (c).

20 “(q) DEFINITIONS.—In this section, the following
21 definitions apply:

22 “(1) FUNCTIONALLY OBSOLETE.—The term
23 ‘functionally obsolete’ means a classification as-
24 signed to a bridge based on an assessment that its
25 load-carrying capacity or existing geometric charac-

1 teristics do not meet current design standards or
2 current demands.

3 “(2) HISTORIC BRIDGE.—The term ‘historic
4 bridge’ means any bridge that is listed on, or eligible
5 for listing on, the National Register of Historic
6 Places.

7 “(3) PRIVATE BORDER BRIDGE.—The term
8 ‘private border bridge’ means a privately con-
9 structed, owned, or operated highway structure that
10 crosses over waterways, other topographical barriers,
11 highways, or railroads that—

12 “(A) is open to the public;

13 “(B) carries vehicular traffic or other mov-
14 ing loads;

15 “(C) is longer than 20 feet;

16 “(D) is directly connected to the National
17 Highway System; and

18 “(E) spans the border between the United
19 States and Canada or Mexico.

20 “(4) PRESERVATION.—The term ‘preservation’
21 has the meaning given that term in section 150

22 “(5) PROTECTION.—The term ‘protection’ has
23 the meaning given that term in section 150.

24 “(6) REHABILITATE.—The term ‘rehabilitate’,
25 in any of its forms, means major work necessary to

1 restore the structural integrity of a bridge and work
2 necessary to correct one or more major safety de-
3 fects.

4 “(7) REPLACEMENT.—The term ‘replacement’,
5 as used with respect to a structurally deficient or
6 functionally obsolete bridge, means a new facility
7 constructed in the same general traffic corridor that
8 meets the geometric, construction, and structural
9 standards, in effect at the time of such construction,
10 required for the types and volume of projected traf-
11 fic of the facility over its design life.

12 “(8) STRUCTURALLY DEFICIENT.—The term
13 ‘structurally deficient’ means a classification as-
14 signed to a bridge that is experiencing a structural
15 concern or inadequacy based on an assessment of in-
16 spection information including condition ratings and
17 structural factors such as load-carrying capacity.”.

18 (b) CLERICAL AMENDMENT.—The analysis for chap-
19 ter 1 is amended by striking the item relating to section
20 144 and inserting the following:

“144. Highway bridge inventories, standards, and inspections.”.

21 (c) PROCESS FOR ASSIGNING RISK-BASED PRIOR-
22 ITIES.—

23 (1) DEADLINE FOR ESTABLISHMENT.—Not
24 later than 18 months after the date of enactment of
25 this Act, the Secretary, in consultation with the

1 States, shall establish a process for assigning risk-
2 based priorities under section 144(b)(3) of title 23,
3 United States Code, as amended by subsection (a).

4 (2) REPORT TO CONGRESS.—Not later than 18
5 months after the date of enactment of this Act, the
6 Secretary shall submit to the Committee on Trans-
7 portation and Infrastructure of the House of Rep-
8 resentatives and the Committee on Environment and
9 Public Works of the Senate a report containing a
10 description of the process for assigning risk-based
11 priorities established under paragraph (1).

12 (3) INDEPENDENT REVIEW.—

13 (A) PARTICIPATION OF NATIONAL ACAD-
14 EMIES.—Not later than 18 months after the
15 date of enactment of this Act, the Secretary
16 shall enter into appropriate arrangements with
17 the National Academies to permit the Acad-
18 emies to conduct an independent review of the
19 process for assigning risk-based priorities estab-
20 lished under paragraph (1).

21 (B) REPORT TO CONGRESS.—Not later
22 than 30 months after the date of enactment of
23 this Act, the National Academies shall submit a
24 report on the results of the review to the Sec-
25 retary, the Committee on Transportation and

1 Infrastructure of the House of Representatives,
2 and the Committee on Environment and Public
3 Works of the Senate.

4 (C) AUTHORIZATION OF APPROPRIA-
5 TIONS.—There is authorized to be appropriated
6 to carry out this paragraph **[\$]** for fiscal year
7 2010. Such sums shall remain available until
8 expended.

9 (d) NATIONAL BRIDGE INVENTORY.—

10 (1) IN GENERAL.—Not later than one year
11 after the date of enactment of this Act, the Sec-
12 retary shall take necessary actions to make informa-
13 tion contained in the national bridge inventory es-
14 tablished under section 144 of title 23, United
15 States Code, more readily available to the public, in-
16 cluding actions to make the information easier to
17 understand.

18 (2) AUTHORIZATION OF APPROPRIATIONS.—
19 There is authorized to be appropriated out of the
20 Highway Trust Fund (other than the Mass Transit
21 Account) to carry out this subsection **[\$]** for fiscal
22 year 2010.

23 (3) APPLICABILITY OF CHAPTER 1 OF TITLE 23,
24 UNITED STATES CODE.—Funds made available to
25 carry out this subsection shall be available for obli-

1 gation and administered in the same manner as if
2 such funds were apportioned under chapter 1 of title
3 23, United States Code, except that such funds shall
4 remain available until expended.

5 (e) NATIONAL BRIDGE INSPECTION PROGRAM.—

6 (1) REGULATIONS ON CRITICAL FINDINGS OF
7 BRIDGE DEFICIENCIES.—

8 (A) IN GENERAL.—Not later than 2 years
9 after the date of enactment of this Act, the Sec-
10 retary shall issue regulations establishing proce-
11 dures to be used by States and Federal agen-
12 cies in reporting critical findings of bridge defi-
13 ciencies, and subsequent monitoring activities
14 and corrective actions, to the Secretary in ac-
15 cordance with the standards to be established
16 under section 144(c)(2)(G) of title 23, United
17 States Code, as added by subsection (a).

18 (B) CONTENTS.—Regulations to be issued
19 under subparagraph (A) shall—

20 (i) establish a uniform definition of
21 the term “critical finding”;

22 (ii) establish deadlines for State and
23 Federal agency reporting of critical finding
24 determinations to the Secretary;

1 (iii) establish requirements for moni-
2 toring and follow-up actions and reporting
3 following a critical finding determination;
4 and

5 (iv) provide for enhanced training of
6 bridge inspectors relating to critical find-
7 ings.

8 (2) QUALIFICATIONS OF PROGRAM MANAGERS
9 AND TEAM LEADERS.—

10 (A) REVISION OF REGULATIONS.—Not
11 later than one year after the date of enactment
12 of this Act, the Secretary shall revise regula-
13 tions contained in section 650.309 of title 23,
14 Code of Federal Regulations, relating to the
15 qualifications of highway bridge inspection per-
16 sonnel, to require that, in addition to meeting
17 the qualifications identified in that section (as
18 in effect on the date of enactment of this
19 Act)—

20 (i) an individual serving as the pro-
21 gram manager for a State or Federal
22 agency be a professional engineer;

23 (ii) an individual serving as a team
24 leader for a State or Federal agency for
25 the inspection of complex bridges or follow-

1 up inspections of bridges for which there
2 has been a critical finding be a licensed
3 professional engineer and have at least 5
4 years of bridge inspection experience; and
5 (iii) an individual serving as a team
6 leader for a State or Federal Agency for
7 the inspection of all other bridges be a li-
8 censed professional engineer or have at
9 least 5 years of bridge inspection experi-
10 ence.

11 (B) APPLICABILITY.—The additional quali-
12 fication requirements specified in subparagraph
13 (A) shall apply only to an individual selected by
14 a State or Federal agency to serve as the pro-
15 gram manager or a team leader after the date
16 of issuance of revised regulations under sub-
17 paragraph (A).

18 (C) COMPLEX BRIDGE DEFINED.—In this
19 paragraph, the term “complex bridge” means a
20 highway bridge with unusual characteristics, in-
21 cluding movable, suspension, and cable-stayed
22 highway bridges.

23 (3) EFFECTIVE DATE.—Not later than one year
24 after the date of enactment of this Act, the Sec-
25 retary shall modify national bridge inspection stand-

1 ards and modify the training program for bridge in-
2 spectors in accordance with the amendments made
3 by this section.

4 (4) REPORTS ON CRITICAL FINDINGS.—

5 (A) REPORT TO THE SECRETARY.—Not
6 later than 15 days after the date on which a
7 critical finding determination is made by a
8 State or Federal agency that results in the clo-
9 sure of a bridge on the National Highway Sys-
10 tem, the State shall submit a report to the Sec-
11 retary on the impact, including the economic
12 impact, on regional transportation and transit
13 that will result from such bridge closure and
14 recommend solutions to mitigate the impact.

15 (B) REPORT TO CONGRESS.—Not later
16 than 15 days after the date of receipt of a re-
17 port described in subparagraph (A), the Sec-
18 retary shall forward the report to the appro-
19 priate Committees of Congress.

20 (f) REGULATIONS ON BRIDGE MANAGEMENT SYS-
21 TEM.—Not later than 2 years after the date of enactment
22 of this Act, the Secretary shall issue revised regulations
23 to require the bridge management system required under
24 section 144(f)(4) of title 23, United States Code (as
25 amended by this Act), to support risk-based prioritization

1 of the replacement and rehabilitation of deficient bridges,
2 based on a consideration of safety, serviceability, and es-
3 sentiality for public use and public safety, including the
4 potential impacts to emergency evacuation routes and to
5 regional and national freight and passenger mobility if the
6 serviceability of the bridge is restricted or diminished.

7 (g) STUDY OF EFFECTIVENESS OF BRIDGE RATING
8 SYSTEM.—

9 (1) STUDY.—The Comptroller General shall
10 conduct a study of the effectiveness of the bridge
11 rating system of the Federal Highway Administra-
12 tion, including the use of the terms “structurally de-
13 ficient” and “functionally obsolete” to describe the
14 condition of highway bridges in the United States.

15 (2) EVALUATION OF STATE AND FEDERAL SYS-
16 TEMS.—In conducting the study, the Comptroller
17 General shall evaluate bridge rating systems used by
18 State transportation departments and Federal agen-
19 cies and provide recommendations on how successful
20 aspects of such bridge rating systems may be incor-
21 porated into the bridge rating system of the Federal
22 Highway Administration.

23 (3) REPORT.—Not later than one year after the
24 date of enactment of this Act, the Comptroller Gen-
25 eral shall submit to the Committee on Transpor-

1 tation and Infrastructure of the House of Represent-
2 atives and the Committee on the Environment and
3 Public Works of the Senate a report on the results
4 of the study.

5 **SEC. 1513. NATIONAL TUNNEL INSPECTION PROGRAM.**

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

8 **“§ 151. National tunnel inspection program**

9 “(a) NATIONAL TUNNEL INSPECTION STANDARDS.—
10 Not later than 2 years after the date of enactment of the
11 Surface Transportation Authorization Act of 2009, the
12 Secretary, in consultation with State transportation de-
13 partments, Federal agencies, and interested and knowl-
14 edgeable private organizations and individuals, shall estab-
15 lish national tunnel inspection standards for the proper
16 safety inspection and evaluation of all highway tunnels.
17 The standards established under this subsection shall be
18 designed to ensure uniformity among the States in the
19 conduct of such inspections and evaluations.

20 “(b) MINIMUM REQUIREMENTS FOR INSPECTION
21 STANDARDS.—The standards established under sub-
22 section (a) shall, at a minimum—

23 “(1) specify the method by which highway tun-
24 nel inspections shall carried out by the States and
25 Federal agencies;

1 “(2) establish the maximum time period be-
2 tween the inspections using a risk-management ap-
3 proach, based on factors such as condition, structure
4 type and complexity, and age of the structure, that
5 combines different levels of inspection intensity and
6 scope with clear standards for inspector education,
7 training, and qualification to achieve effective in-
8 spections, improvement in the quality of inspections,
9 and efficient resource utilization;

10 “(3) establish the qualifications for those
11 charged with carrying out the inspections;

12 “(4) require each State and each Federal agen-
13 cy with jurisdiction over highway tunnels to main-
14 tain and make available to the Secretary upon re-
15 quest—

16 “(A) written reports on the results of the
17 inspections, together with notations of any ac-
18 tion taken pursuant to the findings of the in-
19 spections; and

20 “(B) current inventory data for all high-
21 way tunnels located in the State or under the
22 jurisdiction of the Federal agency reflecting the
23 findings of the most recent highway tunnel in-
24 spections conducted;

1 “(5) establish procedures for the Secretary to
2 conduct reviews of State and Federal agency compli-
3 ance with the standards established under this sub-
4 section; and

5 “(6) establish procedures for conducting annual
6 compliance reviews of State inspections and State
7 implementation of quality control and quality assur-
8 ance procedures.

9 “(c) TRAINING AND CERTIFICATION PROGRAM FOR
10 TUNNEL INSPECTORS.—

11 “(1) IN GENERAL.—The Secretary, in coopera-
12 tion with State transportation departments and Fed-
13 eral agencies, shall establish a program designed to
14 ensure that all individuals carrying out highway tun-
15 nel inspections receive appropriate training and cer-
16 tification.

17 “(2) REVISIONS.—The Secretary shall revise
18 the program from time to time to take into account
19 new and improved techniques.

20 “(3) SCOPE.—The Secretary shall expand the
21 scope of the training program as necessary to ensure
22 that all persons conducting highway tunnel inspec-
23 tions receive appropriate training and certification
24 under the program.

25 “(d) REQUIREMENTS FOR FEDERAL APPROVALS.—

1 “(1) IN GENERAL.—Beginning 2 years after the
2 date of the establishment of standards under sub-
3 section (a), the Secretary shall not approve the obli-
4 gation of funds for a tunnel project to be carried out
5 by a State or Federal agency under section 119,
6 133, 148, 150, or 204 unless such State or Federal
7 agency is complying with the requirements of the na-
8 tional tunnel inspection standards established under
9 subsection (a).

10 “(2) LIMITATION ON STATUTORY CONSTRU-
11 TION.—Nothing in this subsection shall be construed
12 to interfere with the authority of the Secretary or
13 the Administrator of the Federal Highway Adminis-
14 tration under any other provision of law or regula-
15 tion to take any other action to ensure compliance
16 by a State or Federal agency with the requirements
17 of the national tunnel inspection standards estab-
18 lished under subsection (a).

19 “(e) NATIONAL TUNNEL INVENTORY.—The Sec-
20 retary shall establish a national inventory of highway tun-
21 nels reflecting the findings of the most recent highway
22 tunnel inspections conducted by States under this section.

23 “(f) AVAILABILITY OF FUNDS.—To carry out this
24 section, the Secretary may use funds made available under
25 section 104(a).”.

1 (b) CLERICAL AMENDMENT.—The analysis for chap-
2 ter 1 is amended by striking the item relating to section
3 151 and inserting the following:

“151. National tunnel inspection program.”.

4 **SEC. 1514. SAFETY PROVISIONS.**

5 (a) USE OF SAFETY BELTS.—

6 (1) IN GENERAL.—Section 153 is amended to
7 read as follows:

8 **“§ 153. Use of seat belts**

9 “(a) SEAT BELT LAWS.—A State meets the require-
10 ments of this subsection if the State has enacted and is
11 enforcing a law that makes unlawful throughout the State
12 the operation of a passenger motor vehicle (as defined in
13 section 157) whenever an individual in a front seat of the
14 vehicle (other than a child who is secured in a child re-
15 straint system) does not have a seat belt (as defined in
16 section 157) properly fastened about the individual’s body.

17 “(b) PENALTY.—

18 “(1) TRANSFER OF FUNDS.—If, at any time in
19 a fiscal year beginning after September 30, 1994, a
20 State does not meet the requirements of subsection
21 (a), the Secretary shall transfer 3 percent of the
22 funds apportioned to the State for the succeeding
23 fiscal year under each of sections 104(b)(1),
24 104(b)(3), and 104(b)(4) to the apportionment of
25 the State under section 402.

1 “(2) FEDERAL SHARE.—The Federal share of
2 the cost of any project carried out with funds trans-
3 ferred under paragraph (1) shall be 100 percent.

4 “(3) TRANSFER OF OBLIGATION AUTHORITY.—

5 “(A) IN GENERAL.—If the Secretary trans-
6 fers under paragraph (1) any funds to the ap-
7 portionment of a State under section 402 for a
8 fiscal year, the Secretary shall allocate an
9 amount, determined under subparagraph (B),
10 of obligation authority distributed for such fis-
11 cal year to the State for Federal-aid highways
12 and highway safety construction programs for
13 carrying out projects under section 402.

14 “(B) AMOUNT.—The amount of obligation
15 authority referred to in subparagraph (A) shall
16 be determined by multiplying—

17 “(i) the amount of funds transferred
18 under paragraph (1), by

19 “(ii) the ratio that—

20 “(I) the amount of obligation au-
21 thority distributed for the fiscal year
22 to the State for Federal-aid highways
23 and highway safety construction pro-
24 grams, bears to

1 “(II) the total of the sums appor-
2 tioned to the State for Federal-aid
3 highways and highway safety con-
4 struction programs (excluding sums
5 not subject to any obligation limita-
6 tion) for the fiscal year.

7 “(4) LIMITATION ON APPLICABILITY OF HIGH-
8 WAY SAFETY OBLIGATIONS.—Notwithstanding any
9 other provision of law, no limitation on the total of
10 obligations for highway safety programs under sec-
11 tion 402 shall apply to funds transferred under
12 paragraph (1).”.

13 (2) CLERICAL AMENDMENT.—The analysis for
14 chapter 1 is amended by striking the item relating
15 to section 153 and inserting the following:

“153. Use of safety belts.”.

16 (3) CONFORMING AMENDMENT.—Section 355
17 of the National Highway System Designation Act of
18 1995 (109 Stat. 624), and the item relating to that
19 section in the table of contents contained in section
20 1(b) of that Act, are repealed.

21 (b) OPEN CONTAINER REQUIREMENTS.—Section
22 154(c) is amended—

23 (1) by striking paragraph (3) and redesignating
24 paragraphs (4), (5), (6), and (7) as paragraphs (3),
25 (4), (5), and (6), respectively; and

1 (2) in paragraph (3) (as redesignated by para-
2 graph (1) of this subsection) by striking “, or used
3 under paragraph (3),”.

4 (c) REVOCATION OR SUSPENSION OF DRIVERS’ LI-
5 CENSES OF INDIVIDUALS CONVICTED OF DRUG OF-
6 FENSES.—

7 (1) WITHHOLDING OF APPORTIONMENTS FOR
8 NONCOMPLIANCE.—Section 159(a) is amended—

9 (A) by redesignating paragraph (3) as
10 paragraph (4); and

11 (B) by inserting after paragraph (2) the
12 following:

13 “(3) BEGINNING IN FISCAL YEAR 2010.—The
14 Secretary shall withhold 10 percent (including any
15 amounts withheld under paragraphs (1) or (2)) of
16 the amount required to be apportioned to any State
17 under each of paragraphs (1), (3), and (4) of sec-
18 tions 104(b) on the first day of each fiscal year fol-
19 lowing the date of enactment of the Surface Trans-
20 portation Authorization Act of 2009 if the State
21 does not meet the requirements of paragraph (4) on
22 the first day of such fiscal year.”.

23 (2) CONFORMING AMENDMENTS.—Section 159
24 is amended—

1 (A) in subsections (a)(1) and (a)(2) by
2 striking “paragraph (3)” and inserting “para-
3 graph (4)”; and

4 (B) in subsection (b) by striking “sub-
5 section (a)(3)” each place it appears and insert-
6 ing “subsection (a)(4)”.

7 (d) PREVENTION OF OPERATION OF MOTOR VEHI-
8 CLES BY INTOXICATED PERSONS.—

9 (1) IN GENERAL.—Section 163 is amended—

10 (A) by striking the section designation and
11 all that follows through subsection (a) and in-
12 serting the following:

13 **“§ 163. Prevention of operation of motor vehicles by**
14 **intoxicated persons**

15 “(a) STATE DUI LAWS.—A State meets the require-
16 ments of the section if the State has enacted and is enforce-
17 ing a law that provides that any person with a blood alco-
18 hol concentration of 0.08 percent or greater while oper-
19 ating a motor vehicle in the State shall be deemed to have
20 committed a per se offense of driving while intoxicated (or
21 an equivalent per se offense).”;

22 (B) by striking subsections (b), (c), (d),
23 and (f) and redesignating subsection (e) as sub-
24 section (b); and

1 (C) in subsection (b)(1) (as redesignated
2 by subparagraph (B) of this paragraph) by
3 striking “has not enacted or is not enforcing a
4 law described in subsection (a)” and inserting
5 “does not meet the requirements of subsection
6 (a)”.

7 (2) CLERICAL AMENDMENT.—The analysis for
8 chapter 1 is amended by striking the item relating
9 to section 163 and inserting the following:

“163. Prevention of operation of motor vehicles by intoxicated persons.”.

10 (e) MINIMUM PENALTIES FOR REPEAT OFFENDERS
11 FOR DRIVING WHILE INTOXICATED OR DRIVING UNDER
12 THE INFLUENCE.—Section 164(b) is amended—

13 (1) by striking paragraph (3) and redesignating
14 paragraphs (4), (5), (6), and (7) as paragraphs (3),
15 (4), (5), and (6), respectively; and

16 (2) in paragraph (3) (as redesignated by para-
17 graph (1) of this subsection) by striking “, or used
18 under paragraph (3),”.

19 **SEC. 1515. HOV FACILITIES.**

20 (a) LOW OCCUPANCY VEHICLES.—Section 166(b)(4)
21 is amended by striking the paragraph heading and insert-
22 ing the following: “LOW OCCUPANCY VEHICLES.—”.

23 (b) LOW EMISSION AND ENERGY EFFICIENT VEHI-
24 CLES.—Section 166(b)(5) is amended—

1 (1) in subparagraph (A) by striking “2009”
2 and inserting “2015”; and

3 (2) in subparagraph (B) by striking “2009”
4 and inserting “2015”.

5 (c) REQUIREMENTS APPLICABLE TO TOLLS.—Sec-
6 tion 166(c) is amended to read as follows:

7 “(c) REQUIREMENTS APPLICABLE TO TOLLS.—Tolls
8 may be charged under paragraphs (4) and (5) of sub-
9 section (b) notwithstanding section 301 and subject to the
10 requirements of section 129.”.

11 (d) HOV FACILITY MANAGEMENT, OPERATION,
12 MONITORING, AND ENFORCEMENT.—

13 (1) IN GENERAL.—Section 166(d)(1) is amend-
14 ed to read as follows:

15 “(1) IN GENERAL.—A State agency that allows
16 vehicles to use a HOV facility under paragraph (4)
17 or (5) of subsection (b) in a fiscal year shall take
18 the following actions:

19 “(A) The State agency shall submit to the
20 Secretary a report demonstrating that the oper-
21 ation of the facility is not degraded and the
22 presence of such vehicles will not cause the op-
23 eration of the facility to become degraded.

24 “(B) The State agency shall certify to the
25 Secretary that the agency will carry out the fol-

1 lowing responsibilities with respect to the facil-
2 ity in the fiscal year:

3 “(i) Establishing, managing, and sup-
4 porting a performance monitoring, evalua-
5 tion, and reporting program for the facility
6 that provides for continuous monitoring,
7 assessment, and reporting on the impacts
8 that such vehicles may have on the oper-
9 ation of the facility and adjacent highways.

10 “(ii) Establishing, managing, and sup-
11 porting an enforcement program that en-
12 sures that the facility is being operated in
13 accordance with the requirements of this
14 section.

15 “(iii) Limiting or discontinuing the
16 use of the facility by the vehicles whenever
17 the operation of the facility is degraded.”.

18 (2) QUARTERLY REPORTS; TRANSFERS OF
19 FUNDS.—Section 166(d) is amended by adding at
20 the end the following:

21 “(3) QUARTERLY REPORTS.—A State agency
22 that allows vehicles to use a HOV facility under
23 paragraph (4) or (5) of subsection (b) in a fiscal
24 year shall submit to the Secretary during the fiscal
25 year quarterly reports on the impacts that such vehi-

1 cles are having on the operation of the facility and
2 an assessment of whether the presence of such vehi-
3 cles is causing the operation of the facility to be de-
4 graded.

5 “(4) TRANSFERS OF FUNDS.—

6 “(A) IN GENERAL.—If a quarterly report
7 submitted by a State agency under paragraph
8 (3) shows that the operation of a HOV facility
9 is degraded as a result of the presence of vehi-
10 cles allowed to use the facility under subsection
11 (b)(4) or (b)(5), or if a State agency fails to
12 submit a quarterly report as required under
13 paragraph (3), the Secretary shall for each fa-
14 cility shown to be degraded in the report, or for
15 which the State fails to submit the report,
16 transfer an amount equal to $\frac{1}{2}$ of one percent
17 of the funds to be apportioned to the State
18 under section 104(b)(3) for the following fiscal
19 year to the State’s apportionment under section
20 104(b)(2) for that fiscal year.

21 “(B) TRANSFER OF OBLIGATION AUTHOR-
22 ITY.—

23 “(i) IN GENERAL.—If the Secretary
24 transfers under subparagraph (A) for a fis-
25 cal year funds to the apportionment of a

1 State under section 104(b)(2), the Sec-
2 retary shall set aside an amount of the
3 State's obligation authority for that fiscal
4 year, determined under clause (ii), to be
5 used only for projects eligible for assist-
6 ance under section 149.

7 “(ii) AMOUNT.—The amount of obli-
8 gation authority referred to in clause (i)
9 shall be determined by multiplying—

10 “(I) the amount of funds trans-
11 ferred under subparagraph (A) to the
12 State's apportionment under section
13 104(b)(2) for the fiscal year, by

14 “(II) the ratio that—

15 “(aa) the amount of obliga-
16 tion authority distributed for the
17 fiscal year to the State for Fed-
18 eral-aid highways and highway
19 safety construction programs,
20 bears to

21 “(bb) the total of the sums
22 apportioned to the State for Fed-
23 eral-aid highways and highway
24 safety construction programs (ex-
25 cluding sums not subject to any

1 obligation limitation) for the fis-
2 cal year.

3 “(C) SPECIAL RULE.—If a State does not
4 have a nonattainment or maintenance area de-
5 scribed in section 149, instead of transferring
6 funds under subparagraph (A), the State shall
7 use the funds that would otherwise be subject
8 to the transfer only for projects eligible for as-
9 sistance under paragraphs (2) through (14) of
10 section 133(b).”.

11 (e) LOW EMISSION AND ENERGY-EFFICIENT VEHI-
12 CLE.—Section 166(f)(3)(B) is amended to read as follows:

13 “(B)(i) is certified by the Administrator of
14 the Environmental Protection Agency, in con-
15 sultation with the manufacturer, to have
16 achieved [to be supplied]—”.

17 **SEC. 1516. ENFORCEMENT OF PRIMARY SEAT BELT LAWS.**

18 (a) IN GENERAL.—Section 157 is amended to read
19 as follows:

20 **“§ 157. Enforcement of primary seat belt laws**

21 “(a) PRIMARY SEAT BELT LAWS.—A State meets the
22 requirements of this subsection if the State has enacted
23 and is enforcing a primary seat belt law.

24 “(b) PRIMARY SEAT BELT LAW DEFINED.—In this
25 section, the term ‘primary seat belt law’ means a law that

1 allows a law enforcement officer to stop or ticket a driver
2 or any front seat occupant of a passenger vehicle (other
3 than a child who is secured in a child restraint system)
4 for not wearing a seat belt, regardless of whether any
5 other traffic offense has taken place.

6 “(c) WITHHOLDING OF FUNDS FOR NONCOMPLI-
7 ANCE.—

8 “(1) FISCAL YEAR 2013.—On October 1, 2012,
9 the Secretary shall withhold 2 percent of the amount
10 required to be apportioned to a State under each of
11 sections 104(b)(1), 104(b)(3), and 104(b)(4) if the
12 State does not meet the requirements of subsection
13 (a).

14 “(2) FISCAL YEAR 2014.—On October 1, 2013,
15 the Secretary shall withhold 4 percent of the amount
16 required to be apportioned to a State under each of
17 sections 104(b)(1), 104(b)(3), and 104(b)(4) if the
18 State does not meet the requirements of subsection
19 (a).

20 “(3) FISCAL YEAR 2015.—On October 1, 2014,
21 the Secretary shall withhold 6 percent of the amount
22 required to be apportioned to a State under each of
23 sections 104(b)(1), 104(b)(3), and 104(b)(4) if the
24 State does not meet the requirements of subsection
25 (a).

1 “(4) THEREAFTER.—On October 1, 2015, and
2 on October 1 of each fiscal year thereafter, the Sec-
3 retary shall withhold 8 percent of the amount re-
4 quired to be apportioned to a State under each of
5 sections 104(b)(1), 104(b)(3), and 104(b)(4) if the
6 State does not meet the requirements of subsection
7 (a).

8 “(d) PERIOD OF AVAILABILITY OF WITHHELD
9 FUNDS; EFFECT OF COMPLIANCE AND NONCOMPLI-
10 ANCE.—

11 “(1) PERIOD OF AVAILABILITY OF WITHHELD
12 FUNDS.—Any funds withheld under subsection (c)
13 from apportionment to a State shall remain available
14 for apportionment to the State until the end of the
15 third fiscal year following the fiscal year for which
16 such funds are authorized to be appropriated.

17 “(2) APPORTIONMENT OF WITHHELD FUNDS
18 AFTER COMPLIANCE.—If, before the last day of the
19 period for which funds withheld under subsection (c)
20 from apportionment are to remain available for ap-
21 portionment to a State under paragraph (1), the
22 State meets the requirements of subsection (a), the
23 Secretary shall, on the first day on which the State
24 meets the requirements of subsection (a), apportion
25 to the State the funds withheld under subsection (c)

1 that remain available for apportionment to the
2 State.

3 “(3) PERIOD OF AVAILABILITY OF SUBSE-
4 QUENTLY APPORTIONED FUNDS.—Any funds appor-
5 tioned pursuant to paragraph (2) shall remain avail-
6 able for expenditure until the end of the third fiscal
7 year following the fiscal year in which the funds are
8 so apportioned. Sums not obligated at the end of
9 that period shall lapse.

10 “(4) EFFECT OF NONCOMPLIANCE.—If, at the
11 end of the period for which funds withheld under
12 subsection (c) from apportionment are available for
13 apportionment to a State under paragraph (1), the
14 State does not meet the requirements of subsection
15 (a), the funds shall lapse.

16 “(e) DEFINITIONS.—In this section, the following
17 definitions apply:

18 “(1) MOTOR VEHICLE.—The term ‘motor vehi-
19 cle’ means a vehicle driven or drawn by mechanical
20 power and manufactured primarily for use on public
21 highways, but does not include a vehicle operated
22 solely on a rail line.

23 “(2) MULTIPURPOSE PASSENGER MOTOR VEHI-
24 CLE.—The term ‘multipurpose passenger motor ve-
25 hicle’ means a motor vehicle with motive power (ex-

1 cept a trailer), designed to carry not more than 10
2 individuals, that is constructed on a truck chassis or
3 is constructed with special features for occasional
4 off-road operation.

5 “(3) PASSENGER CAR.—The term ‘passenger
6 car’ means a motor vehicle with motive power (ex-
7 cept a multipurpose passenger motor vehicle, motor-
8 cycle, or trailer) designed to carry not more than 10
9 individuals.

10 “(4) PASSENGER MOTOR VEHICLE.—The term
11 ‘passenger motor vehicle’ means a passenger car or
12 a multipurpose passenger motor vehicle.

13 “(5) SEAT BELT.—The term ‘seat belt’
14 means—

15 “(A) with respect to an open-body pas-
16 senger motor vehicle, including a convertible, an
17 occupant restraint system consisting of a lap
18 belt or a lap belt and a detachable shoulder
19 belt; and

20 “(B) with respect to any other passenger
21 motor vehicle, an occupant restraint system
22 consisting of integrated lap and shoulder
23 belts.”.

1 **SEC. 1517. USE OF IGNITION INTERLOCK DEVICES TO PRE-**
2 **VENT REPEAT INTOXICATED DRIVING.**

3 (a) FINDINGS.—Congress finds the following:

4 (1) Alcohol-impaired driving fatalities represent
5 approximately one-third of all highway fatalities in a
6 given year.

7 (2) In 2007, 12,998 alcohol-impaired driving
8 fatalities occurred.

9 (3) An individual convicted of an alcohol-im-
10 paired driving offense who has an ignition interlock
11 device installed on the individual's motor vehicle is
12 60 percent less likely to recidivate than if the indi-
13 vidual did not have the device.

14 (4) An ignition interlock device allows an indi-
15 vidual convicted of an alcohol-impaired driving of-
16 fense to have access to work, school, and alcohol re-
17 habilitation programs, without endangering the indi-
18 vidual or others.

19 (b) STATE LAWS TO PREVENT REPEAT INTOXI-
20 CATED DRIVING.—Chapter 1 is amended by adding at the
21 end the following:

22 **“§ 167. Use of ignition interlock devices to prevent re-**
23 **peat intoxicated driving**

24 **“(a) LAWS REQUIRING IGNITION INTERLOCK DE-**
25 **VICES.**—A State meets the requirements of this subsection
26 if the State has enacted and is enforcing a law that re-

1 quires throughout the State the installation of an ignition
2 interlock device for a minimum of 6 months on each motor
3 vehicle operated by an individual who is convicted of driv-
4 ing while intoxicated or driving under the influence.

5 “(b) WITHHOLDING OF FUNDS FOR NONCOMPLI-
6 ANCE.—

7 “(1) FISCAL YEAR 2013.—On October 1, 2012,
8 the Secretary shall withhold one percent of the
9 amount required to be apportioned to a State under
10 each of sections 104(b)(1), 104(b)(3), and 104(b)(4)
11 if the State does not meet the requirements of sub-
12 section (a).

13 “(2) FISCAL YEAR 2014.—On October 1, 2013,
14 the Secretary shall withhold 3 percent of the amount
15 required to be apportioned to a State under each of
16 sections 104(b)(1), 104(b)(3), and 104(b)(4) if the
17 State does not meet the requirements of subsection
18 (a).

19 “(3) THEREAFTER.—On October 1, 2014, and
20 on October 1 of each fiscal year thereafter, the Sec-
21 retary shall withhold 5 percent of the amount re-
22 quired to be apportioned to a State under each of
23 sections 104(b)(1), 104(b)(3), and 104(b)(4) if the
24 State does not meet the requirements of subsection
25 (a).

1 “(c) PERIOD OF AVAILABILITY OF WITHHELD
2 FUNDS; EFFECT OF COMPLIANCE AND NONCOMPLI-
3 ANCE.—

4 “(1) PERIOD OF AVAILABILITY OF WITHHELD
5 FUNDS.—Any funds withheld under subsection (b)
6 from apportionment to a State shall remain available
7 for apportionment to the State until the end of the
8 third fiscal year following the fiscal year for which
9 such funds are authorized to be appropriated.

10 “(2) APPORTIONMENT OF WITHHELD FUNDS
11 AFTER COMPLIANCE.—If, before the last day of the
12 period for which funds withheld under subsection (b)
13 from apportionment are to remain available for ap-
14 portionment to a State under paragraph (1), the
15 State meets the requirements of subsection (a), the
16 Secretary shall, on the first day on which the State
17 meets the requirements of subsection (a), apportion
18 to the State the funds withheld under subsection (b)
19 that remain available for apportionment to the
20 State.

21 “(3) PERIOD OF AVAILABILITY OF SUBSE-
22 QUENTLY APPORTIONED FUNDS.—Any funds appor-
23 tioned pursuant to paragraph (2) shall remain avail-
24 able for expenditure until the end of the third fiscal
25 year following the fiscal year in which the funds are

1 so apportioned. Sums not obligated at the end of
2 that period shall lapse.

3 “(4) EFFECT OF NONCOMPLIANCE.—If, at the
4 end of the period for which funds withheld under
5 subsection (b) from apportionment are available for
6 apportionment to a State under paragraph (1), the
7 State does not meet the requirements of subsection
8 (a), the funds shall lapse.

9 “(d) DEFINITIONS.—In this section, the following
10 definitions apply:

11 “(1) ALCOHOL CONCENTRATION.—The term
12 ‘alcohol concentration’ means grams of alcohol per
13 100 milliliters of blood or grams of alcohol per 210
14 liters of breath.

15 “(2) DRIVING WHILE INTOXICATED; DRIVING
16 UNDER THE INFLUENCE.—The terms ‘driving while
17 intoxicated’ and ‘driving under the influence’ mean
18 driving or being in actual physical control of a motor
19 vehicle in a State while having an alcohol concentra-
20 tion above the permitted limit as established by the
21 State.

22 “(3) IGNITION INTERLOCK DEVICE.—The term
23 ‘ignition interlock device’ means an in-vehicle device
24 that requires a driver to provide a breath sample
25 prior to the motor vehicle starting, and that prevents

1 a motor vehicle from starting if the driver's alcohol
2 concentration is above the legal limit.

3 “(4) MOTOR VEHICLE.—The term ‘motor vehi-
4 cle’ means a vehicle driven or drawn by mechanical
5 power and manufactured primarily for use on public
6 highways, but does not include a vehicle operated
7 solely on a rail line or a commercial vehicle.”.

8 (c) CLERICAL AMENDMENT.—The analysis for chap-
9 ter 1 is amended by adding at the end the following:

“Sec. 167. Use of ignition interlock devices to prevent repeat intoxicated driv-
ing.”.

10 **SEC. 1518. BUY AMERICA.**

11 Section 313 is amended by adding at the end the fol-
12 lowing:

13 “(g) APPLICATION TO BRIDGE PROJECTS.—When-
14 ever this section applies to the construction of any bridge
15 project, the requirements of this section shall apply to all
16 construction contracts carried out within the scope of the
17 applicable decision under the National Environmental Pol-
18 icy Act of 1969 (42 U.S.C. 4321 et seq.) and carried out
19 on the bridge from abutment to abutment (including the
20 abutments) regardless of the funding source of such con-
21 tracts if at least one contract for construction with respect
22 to the bridge is funded with amounts made available under
23 this title.”.

1 **SEC. 1519. WORKFORCE DEVELOPMENT.**

2 **【to be supplied】**

3 **SEC. 1520. ROADWAY, BICYCLE AND PEDESTRIAN, WORK**
4 **ZONE, AND HIGHWAY-RAIL GRADE CROSSING**
5 **SAFETY.**

6 (a) **IN GENERAL.**—The Secretary shall make grants
7 for activities to improve roadway, bicycle and pedestrian,
8 work zone, and highway-rail grade crossing safety in ac-
9 cordance with this section.

10 (b) **ROADWAY SAFETY GRANTS.**—The Secretary may
11 make grants under this section to a national nonprofit or-
12 ganization engaged in promoting public road safety for the
13 following purposes:

14 (1) Improving the quality of data pertaining to
15 public road hazards and design features that in-
16 crease the severity of or otherwise affect motor vehi-
17 cle crashes.

18 (2) Developing and implementing a public
19 awareness campaign to educate State and local
20 transportation officials, public safety officials, and
21 motorists regarding the extent to which public road
22 hazards and design features are a factor in motor
23 vehicle crashes.

24 (3) Conducting or promoting public road safety
25 research and technology transfer activities.

1 (c) BICYCLE AND PEDESTRIAN SAFETY GRANTS.—

2 The Secretary may make grants under this section to a
3 national nonprofit organization engaged in promoting bi-
4 cycle and pedestrian safety for the following purposes:

5 (1) Operating a national bicycle and pedestrian
6 safety information clearinghouse.

7 (2) Developing information and educational
8 programs relating to bicycle and pedestrian safety.

9 (3) Disseminating techniques and strategies for
10 improving bicycle and pedestrian safety.

11 (d) WORK ZONE SAFETY GRANTS.—The Secretary
12 may make grants under this section to a national non-
13 profit organization for the following purposes:

14 (1) Training construction craft workers on the
15 prevention of injuries and fatalities in highway and
16 road construction.

17 (2) Developing guidelines for the prevention of
18 highway work zone injuries and fatalities.

19 (3) Training State and local government trans-
20 portation agencies and other groups implementing
21 guidelines for the prevention of highway work zone
22 injuries and fatalities.

23 (e) WORK ZONE SAFETY INFORMATION CLEARING-
24 HOUSE GRANTS.—The Secretary may make grants under
25 this section to a national nonprofit organization for the

1 operation of the National Work Zone Safety Information
2 Clearinghouse created for the purpose of assembling and
3 disseminating, by electronic and other means, information
4 relating to improvement of roadway work zone safety.

5 (f) HIGHWAY-RAIL GRADE CROSSING SAFETY
6 GRANTS.—The Secretary may make grants under this sec-
7 tion to a national nonprofit organization for educational
8 activities to prevent collisions, injuries, and fatalities at
9 highway-rail grade crossings by increasing driver and pe-
10 destrian awareness of safety hazards with respect to such
11 crossings.

12 (g) FUNDING.—

13 (1) IN GENERAL.—Before making an apportion-
14 ment under section 104(b)(5) of title 23, United
15 States Code, for each of fiscal years 2010 through
16 2015, the Secretary shall set aside from amounts
17 made available to carry out the highway safety im-
18 provement program under section 148 of such title
19 for such fiscal year **[\$]** to carry out this section.

20 (2) APPLICABILITY OF CHAPTER 1 OF TITLE
21 23.—Funds made available to carry out this section
22 shall be available for obligation and administered in
23 the same manner as if such funds were apportioned
24 under chapter 1 of title 23, United States Code, ex-

1 cept that the Federal share of the cost of activities
2 carried out using such funds shall be 100 percent.

3 **SEC. 1521. BUDGET JUSTIFICATION.**

4 (a) IN GENERAL.—Subchapter I of chapter 3 of title
5 49, United States Code, is amended by adding at the end
6 the following:

7 **“§ 310. Budget justification**

8 “The Secretary of Transportation and the head of
9 each agency in the Department shall submit to the Com-
10 mittee on Transportation and Infrastructure of the House
11 of Representatives and the Committees on Environment
12 and Public Works and on Banking, Housing, and Urban
13 Affairs of the Senate a budget justification concurrently
14 with the President’s annual budget submission to Con-
15 gress under section 1105(a) of title 31.”.

16 (b) CLERICAL AMENDMENT.—The analysis for such
17 subchapter is amended by adding at the end the following:
“310. Budget justification.”.

18 (c) CONFORMING AMENDMENTS.—Section 1926 of
19 SAFETEA-LU (49 U.S.C. 301 note; 119 Stat. 1483),
20 and the item relating to that section in the table of con-
21 tents contained in section 1(b) of that Act, are repealed.

1 **SEC. 1522. EXTENSION OF PUBLIC TRANSIT VEHICLE EX-**
2 **EMPTION FROM AXLE WEIGHT RESTRIC-**
3 **TIONS.**

4 Section 1023(h)(1) of the Intermodal Surface Trans-
5 portation Efficiency Act of 1991 (23 U.S.C. 127 note; 106
6 Stat. 1552) is amended by striking “2009” and inserting
7 “2015”.

8 **SEC. 1523. TECHNICAL AMENDMENTS.**

9 (a) BICYCLE TRANSPORTATION.—Section 217 is
10 amended—

11 (1) by striking subsection (b) and redesignating
12 subsections (c) through (h) as subsections (b)
13 through (g), respectively;

14 (2) in subsection (b) (as redesignated by para-
15 graph (1) of this subsection)—

16 (A) in the subsection heading by striking
17 “FEDERAL LANDS HIGHWAY” and inserting
18 “FEDERAL AND TRIBAL LANDS, PUERTO RICO,
19 AND TERRITORIAL HIGHWAY”; and

20 (B) by striking “and public lands high-
21 ways” and inserting “public lands highways,
22 national forest system roads, Bureau of Land
23 Management roads, territorial highways, and
24 Puerto Rico highways”;

1 (3) in subsection (c) (as redesignated by para-
2 graph (1) of this subsection) by inserting “full-time”
3 before “position”;

4 (4) by striking subsection (i); and

5 (5) by redesignating subsection (j) as sub-
6 section (h).

7 (b) FEDERAL HIGHWAY ADMINISTRATION.—Section
8 104 of title 49 is amended by striking subsection (d).

9 **SEC. 1524. DEFINITIONS.**

10 Section 101(a) is amended by adding at the end the
11 following:

12 “(40) BUREAU OF LAND MANAGEMENT
13 ROAD.—The term ‘Bureau of Land Management
14 road’ means a road serving Bureau of Land Man-
15 agement lands, other than a road that has been au-
16 thorized by a legally documented right-of-way held
17 by a State, county, or other local public road author-
18 ity.

19 “(41) NATIONAL FOREST SYSTEM ROAD.—

20 “(A) IN GENERAL.—The term ‘national
21 forest system road’ means a forest road serving
22 the National Forest System that the Forest
23 Service determines is necessary for the protec-
24 tion, administration, and utilization of the Na-
25 tional Forest System.

1 “(B) EXCLUSION.—The term ‘national for-
2 est system road’ does not include a road that
3 has been authorized by a legally documented
4 right-of-way held by a State, county, or other
5 local public road authority.

6 “(42) PUERTO RICO HIGHWAY.—The term
7 ‘Puerto Rico highway’ means a public road for which
8 the Commonwealth of Puerto Rico is eligible to re-
9 ceive funding under section 204(p).

10 “(43) TERRITORIAL HIGHWAY.—The term ‘ter-
11 ritorial highway’ means a public road—

12 “(A) that is an arterial or collector high-
13 way (including a necessary inter-island con-
14 nector);

15 “(B) that is located in American Samoa,
16 the Commonwealth of the Northern Mariana Is-
17 lands, Guam, or the United States Virgin Is-
18 lands; and

19 “(C) for which one of the territories of the
20 United States described in subparagraph (B) is
21 eligible to receive funding under section
22 204(o).”.

1 **TITLE II—HIGHWAY SAFETY**

2 **SEC. 2001. AMENDMENTS TO TITLE 23, UNITED STATES**

3 **CODE.**

4 Except as otherwise expressly provided, whenever in
5 this title an amendment or repeal is expressed in terms
6 of an amendment to, or a repeal of, a section or other
7 provision, the reference shall be considered to be made to
8 a section or other provision of title 23, United States
9 Code.

10 **SEC. 2002. AUTHORIZATION OF APPROPRIATIONS.**

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

14 (1) **HIGHWAY SAFETY PROGRAMS.**—For car-
15 rying out section 402 of title 23, United States
16 Code—

17 (A) **[\$]** for fiscal year 2010;

18 (B) **[\$]** for fiscal year 2011;

19 (C) **[\$]** for fiscal year 2012;

20 (D) **[\$]** for fiscal year 2013;

21 (E) **[\$]** for fiscal year 2014; and

22 (F) **[\$]** for fiscal year 2015.

23 (2) **HIGHWAY SAFETY RESEARCH AND DEVEL-**
24 **OPMENT.**—For carrying out section 403 of title 23,
25 United States Code—

- 1 (A) **[\$]** for fiscal year 2010;
2 (B) **[\$]** for fiscal year 2011;
3 (C) **[\$]** for fiscal year 2012;
4 (D) **[\$]** for fiscal year 2013;
5 (E) **[\$]** for fiscal year 2014; and
6 (F) **[\$]** for fiscal year 2015.

7 (3) STATE TRAFFIC SAFETY INFORMATION SYS-
8 TEM IMPROVEMENTS.—For carrying out section 408
9 of title 23, United States Code—

- 10 (A) **[\$]** for fiscal year 2010;
11 (B) **[\$]** for fiscal year 2011;
12 (C) **[\$]** for fiscal year 2012;
13 (D) **[\$]** for fiscal year 2013;
14 (E) **[\$]** for fiscal year 2014; and
15 (F) **[\$]** for fiscal year 2015.

16 (4) NATIONAL DRIVER REGISTER.—For the Na-
17 tional Highway Traffic Safety Administration to
18 carry out chapter 303 of title 49, United States
19 Code—

- 20 (A) **[\$]** for fiscal year 2010;
21 (B) **[\$]** for fiscal year 2011;
22 (C) **[\$]** for fiscal year 2012;
23 (D) **[\$]** for fiscal year 2013;
24 (E) **[\$]** for fiscal year 2014; and
25 (F) **[\$]** for fiscal year 2015.

1 (5) HIGH VISIBILITY ENFORCEMENT PRO-
2 GRAM.—For carrying out section 2004 of this title—

3 —

4 (A) **[\$]** for fiscal year 2010;

5 (B) **[\$]** for fiscal year 2011;

6 (C) **[\$]** for fiscal year 2012;

7 (D) **[\$]** for fiscal year 2013;

8 (E) **[\$]** for fiscal year 2014; and

9 (F) **[\$]** for fiscal year 2015.

10 (6) ADMINISTRATIVE EXPENSES.—For adminis-
11 trative and related operating expenses of the Na-
12 tional Highway Traffic Safety Administration in car-
13 rying out chapter 4 of title 23, United States Code,
14 and this title (including amendments made by this
15 title)—

16 (A) **[\$]** for fiscal year 2010;

17 (B) **[\$]** for fiscal year 2011;

18 (C) **[\$]** for fiscal year 2012;

19 (D) **[\$]** for fiscal year 2013;

20 (E) **[\$]** for fiscal year 2014; and

21 (F) **[\$]** for fiscal year 2015.

22 (b) PROHIBITION ON OTHER USES.—Except as oth-
23 erwise provided in chapter 4 of title 23, United States
24 Code, and this title (including the amendments made by
25 this title), the amounts made available from the Highway

1 Trust Fund (other than the Mass Transit account) for a
2 program under that chapter shall only be used to carry
3 out such program and may not be used by States or local
4 governments for construction purposes.

5 (c) APPLICABILITY OF CHAPTER 1.—Except as oth-
6 erwise provided in chapter 4 of title 23, United States
7 Code, and this title (including the amendments made by
8 this title), the amounts made available under subsection
9 (a) for each of fiscal years 2010 through 2015 shall be
10 available for obligation and administered in the same man-
11 ner as if such funds were apportioned under chapter 1
12 of title 23, United States Code.

13 **SEC. 2003. HIGHWAY SAFETY PROGRAMS.**

14 (a) IN GENERAL.—Section 402(a) is amended to
15 read as follows:

16 “(a) STATE HIGHWAY SAFETY PROGRAMS.—

17 “(1) IN GENERAL.—Each State shall have a
18 highway safety program approved by the Secretary,
19 designed to reduce traffic crashes and deaths, inju-
20 ries, and property damage resulting therefrom.

21 “(2) UNIFORM GUIDELINES.—A State’s high-
22 way safety program shall be established and carried
23 out in accordance with uniform guidelines promul-
24 gated by the Secretary. The uniform guidelines shall
25 be expressed in terms of performance criteria.

1 “(3) SPECIFIC PROGRAMS.—In addition, the
2 uniform guidelines shall include programs—

3 “(A) to reduce injuries and deaths result-
4 ing from motor vehicles being driven in excess
5 of posted speed limits;

6 “(B) to encourage the proper use of occu-
7 pant protection devices (including the use of
8 safety belts and child restraint systems) by oc-
9 cupants of motor vehicles;

10 “(C) to reduce deaths and injuries result-
11 ing from persons driving motor vehicles while
12 impaired by alcohol or a controlled substance;

13 “(D) to prevent crashes and reduce deaths
14 and injuries resulting from crashes involving
15 motor vehicles and motorcycles;

16 “(E) to reduce injuries and deaths result-
17 ing from crashes involving school buses;

18 “(F) to reduce crashes resulting from un-
19 safe driving behavior (including aggressive or
20 fatigued driving and distracted driving arising
21 from the use of electronic devices in vehicles);
22 and

23 “(G) to improve law enforcement services
24 in motor vehicle accident prevention, traffic su-
25 pervision, and post-crash procedures.

1 “(4) DRIVER AND PEDESTRIAN PERFORMANCE;
2 BICYCLE SAFETY.—The uniform guidelines shall be
3 promulgated by the Secretary so as—

4 “(A) to improve driver performance, in-
5 cluding driver education, driver testing to deter-
6 mine proficiency to operate motor vehicles, driv-
7 er examinations (both physical and mental),
8 and driver licensing; and

9 “(B) to improve pedestrian performance
10 and bicycle safety.

11 “(5) RECORD SYSTEM.—The uniform guidelines
12 shall include provisions for an effective record sys-
13 tem of—

14 “(A) crashes, including injuries and deaths
15 resulting therefrom;

16 “(B) crash investigations to determine the
17 probable causes of accidents, injuries, and
18 deaths;

19 “(C) vehicle registration, operation, and in-
20 spection; and

21 “(D) emergency services.

22 “(6) APPLICABILITY OF GUIDELINES.—The
23 uniform guidelines as are applicable to State high-
24 way safety programs shall, to the extent determined
25 appropriate by the Secretary, be applicable to feder-

1 ally administered areas where a Federal department
2 or agency controls the highways or supervises traffic
3 operations.”.

4 (b) ADMINISTRATION OF STATE PROGRAMS.—Sec-
5 tion 402(b)(1)(E)(i) is amended to read as follows:

6 “(i) any national traffic safety law en-
7 forcement mobilizations coordinated by the
8 Secretary;”.

9 (c) APPORTIONMENT OF FUNDS.—Section 402(c) is
10 amended to read as follows:

11 “(c) APPORTIONMENT OF FUNDS.—

12 “(1) USE OF APPORTIONED FUNDS.—Funds
13 authorized to be appropriated to carry out this sec-
14 tion shall be used to aid the States to conduct the
15 highway safety programs approved in accordance
16 with subsection (a), including development and im-
17 plementation of—

18 “(A) law enforcement manpower training
19 programs; and

20 “(B) demonstration programs that the
21 Secretary determines will contribute directly to
22 the reduction of crashes and deaths and injuries
23 resulting therefrom.

24 “(2) APPORTIONMENT FORMULA.—**[to be sup-**
25 plied**]**

1 “(3) IMPLEMENTATION OF APPROVED HIGHWAY
2 SAFETY PROGRAMS.—

3 “(A) REQUIREMENT FOR RECEIVING AP-
4 PORTIONMENTS.—The Secretary shall reduce
5 under subparagraph (D) the apportionment of
6 a State that is not implementing a highway
7 safety program approved by the Secretary in
8 accordance with this section.

9 “(B) LIMITATIONS ON REQUIREMENTS RE-
10 LATING TO MOTORCYCLE SAFETY HELMETS.—A
11 highway safety program approved by the Sec-
12 retary shall not include any requirement that a
13 State implement such a program by adopting or
14 enforcing any law, rule, or regulation based on
15 a guideline promulgated by the Secretary under
16 this section requiring any motorcycle operator
17 18 years of age or older or passenger 18 years
18 of age or older to wear a safety helmet when
19 operating or riding a motorcycle on the streets
20 and highways of that State.

21 “(C) COMPLIANCE WITH IMPLEMENTATION
22 REQUIREMENTS.—Implementation of a highway
23 safety program under this section shall not be
24 construed to require the Secretary to require
25 compliance with every uniform guideline, or

1 with every element of every uniform guideline,
2 in every State.

3 “(D) REDUCTIONS IN APPORTION-
4 MENTS.—

5 “(i) IN GENERAL.—Funds appor-
6 tioned under this section to a State that
7 does not have a highway safety program
8 approved by the Secretary or that is not
9 implementing an approved program shall
10 be reduced by amounts equal to not less
11 than 20 percent of the amounts that would
12 otherwise be apportioned to the State
13 under this section.

14 “(ii) WITHHOLDING.—The amount of
15 any reduction shall be withheld from the
16 State until such time as the Secretary ap-
17 proves the program or determines that the
18 State is implementing an approved pro-
19 gram, as appropriate.

20 “(iii) AMOUNT OF REDUCTION.—The
21 Secretary shall consider the gravity of the
22 State’s failure to have or implement an ap-
23 proved program in determining the amount
24 of any reduction.

1 “(E) APPORTIONMENT OF WITHHELD
2 FUNDS AFTER COMPLIANCE.—The Secretary
3 shall promptly apportion to the State the funds
4 withheld from its apportionment if the Sec-
5 retary approves the State’s highway safety pro-
6 gram or determines that the State has begun
7 implementing an approved program, as appro-
8 priate, before the last day of the fiscal year for
9 which the funds were withheld.

10 “(F) REAPPORTIONMENT OF WITHHELD
11 FUNDS.—If the Secretary determines that the
12 State did not correct its failure before the last
13 day of the fiscal year for which the funds were
14 withheld, the Secretary shall reapportion the
15 withheld funds to the other States in accord-
16 ance with the formula specified in this sub-
17 section not later than the last day of the fiscal
18 year.”.

19 (d) FUNDING ALLOCATIONS.—Section 402 is amend-
20 ed by inserting after subsection (g) the following:

21 “(h) FUNDING ALLOCATIONS.—

22 “(1) IMPAIRED DRIVING PROGRAMS.—

23 “(A) ALLOCATION OF FUNDS.—Subject to
24 paragraph (4), [__] percent of the funds ap-
25 portioned to a State for a fiscal year under this

1 section shall be available to the State only for
2 the development and implementation of pro-
3 grams to reduce traffic safety problems result-
4 ing from individuals driving while impaired by
5 alcohol.

6 “(B) REQUIRED USES OF FUNDS.—A
7 State shall use funds subject to the allocation
8 under this paragraph—

9 “(i) to participate, in cooperation with
10 related periodic national campaigns orga-
11 nized by the National Highway Traffic
12 Safety Administration, in sustained high
13 visibility enforcement and statewide law
14 enforcement campaigns designed to reduce
15 impaired driving;

16 “(ii) to provide baseline impaired driv-
17 ing performance data as part of the State’s
18 highway safety plan under subsection (n);

19 “(iii) to establish and provide per-
20 formance data under subsection (m); and

21 “(iv) to fund a full-time position to
22 function as coordinator of State’s activities
23 to address enforcement and adjudication of
24 laws to address driving while impaired by
25 alcohol.

1 “(C) ELIGIBLE PROGRAMS.—Programs
2 that may be carried out using funds subject to
3 the allocation under this paragraph include pro-
4 grams—

5 “(i) to develop and implement law en-
6 forcement measures and tools designed to
7 reduce impaired driving, including train-
8 ing, education, equipment, and other meth-
9 ods of support for law enforcement and
10 criminal justice professionals;

11 “(ii) to improve impaired driving pros-
12 ecution and adjudication, including the es-
13 tablishment of courts that specialize in
14 driving while impaired cases;

15 “(iii) to carry out safety campaigns
16 relating to impaired driving using paid
17 media;

18 “(iv) for inpatient and outpatient al-
19 cohol rehabilitation based on mandatory
20 assessment and appropriate treatment; and

21 “(v) to establish and improve informa-
22 tion systems containing data on impaired
23 driving.

24 “(2) OCCUPANT PROTECTION PROGRAMS.—

1 “(A) ALLOCATION OF FUNDS.—Subject to
2 paragraph (4), [__] percent of the funds ap-
3 portioned to a State for a fiscal year under this
4 section shall be available to the State only for
5 the development and implementation of pro-
6 grams—

7 “(i) to reduce highway deaths and in-
8 juries resulting from individuals riding un-
9 restrained or improperly restrained in
10 motor vehicles; and

11 “(ii) to encourage the use of seat belts
12 and enforcement of laws requiring the use
13 of safety belts in motor vehicles.

14 “(B) REQUIRED USES OF FUNDS.—A
15 State shall use funds subject to the allocation
16 under this paragraph—

17 “(i) to participate, in cooperation with
18 related periodic national campaigns orga-
19 nized by the National Highway Traffic
20 Safety Administration, in sustained high
21 visibility enforcement and statewide law
22 enforcement campaigns designed to reduce
23 highway deaths and injuries resulting from
24 individuals riding unrestrained or improv-
25 erly restrained in motor vehicles ;

1 “(ii) to provide baseline occupant pro-
2 tection performance data as part of the
3 State’s highway safety plan under sub-
4 section (n); and

5 “(iii) to establish and provide data re-
6 lating to the occupant protection perform-
7 ance targets established for the State
8 under subsection (m).

9 “(C) ELIGIBLE PROGRAMS.—Programs
10 that may be carried out using funds subject to
11 the allocation under this paragraph include pro-
12 grams—

13 “(i) to provide for occupant protection
14 training, education, equipment, and other
15 methods of support for law enforcement
16 and criminal justice professionals;

17 “(ii) to carry out safety campaigns re-
18 lating to occupant protection using paid
19 media;

20 “(iii) to establish and improve infor-
21 mation systems containing data on occu-
22 pant protection;

23 “(iv) to provide for training of fire
24 fighters, law enforcement officers, emer-
25 gency medical services professionals, and

1 others to provide community child pas-
2 senger safety services; and

3 “(v) to purchase child safety re-
4 straints for low-income families, except
5 that expenditures for such purchases may
6 not exceed in a fiscal year 5 percent of a
7 State’s funds subject to the allocation
8 under this paragraph.

9 “(3) MOTORCYCLE SAFETY PROGRAMS.—

10 “(A) ALLOCATION OF FUNDS.—Subject to
11 paragraph (4), [__] percent of the funds ap-
12 portioned to a State for a fiscal year under this
13 section shall be available to the State only for
14 the development and implementation of pro-
15 grams to reduce highway deaths and injuries
16 resulting from traffic crashes involving motor-
17 cycles.

18 “(B) ELIGIBLE PROGRAMS.—Programs
19 that may be carried out using funds subject to
20 the allocation under this paragraph include pro-
21 grams—

22 “(i) to improve the content and deliv-
23 ery of motorcyclist safety training curricula
24 and to support licensing, training, and

1 safety education for motorcyclists, includ-
2 ing new entrants;

3 “(ii) to enhance motorcycle safety
4 through public service announcements,
5 such as safety messages on road sharing,
6 outreach, and public awareness activities;
7 and

8 “(iii) to provide for the safety of mo-
9 torcyclists through the promotion of appro-
10 priate protective equipment.

11 “(4) TRANSFERS.—If the Secretary determines
12 that a State has achieved, in each of the preceding
13 3 fiscal years, the performance targets established
14 for the State under subsection (m) relating to an al-
15 location category under this subsection, the Sec-
16 retary shall permit the State to transfer funds that
17 would otherwise be subject to the requirements of
18 the allocation category to any other program that is
19 eligible for assistance under this section.”.

20 (e) RECORDKEEPING SYSTEMS.—Section 402 is
21 amended—

22 (1) by striking subsection (k); and

23 (2) by redesignating subsections (l) and (m) as
24 subsections (k) and (l), respectively.

1 (f) HIGHWAY SAFETY PERFORMANCE MANAGE-
2 MENT.—Section 402 (as amended by subsection (e) of this
3 section) is further amended by adding at the end the fol-
4 lowing:

5 “(m) PERFORMANCE TARGETS.—

6 “(1) ESTABLISHMENT.—Not later than 6
7 months after the date of enactment of the Surface
8 Transportation Authorization Act of 2009, the Sec-
9 retary, in coordination with each State, shall estab-
10 lish for the State quantifiable performance targets to
11 be incorporated into the State’s annual highway
12 safety plan under subsection (n).

13 “(2) CONSIDERATIONS IN ESTABLISHING PER-
14 FORMANCE TARGETS.—In establishing performance
15 targets for a State under this subsection, the Sec-
16 retary shall consider, at a minimum—

17 “(A) the number of fatalities in the State
18 resulting from traffic crashes during the pre-
19 ceding 3 years;

20 “(B) the number of serious injuries in the
21 State resulting from traffic crashes during the
22 preceding 3 years; and

23 “(C) the extent to which projections for ve-
24 hicle miles traveled within the State may impact

1 the number of fatalities and serious injuries in
2 the State resulting from traffic crashes.

3 “(3) SAFETY CATEGORIES.—The Secretary
4 shall establish performance targets for a State in, at
5 a minimum, each of the following safety categories:

6 “(A) HIGHWAY FATALITIES AND SERIOUS
7 INJURIES.—

8 “(i) The annual number of fatalities
9 in the State resulting from traffic crashes.

10 “(ii) The annual number of serious in-
11 juries in the State resulting from traffic
12 crashes.

13 “(B) IMPAIRED DRIVING-RELATED MEAS-
14 URES.—

15 “(i) The annual number of traffic fa-
16 talities in the State involving drivers or
17 motorcycle operators with a blood alcohol
18 content of .08 or above.

19 “(ii) The annual number of traffic
20 crashes in the State involving drivers or
21 motorcycle operators with a blood alcohol
22 content of .08 or above.

23 “(C) OCCUPANT PROTECTION.—The an-
24 nual number of unrestrained passenger vehicle

1 occupant fatalities, all seat positions, in the
2 State resulting from traffic crashes.

3 “(D) SPEED.—The annual number of
4 speeding-related fatalities in the State.

5 “(E) MOTORCYCLE SAFETY.—

6 “(i) The annual number of motorcy-
7 clist fatalities in the State.

8 “(ii) The annual number of
9 unhelmeted motorcyclist fatalities in the
10 State.

11 “(iii) The annual number of motorcy-
12 clists seriously injured in traffic crashes in
13 the State.

14 “(iv) The annual number of drivers
15 age 20 or younger involved in motorcyclist
16 fatalities in the State.

17 “(F) PEDESTRIAN SAFETY.—

18 “(i) The annual number of pedestrian
19 fatalities in the State resulting from traffic
20 crashes.

21 “(ii) The annual number of serious in-
22 juries sustained by pedestrians in the State
23 resulting from traffic crashes.

24 “(G) BICYCLE SAFETY.—

1 “(i) The annual number of bicyclist
2 fatalities in the State resulting from traffic
3 crashes.

4 “(ii) The annual number of serious in-
5 juries sustained by bicyclists in the State
6 resulting from traffic crashes.

7 “(4) EFFECTIVE DATE.—Performance targets
8 established for a State shall first become effective in
9 fiscal year 2011.

10 “(5) DATA.—

11 “(A) REPORTING PERIOD.—Compliance
12 with performance targets established for a
13 State shall be determined using data for the
14 most recent 3-year period for which data is
15 available.

16 “(B) FATALITIES DATA.—Compliance with
17 performance targets for a State relating to fa-
18 talities shall be determined using the most re-
19 cent Fatality Analysis Reporting System of the
20 National Highway Traffic Safety Administra-
21 tion.

22 “(C) CRASH DATA.—Compliance with per-
23 formance targets for a State relating to serious
24 injuries sustained in traffic crashes shall be de-
25 termined using State crash data files.

1 “(n) HIGHWAY SAFETY PLAN AND REPORTING RE-
2 QUIREMENTS.—

3 “(1) IN GENERAL.—Beginning in fiscal year
4 2011, the Secretary shall require a State, as a con-
5 dition for approval of the State’s highway safety
6 program for a fiscal year, to develop and submit to
7 the Secretary, on or before July 1st of the preceding
8 fiscal year, a highway safety plan that is consistent
9 with the requirements of this subsection.

10 “(2) CONTENTS.—A State’s highway safety
11 plan shall include, at a minimum—

12 “(A) documentation of current safety levels
13 for each performance target established for the
14 State under subsection (m);

15 “(B) the State’s strategy for programming
16 funds apportioned to the State under this sec-
17 tion on a program of projects and activities that
18 will allow the State to meet the performance
19 targets established for the State under sub-
20 section (m);

21 “(C) data and data analysis supporting the
22 effectiveness of proposed counter measures to
23 be used;

24 “(D) a description of any Federal, State,
25 local, or private funds that the State plans to

1 use, in addition to funds apportioned to the
2 State under this section, to carry out the
3 State's strategy referred to in subparagraph
4 (B); and

5 “(E) a certification that the State will
6 maintain its aggregate expenditures from all
7 the other sources for highway safety activities
8 at or above the average level of such expendi-
9 tures in its 2 fiscal years preceding the date of
10 enactment of this subsection.

11 “(3) REVIEW OF HIGHWAY SAFETY PLANS.—

12 “(A) IN GENERAL.—Not later than 2
13 months after the date of receipt of a State's
14 highway safety plan, the Secretary shall review
15 and approve or disapprove the plan.

16 “(B) APPROVALS AND DISAPPROVALS.—
17 The Secretary shall approve or disapprove a
18 State's highway safety plan based on a review
19 of the State's annual report under subsection
20 (o) and an evaluation of whether, in the Sec-
21 retary's judgment, the plan is evidence based,
22 supported by data and analysis, and, if imple-
23 mented, will allow the State to meet its per-
24 formance targets. The Secretary shall dis-
25 approve a State's highway safety plan if the

1 plan does not, in the Secretary's judgment, pro-
2 vide for evidenced-based programming of fund-
3 ing in a manner sufficient to allow the State to
4 meet its performance targets.

5 “(C) ACTIONS UPON DISAPPROVAL.—If the
6 Secretary disapproves a State's highway safety
7 plan, the Secretary shall inform the State of the
8 reasons for the disapproval and require the
9 State to resubmit the plan with such modifica-
10 tions as the Secretary determines necessary.

11 “(D) REVIEW OF RESUBMITTED PLANS.—
12 If the Secretary requires a State to resubmit a
13 highway safety plan with modifications, the
14 Secretary shall review and approve or dis-
15 approve the modified plan not later than 30
16 days after the date on which the plan is sub-
17 mitted.

18 “(E) REPROGRAMMING AUTHORITY.—If
19 the Secretary determines that the modifications
20 contained in a State's resubmitted highway
21 safety plan do not, in the Secretary's judgment,
22 provide for the programming of funding in a
23 manner sufficient to meet the State's perform-
24 ance targets, the Secretary shall take such ac-

1 tion as is necessary to bring the State’s plan
2 into compliance with the performance targets.

3 “(F) PUBLIC NOTICE.—A State shall make
4 the State’s highway safety plan, and decisions
5 of the Secretary concerning approval or dis-
6 approval of a revised plan, available to the pub-
7 lic.

8 “(o) ANNUAL REPORT.—

9 “(1) SUBMISSION.—Not later than February
10 15, 2012, and annually thereafter, a State receiving
11 an apportionment under this section shall submit to
12 the Secretary a report that documents the State’s
13 efforts in relation to the performance targets estab-
14 lished for the State under subsection (m).

15 “(2) CONTENTS.—A report of a State sub-
16 mitted under paragraph (1) shall include, at a min-
17 imum, the following:

18 “(A) A listing of projects and activities for
19 which the State during the current fiscal year
20 has obligated funding apportioned to the State
21 under this section.

22 “(B) A listing of the State’s performance
23 in the preceding fiscal year in each safety cat-
24 egory described in subsection (m)(3).

1 “(C) For the preceding fiscal year, a list-
2 ing of the following activity measures:

3 “(i) The number of seat belt citations
4 issued as a result of enforcement activities
5 funded under this section.

6 “(ii) Observed seat belt use for pas-
7 senger vehicles, front seat occupants.

8 “(iii) The number of speeding cita-
9 tions issued as a result of enforcement ac-
10 tivities funded under this section.

11 “(iv) The annual number of impaired
12 driving arrests.

13 “(v) The following information relat-
14 ing to impaired driving enforcement activi-
15 ties:

16 “(I) The annual number of and
17 annual total man-hours for sobriety
18 checkpoints, saturation patrols, and
19 other high-visibility enforcement ac-
20 tivities.

21 “(II) The number of convictions
22 or pleas to an offense that is placed
23 on the driver’s record and is consid-
24 ered an impaired driving prior offense.

1 “(III) The proportion of impaired
2 driving arrests leading to a conviction
3 or plea to an offense that is placed on
4 the driver’s record and is considered
5 an impaired driving prior offense.

6 “(IV) The proportion of impaired
7 driving convictions leading to the in-
8 stallation of an ignition interlock de-
9 vice.

10 “(p) ANNUAL REPORT TO CONGRESS.—Not later
11 than October 1, 2012, and annually thereafter, the Sec-
12 retary shall submit to the Committee on Transportation
13 and Infrastructure of the House of Representatives and
14 the Committee on Commerce, Science, and Transportation
15 of the Senate a report containing—

16 “(1) an evaluation of each State’s performance
17 in relation to the State’s highway safety plan under
18 subsection (n) and performance targets under sub-
19 section (m); and

20 “(2) such recommendations as the Secretary
21 may have for improvements to the program author-
22 ized by this section.

23 “(q) DEFINITIONS.—In this section, the following
24 definitions apply:

1 “(1) CHILD RESTRAINT.—The term ‘child re-
2 straint’ means any product designed to provide re-
3 straint to a child (including booster seats and other
4 products used with a lap and shoulder belt assem-
5 bly) that meets applicable Federal motor vehicle
6 safety standards prescribed by the National High-
7 way Traffic Safety Administration.

8 “(2) CONTROLLED SUBSTANCE.—The term
9 ‘controlled substance’ has the meaning given that
10 term in section 102 of the Controlled Substances
11 Act (21 U.S.C. 802).

12 “(3) DRIVING WHILE INTOXICATED; DRIVING
13 UNDER THE INFLUENCE.—The terms ‘driving while
14 intoxicated’ and ‘driving under the influence’ have
15 the meaning given those terms in section 164.

16 “(4) IGNITION INTERLOCK DEVICE.—The term
17 ‘ignition interlock device’ has the meaning given that
18 term in section 167.

19 “(5) MOTORCYCLIST SAFETY TRAINING.—The
20 term ‘motorcyclist safety training’ means a formal
21 program of instruction that is approved for use in
22 a State by the designated State authority having ju-
23 risdiction over motorcyclist safety issues, which may
24 include the State motorcycle safety administrator or

1 a motorcycle advisory council appointed by the Gov-
2 ernor of the State.

3 “(6) MOTOR VEHICLE.—The term ‘motor vehi-
4 cle’ has the meaning given that term in section 157.

5 “(7) SEAT BELT.—The term ‘seat belt’ has the
6 meaning given that term in section 157.”.

7 **SEC. 2004. HIGH VISIBILITY ENFORCEMENT PROGRAM.**

8 (a) IN GENERAL.—The Administrator of the Na-
9 tional Highway Traffic Safety Administration shall estab-
10 lish and administer a program under which not more than
11 5 high-visibility traffic safety law enforcement campaigns
12 will be carried out for the purposes specified in subsection
13 (b) in each of years 2010 through 2015.

14 (b) PURPOSE.—The purpose of each law enforcement
15 campaign under this section shall be to achieve either or
16 both of the following objectives:

17 (1) Reduce alcohol-impaired operation of motor
18 vehicles.

19 (2) Increase use of seat belts by occupants of
20 motor vehicles.

21 (c) ADVERTISING.—The Administrator may use, or
22 authorize the use of, funds available to carry out this sec-
23 tion to pay for the development, production, and use of
24 broadcast, print, and on-line media advertising in carrying
25 out traffic safety law enforcement campaigns under this

1 section. Consideration shall be given to advertising di-
2 rected at non-English speaking populations, including
3 those who listen, read, or watch nontraditional media.

4 (d) COORDINATION WITH STATES.—The Adminis-
5 trator shall coordinate with the States in carrying out the
6 traffic safety law enforcement campaigns under this sec-
7 tion, including advertising funded under subsection (c),
8 with a view to—

9 (1) relying on States to provide the law enforce-
10 ment resources for the campaigns out of funding
11 available under this section and section 402 of title
12 23, United States Code; and

13 (2) providing out of National Highway Traffic
14 Safety Administration resources most of the means
15 necessary for national advertising and education ef-
16 forts associated with the law enforcement cam-
17 paigns.

18 (e) USE OF FUNDS.—Funds made available to carry
19 out this section may be used only for activities described
20 in subsections (a), (c), and (f).

21 (f) ANNUAL EVALUATION.—The Secretary shall con-
22 duct an annual evaluation of the effectiveness of cam-
23 paigns referred to in subsection (a). Not later than Octo-
24 ber 1 of each of fiscal years 2011 through 2015, the Sec-
25 retary shall submit to the Committee on Transportation

1 and Infrastructure of the House of Representatives and
2 the Committee on Commerce, Science, and Transportation
3 of the Senate a report on the results of the most recent
4 annual evaluation.

5 (g) STATE DEFINED.—In this section, the term
6 “State” has the meaning such term has under section 401
7 of title 23, United States Code.

8 (h) REPEALS.—Sections 405, 406, 407, 410, and
9 411, and the items relating to such sections in the analysis
10 for chapter 4, are repealed.

11 **SEC. 2005. NATIONAL DRIVER REGISTER.**

12 (a) ACCURACY OF INFORMATION.—

13 (1) IN GENERAL.—Not later than one year
14 after the date of enactment of this Act, to ensure
15 greater accuracy of information contained in the Na-
16 tional Driver Register established under section
17 30302 of title 49, United States Code, the Sec-
18 retary, in cooperation with the States, shall—

19 (A) establish procedures to—

20 (i) ensure that participating States
21 enter information required under section
22 30304(a) of such title with respect to a
23 conviction within 31 days of receipt of the
24 conviction in compliance with section
25 30304(c)(2) of such title;

1 (ii) verify and improve the accuracy of
2 records submitted for inclusion in the Reg-
3 ister section 30304 of such title;

4 (iii) determine unique identifiers, in-
5 formation, and contents of reports required
6 to be submitted required under section
7 30304(b)(1) of such title; and

8 (B) establish and implement a process for
9 the removal or modification of driver records
10 from or in the Register and the verification of
11 the request for removal or modification of in-
12 valid and duplicative driver records from the
13 Register.

14 (2) REPORT TO CONGRESS.—Not later than
15 February 1, 2011, and every February 1 thereafter,
16 the Secretary shall submit to the Committee on
17 Transportation and Infrastructure of the House of
18 Representatives and the Committee on Commerce,
19 Science, and Transportation of the Senate a report
20 describing—

21 (A) the timeliness and completeness of
22 State submissions under section 30304 of title
23 49, United States Code;

1 (B) the Department of Transportation's
2 efforts to monitor and ensure compliance with
3 the reporting requirements of such section; and

4 (C) additional recommendations for the
5 improvement of the operations of the Register
6 and the Problem Driver Pointer System of the
7 American Association of Motor Vehicle Admin-
8 istrators, and the accuracy of information con-
9 tained in the Register.

10 (b) MODERNIZATION OF THE NATIONAL DRIVER
11 REGISTER.—

12 (1) IN GENERAL.—The Secretary shall carry
13 out an effort to modernize and increase the capacity
14 of the National Driver Register in accordance with
15 this section.

16 (2) MODERNIZATION PLAN.—Not later than
17 120 days after the date of enactment of this Act, the
18 Secretary shall develop and publish a comprehensive
19 national plan to modernize the Register under this
20 section that—

21 (A) complies with applicable Federal infor-
22 mation technology security standards;

23 (B) provides for the electronic exchange of
24 all information, including the posting of convic-
25 tions;

1 (C) contains self auditing features to en-
2 sure that data is being posted correctly and
3 consistently by the States; and

4 (D) provides a schedule for modernization
5 of the system.

6 (3) CONSULTATION.—The Secretary shall de-
7 velop a process to work with participating States
8 under chapter 303 of title 49, United States Code,
9 to determine functional improvements necessary to
10 upgrade the performance of the Register, improve
11 the accuracy of the information contained in the
12 database of the Register, and the functioning and
13 the effectiveness of the Problem Driver Pointer Sys-
14 tem.

15 (4) DEADLINE FOR STATE PARTICIPATION.—As
16 part of the modernization plan required under para-
17 graph (2), the Secretary shall establish a date by
18 which all participating States must be operating in-
19 formation systems that are compatible with the mod-
20 ernized Register under this section.

21 (5) FUNDING.—Of the amounts made available
22 under section 2002(a)(4) of this Act, **[\$]** shall be
23 available in each of fiscal years 2010 and 2011 to
24 carry out the modernization of the Register.

1 (c) NATIONAL DRIVER REGISTER ADVISORY COM-
2 MITTEE.—

3 (1) IN GENERAL.—Not later than 18 months
4 after the date of enactment of this Act, the National
5 Driver Register Advisory Committee under section
6 30306 of title 49, United States Code, shall prepare
7 and submit a report to the Secretary addressing the
8 current impediments and challenges to the effective-
9 ness of the National Driver Register and measures
10 necessary to address concerns with the Problem
11 Driver Pointer System.

12 (2) MATTERS TO CONSIDER.—In preparing the
13 report, the Committee shall consider, at a min-
14 imum—

15 (A) State enforcement and reporting prac-
16 tices;

17 (B) operational procedures to detect and
18 deter fraud;

19 (C) improvements necessary to facilitate
20 sharing of information in the Register between
21 States;

22 (D) procedures and practices for improving
23 the timely notification from judicial bodies con-
24 cerning traffic and criminal convictions of com-
25 mercial driver's license holders; and

1 (E) technology improvements necessary to
2 facilitate timely and accurate operation of the
3 Register and the Problem Driver Pointer Sys-
4 tem.

5 (3) REPORT TO CONGRESS.—Not later than 24
6 months after the date of enactment of this Act, the
7 Secretary shall submit to the Committee on Trans-
8 portation and Infrastructure of the House of Rep-
9 resentatives and the Committee on Commerce,
10 Science, and Transportation of the Senate a re-
11 port—

12 (A) summarizing the findings of the report
13 submitted by the National Driver Register Ad-
14 visory Committee under paragraph (1);

15 (B) detailing actions taken by the Sec-
16 retary to implement the recommendations in
17 the report; and

18 (C) making further recommendations for
19 improving the operations of and the accuracy of
20 information contained in the Register.

21 (4) AUTHORIZATION OF APPROPRIATIONS.—Of
22 the amounts made available under section
23 2002(a)(4) of this Act, **[\$]** shall be available for
24 each of fiscal years 2010 and 2011 to carry out this
25 subsection.

1 (d) AUTHORITY TO COLLECT FEES.—Section 30305
2 of title 49, United States Code, is amended by adding at
3 the end the following:

4 “(d) FEES.—

5 “(1) IN GENERAL.—The Secretary may estab-
6 lish a fee system for requests for information under
7 this section. Under the fee system, the Secretary
8 may establish the amount of such fees and may im-
9 pose and collect such fees. The aggregate of fees col-
10 lected under this subsection in a fiscal year shall
11 equal as nearly as possible the operating costs of
12 carrying out requests for information under this sec-
13 tion.

14 “(2) DEPOSIT.—The Secretary shall deposit
15 fees collected under this subsection in the Highway
16 Trust Fund (other than the Mass Transit Account).

17 “(3) LIMITATION.—Under the fee system, the
18 Secretary shall not impose and collect fees on re-
19 quests for information under this section from—

20 “(A) the chief driver licensing officials of a
21 participating State under this chapter in car-
22 rying out duties related to driver licensing, driv-
23 er improvement, or transportation; or

24 “(B) requests from the Chairman of the
25 National Transportation Safety Board for in-

1 formation regarding an individual who is the
2 subject of an accident investigation conducted
3 by the Board under section 1131(a).”.

4 **TITLE III—PUBLIC**
5 **TRANSPORTATION**

6 **SEC. 3001. SHORT TITLE; AMENDMENTS TO TITLE 49,**
7 **UNITED STATES CODE.**

8 (a) **SHORT TITLE.**— This title may be cited as the
9 “Public Transportation Act of 2009”.

10 (b) **AMENDMENTS TO TITLE 49, UNITED STATES**
11 **CODE.**—Except as otherwise expressly provided, whenever
12 in this title an amendment or repeal is expressed in terms
13 of an amendment to, or a repeal of, a section or other
14 provision, the reference shall be considered to be made to
15 a section or other provision of title 49, United States
16 Code.

17 **SEC. 3002. POLICIES AND PURPOSES.**

18 (a) **POLICIES AND PURPOSES.**—Section 5301 is
19 amended—

20 (1) in the section heading by striking “, **find-**
21 **ings,**”;

22 (2) by striking subsections (b) and (c) and in-
23 sserting the following:

24 “(b) **INCREASING TRANSIT RIDERSHIP.**—It is the
25 policy of the Government to significantly increase the

1 number of individuals using public transportation systems
2 and services.

3 “(c) INCREASING MOBILITY.—It is the policy of the
4 Government that the ability of all citizens to move quickly
5 and at a reasonable cost shall be increased, especially in
6 light of the growth in highway traffic congestion and the
7 importance of economic activities in our Nation’s urban
8 areas.”;

9 (3) by redesignating subsection (f) as sub-
10 section (g) and inserting after subsection (e) the fol-
11 lowing:

12 “(f) REDUCING ENERGY CONSUMPTION AND RELI-
13 ANCE ON FOREIGN OIL.—It is the policy of the Govern-
14 ment that special effort shall be made to reduce transpor-
15 tation-related fuel and energy consumption and reliance
16 on foreign oil.”.

17 (b) CLERICAL AMENDMENT.—The analysis for chap-
18 ter 53 of such title is amended by striking the item relat-
19 ing to section 5301 and inserting the following:

“5301. Policies and purposes.”.

20 **SEC. 3003. DEFINITIONS.**

21 Section 5302 is amended—

22 (1) by redesignating paragraphs (3) through
23 (17) as paragraphs (4) through (18);

24 (2) by inserting after paragraph (2) the fol-
25 lowing:

1 “(3) CLEAN FUEL VEHICLE.—The term ‘clean
2 fuel vehicle’ means a passenger vehicle used to pro-
3 vide public transportation that—

4 “(A) is powered by—

5 “(i) compressed natural gas;

6 “(ii) liquefied natural gas;

7 “(iii) biodiesel fuels;

8 “(iv) batteries;

9 “(v) alcohol-based fuels;

10 “(vi) electricity, in whole or in part;

11 “(vii) fuel cell;

12 “(viii) hydrogen and hydrogen blend

13 fuels; or

14 “(ix) other low or zero emissions tech-

15 nology; and

16 “(B) the Administrator of the Environ-
17 mental Protection Agency has certified suffi-
18 ciently reduces harmful emissions.”;

19 (3) by redesignating paragraphs (13) through
20 (18), as redesignated under paragraph (1), as para-
21 graphs (14) through (18); and

22 (4) by inserting after paragraph (12) the fol-
23 lowing:

24 “(13) RURAL AREA.—The term ‘rural area’
25 means an area encompassing a population of less

1 than 50,000 people that has not been designated in
2 the most recent decennial census as an ‘urbanized
3 area’ by the Secretary of Commerce.”.

4 **SEC. 3004. METROPOLITAN PLANNING.**

5 (a) POLICY.—Section 5303(a) is amended—

6 (1) in paragraph (1)—

7 (A) by striking “minimizing” and inserting
8 “reducing”;

9 (B) by inserting “, reliance on foreign oil,
10 impacts on the environment, surface transpor-
11 tation-related greenhouse gas emissions,” after
12 “consumption”; and

13 (C) by striking “and” at the end;

14 (2) by striking the period at the end of para-
15 graph (2) and inserting “; and” ; and

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

17 “(3) encourage and promote the livability and
18 sustainability of all communities, increase coordina-
19 tion among land use, housing, and transportation
20 plans and projects, and increase surface transpor-
21 tation system connectivity and intermodality through
22 metropolitan and statewide transportation planning
23 processes identified in this chapter.”.

24 (b) RURAL PLANNING ORGANIZATION DEFINED.—

25 Section 5303(b) is amended—

1 (1) by redesignating paragraphs (5) and (6) as
2 paragraphs (6) and (7), respectively; and

3 (2) by inserting after paragraph (4) the fol-
4 lowing:

5 “(5) RURAL PLANNING ORGANIZATION.—The
6 term ‘rural planning organization’ means an organi-
7 zation designated by a State to enhance the plan-
8 ning, coordination, and implementation of statewide
9 transportation plans and programs in areas with a
10 population of less than 50,000 individuals, with an
11 emphasis on addressing the needs of such areas of
12 the State.”.

13 (c) DESIGNATION OF MPOS.—Section 5303(d) is
14 amended—

15 (1) in paragraph (1)—

16 (A) by striking “50,000” and inserting
17 “100,000”; and

18 (B) by striking “named” and inserting
19 “determined”;

20 (2) in paragraph (2) by striking “that serves an
21 area designated as a transportation management
22 area”; and

23 (3) in paragraph (2)(B) by inserting “public
24 transit systems and other” after “operate”.

1 (d) METROPOLITAN PLANNING BOARD.—Paragraphs
2 (4) and (5) of section 5303(e) are amended by striking
3 “Federal Public Transportation Act of 2005” and insert-
4 ing “Public Transportation Act of 2009”.

5 (e) COORDINATION IN MULTISTATE AREAS.—Section
6 5303(f) is amended—

7 (1) in paragraph (1)—

8 (A) by striking “encourage” and inserting
9 “require”; and

10 (B) by striking “provide” and inserting
11 “coordinate”; and

12 (2) by striking paragraph (3).

13 (f) SCOPE OF PLANNING PROCESS.—Section
14 5303(h)(1)(E) is amended—

15 (1) by inserting “sustainability, and livability,
16 reduce surface transportation-related greenhouse gas
17 emissions, reliance on foreign oil, adapt to the ef-
18 fects of climate change,” after “energy conserva-
19 tion,”;

20 (2) by inserting “and public health” after
21 “quality of life”; and

22 (3) by inserting “, including housing and land
23 use patterns” after “development patterns”.

24 (g) CAPITAL INVESTMENT AND OTHER STRATE-
25 GIES.—Section 5303(i)(2)(E) is amended—

1 (1) in subparagraph (A) by inserting “and
2 other relevant data and factors disseminated by the
3 Secretary pursuant to section ____” after “sub-
4 section (h)”;

5 (2)(A) by striking “and” after “infrastructure”
6 and inserting “, to”; and

7 (B) by inserting before the period the following:
8 “, and to provide for the incorporation of practical
9 design standards as defined in section 331 of title
10 23”.

11 (h) CONSULTATION IN DEVELOPMENT OF TRANS-
12 PORTATION PLAN.—Section 5303(i)(4)(A) is amended by
13 inserting “public health, housing, transportation,” after
14 “conservation,”.

15 (i) METROPOLITAN TIP.—Section 5303(j) is amend-
16 ed—

17 (1) by striking subparagraph (C); and

18 (2) by redesignating subparagraph (D) as sub-
19 paragraph (C).

20 (j) TRANSPORTATION MANAGEMENT AREAS.—Sec-
21 tion 5303(k) is amended—

22 (1) by striking the parenthetical phrase in para-
23 graph (4)(A) and inserting the following: “(exclud-
24 ing projects carried out under the critical asset in-
25 vestment program under section 150 of title 23 and

1 freight improvement program under section 119 of
2 title 23”);

3 (2) by repealing paragraph (5); and

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

5 “(6) EMISSIONS REDUCTION PROCESS.—

6 “(A) IN GENERAL.—Within a metropolitan
7 planning area serving a transportation manage-
8 ment area, the transportation planning process
9 under this section shall address transportation-
10 related greenhouse gas emissions by including
11 emission reduction targets and strategies.

12 “(B) ESTABLISHMENT OF EMISSIONS RE-
13 DUCION TARGETS AND STRATEGIES.—

14 “(i) IN GENERAL.—Not later than one
15 year after the promulgation of the final
16 regulations required under section 841 of
17 the Clean Air Act, each metropolitan plan-
18 ning organization shall develop surface
19 transportation-related greenhouse gas
20 emission reduction targets, as well as
21 strategies to meet such targets, as part of
22 the transportation planning process under
23 this section. If more than one metropolitan
24 planning organization has been designated
25 within a metropolitan planning area serv-

1 ing a transportation management area,
2 each such metropolitan planning organiza-
3 tion shall work cooperatively with other
4 such organization to develop the surface
5 transportation-related greenhouse gas
6 emission reduction targets required under
7 this subparagraph.

8 “(ii) MINIMUM REQUIREMENTS.—
9 Each metropolitan planning organization
10 that develops targets and strategies re-
11 quired under clause (i) shall demonstrate
12 progress in stabilizing and reducing trans-
13 portation-related greenhouse gas emissions
14 in each metropolitan planning area serving
15 a surface transportation management area.
16 The targets and strategies shall, at a min-
17 imum,

18 “(I) be based on the models and
19 methodologies established in the final
20 regulations required under section
21 841 of the Clean Air Act;

22 “(II) address sources of surface
23 transportation-related greenhouse gas
24 emissions and contribute to achieve-
25 ment of the national transportation-

1 related greenhouse gas emissions re-
2 duction goals;

3 “(III) include efforts to increase
4 public transportation ridership; and

5 “(IV) include efforts to increase
6 walking, bicycling, and other forms of
7 nonmotorized transportation.

8 “(C) PUBLIC NOTICE.—Each metropolitan
9 planning organization shall make its emission
10 reduction targets and strategies, and an anal-
11 ysis of the anticipated effects thereof, available
12 to the public through its Web site.

13 “(D) ENFORCEMENT.—If the Secretary
14 finds that a metropolitan planning organization
15 has failed to develop, submit, or publish its
16 emission reduction targets and strategies, the
17 Secretary shall not certify that the require-
18 ments of this section are met with respect to
19 the metropolitan planning process of such orga-
20 nization.”.

21 (k) CERTIFICATION; MPO DATABASE; PERFORM-
22 ANCE MANAGEMENT.—Section 5303 is further amended
23 by adding at the end the following:

24 “(q) CERTIFICATION.—

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

1 “(A) ensure that the metropolitan planning
2 process of a metropolitan planning organization
3 is being carried out in accordance with applica-
4 ble provisions of Federal law; and

5 “(B) certify, subject to paragraph (2), not
6 less than once every 4 years, that the require-
7 ments of this section are met with respect to
8 such process.

9 “(2) REQUIREMENTS FOR CERTIFICATION.—

10 The Secretary shall establish certification require-
11 ments which include performance measures for met-
12 ropolitan planning organizations that serve an ur-
13 banized area with a population of more than
14 100,000 individuals. The requirements shall ensure,
15 at a minimum, the following:

16 “(A) The transportation planning process
17 complies with the requirements of this section
18 and other applicable requirements of Federal
19 law.

20 “(B) There is a TIP for the metropolitan
21 planning area that has been approved by the
22 metropolitan planning organization and the
23 Governor.

24 “(C) Voting members of the metropolitan
25 planning organization are represented in pro-

1 portion to the population of each political sub-
2 division to the total population the metropolitan
3 planning area.

4 “(D) The metropolitan planning organiza-
5 tion has met or is likely to meet the perform-
6 ance targets and requirements established
7 under subsection (s).

8 “(3) EFFECT OF FAILURE TO CERTIFY.—

9 “(A) WITHHOLDING OF FUNDS.—If a met-
10 ropolitan planning process of a metropolitan
11 planning organization is not certified under this
12 section, the Secretary may withhold up to 20
13 percent of the funds attributable to the metro-
14 politan planning area of the metropolitan plan-
15 ning organization for projects funded under this
16 chapter.

17 “(B) RESTORATION OF WITHHELD
18 FUNDS.—The withheld funds shall be restored
19 to the metropolitan planning area at such time
20 as the metropolitan planning process is certified
21 by the Secretary.

22 “(4) REVIEW OF CERTIFICATION.—In making
23 certification determinations under this paragraph,
24 the Secretary shall provide for public involvement
25 appropriate to the metropolitan area under review.

1 “(r) NATIONAL MPO DATABASE.—

2 “(1) IN GENERAL.—To assist in meeting the
3 need for information of individual metropolitan plan-
4 ning organizations, Federal, State, and local govern-
5 ments, and the public, the Secretary shall establish
6 and maintain a reporting system and national data-
7 base, using uniform categories to accumulate metro-
8 politan planning organization structural, financial,
9 operating, planning, programming, and performance
10 information and using a uniform system of accounts.

11 “(2) REQUEST AND RECEIVE INFORMATION.—
12 In establishing and maintaining the reporting sys-
13 tem, the Secretary may request and receive appro-
14 priate information from any source.

15 “(3) DEADLINE.—Not later than 6 months
16 after the date of enactment of this subsection, the
17 Secretary shall establish the reporting system and
18 national database described in paragraph (1).

19 “(s) MPO PERFORMANCE MANAGEMENT.—

20 “(1) IN GENERAL.—To improve the outcomes
21 of the transportation planning process under this
22 section, metropolitan planning organizations shall
23 implement a system of performance management in
24 accordance with paragraphs (2) and (3).

1 “(2) ESTABLISHMENT OF PERFORMANCE MEAS-
2 URES.—

3 “(A) IN GENERAL.—Not later than one
4 year after the date of enactment of this sub-
5 section, the Secretary, in consultation with met-
6 ropolitan planning organizations and States,
7 shall establish qualitative and quantitative per-
8 formance measures for each of the following
9 metropolitan planning organizations:

10 “(i) Those that serve an urbanized
11 area with a population of more than
12 100,000 individuals but less than
13 1,000,000 individuals.

14 “(ii) Those that serve an urbanized
15 area with a population of more than
16 1,000,000 individuals.

17 “(B) MINIMUM REQUIREMENTS.—The per-
18 formance measures established under this sub-
19 section shall—

20 “(i) be based, at a minimum, on data
21 collected in the MPO Database under sub-
22 section (r);

23 “(ii) be based, at a minimum, on best
24 practices of current metropolitan planning

1 organization performance management sys-
2 tems and strategies;

3 “(iii) measure, at a minimum, the de-
4 gree to which the long-range transpor-
5 tation plan reduces congestion, improves
6 mobility and safety, increases the state of
7 good repair of surface transportation as-
8 sets, decreases surface transportation-re-
9 lated emissions and energy consumption, is
10 consistent with land use plans, and in-
11 creases the connectivity of and access to
12 the surface transportation system; and

13 “(iv) include, at a minimum, any
14 other information the Secretary considers
15 appropriate.

16 “(C) ADDITIONAL REQUIREMENTS FOR
17 LARGE METROPOLITAN REGIONS.—In addition
18 to the minimum requirements established under
19 subparagraph (B), the performance measures
20 for urbanized areas with a population of more
21 than 1,000,000 shall include a measurement of
22 the degree to which the long-range transpor-
23 tation plan is developed through an assessment,
24 at a minimum, of the following:

1 “(i) Land use patterns that support
2 improved mobility and reduced dependency
3 on single-occupant motor vehicle trips.

4 “(ii) An adequate supply of housing
5 for all income levels.

6 “(iii) Limited impacts on valuable
7 farmland, natural resources, and air qual-
8 ity.

9 “(iv) A reduction in greenhouse gas
10 emissions.

11 “(v) An increase in water and energy
12 conservation and efficiency.

13 “(vi) An improvement in the livability
14 of communities.

15 “(3) ESTABLISHMENT OF PERFORMANCE TAR-
16 GETS.—Not later than 18 months after the date of
17 enactment of this subsection, each metropolitan
18 planning organization shall establish a target level of
19 performance—

20 “(A) in relation to each of the performance
21 measures established under paragraph (2); and

22 “(B) against which the metropolitan plan-
23 ning organization will measure improvement in
24 meeting such performance measures.

1 “(4) REPORTING REQUIREMENTS.—Each met-
2 ropolitan planning organization shall submit to the
3 Secretary, and publish annually, a report docu-
4 menting the progress that the metropolitan planning
5 organization has made in meeting the performance
6 targets it established under paragraph (3).”.

7 (1) SPECIAL RULES FOR SMALL METROPOLITAN
8 PLANNING ORGANIZATIONS.—

9 (1) CONTINUATION OF APPLICABILITY OF SEC-
10 TION 5303.—Notwithstanding the amendment made
11 by subsection (c)(1) and not later the 180th day
12 after the date of enactment of this Act, a metropoli-
13 tan planning organization that serves an urbanized
14 area with a population of more than 50,000 and less
15 than 100,000 and that is subject to the provisions
16 of section 5303 of title 49, United States Code, on
17 the day before the date of enactment of this Act
18 shall continue to be subject to such provisions, as in
19 effect on such day until the population exceeds
20 100,000 if the Governor and units of general pur-
21 pose local government that together represent at
22 least 75 percent of the affected population including
23 the largest incorporated city (based on population)
24 as determined by the Bureau of the Census) agree
25 to continue to be subject to the provisions.

1 (2) TREATMENT.—A metropolitan planning or-
2 ganization described in paragraph (1) shall be treat-
3 ed, for purposes of this chapter, title 23, United
4 States Code, chapter 53 of title 49, United States
5 Code, the Safe, Accountable, Flexible, Efficient
6 Transportation Equity Act: A Legacy for Users, and
7 the Transportation Equity Act for the 21st Century,
8 as a metropolitan planning organization that is sub-
9 ject to the provisions of section 5303 of title 49,
10 United States Code, as in effect on the day before
11 the date of enactment of this Act.

12 **SEC. 3005. STATEWIDE PLANNING.**

13 (a) GENERAL REQUIREMENTS.—Section 5304(a)(3)
14 is amended by inserting “include consultation with the
15 State bicycle and pedestrian coordinator established under
16 section 217(c) of title 23 and with the State safe routes
17 to school coordinator established under section 152(e)(3)
18 of such title, shall” after “program shall”.

19 (b) SCOPE OF PLANNING PROCESS.—Section
20 5304(d)(1)(E) is amended—

21 (1) by inserting “sustainability and livability,
22 reduce surface transportation-related greenhouse gas
23 emissions and reliance on foreign oil, and adapt to
24 the effects of climate change),” after “energy con-
25 servation”;

1 (2) by inserting “public health” after “quality
2 of life”; and

3 (3) by inserting “, including housing and land
4 use patterns” after “development patterns”.

5 (c) STATEWIDE STRATEGIC LONG-RANGE TRANS-
6 PORTATION PLAN.—

7 (1) DEVELOPMENT OF LONG-RANGE PLAN.—
8 Section 5304(f) is amended—

9 (A) by striking the subsection heading and
10 inserting the following: “STATEWIDE STRA-
11 TEGIC LONG-RANGE TRANSPORTATION PLAN”;

12 (B) by striking paragraph (1) and insert-
13 ing the following:

14 “(1) DEVELOPMENT OF LONG-RANGE PLAN.—

15 “(A) IN GENERAL.—Each State shall de-
16 velop a statewide strategic long-range transpor-
17 tation plan, with a minimum 20-year forecast
18 period for all areas of the State, that provides
19 for the development and implementation of the
20 intermodal interconnected transportation sys-
21 tem of the State.

22 “(B) STRATEGIC TRANSPORTATION PLAN
23 REQUIREMENTS.—

24 “(i) NATIONAL TRANSPORTATION STA-
25 TISTICS.—In developing a statewide stra-

1 tegie long-range transportation plan, the
2 State shall consider the data and statistics
3 disseminated by the Secretary pursuant to
4 section 703(b) of title 23 for such State.

5 “(ii) PROJECTS OF STATEWIDE, RE-
6 GIONAL, AND NATIONAL SIGNIFICANCE.—
7 The State shall identify transportation
8 projects across all modes of transportation
9 in the State that have statewide, regional,
10 and national significance. In identifying
11 such projects, each State shall consider the
12 information disseminated by the Secretary
13 pursuant to section 703(b) of title 23 for
14 such State.

15 “(iii) STATES WITH CONGESTED AIR-
16 PORTS.—If a State has an airport in its
17 jurisdiction that had at least one percent
18 of all delayed aircraft operations in the
19 United States, the statewide strategic
20 transportation plan shall include measures
21 to alleviate congestion at that airport ei-
22 ther through expansion or the development
23 of additional facilities.

24 “(iv) STATES WITH CONGESTED
25 FREIGHT RAIL CORRIDORS.—If data from

1 the Department of Transportation and the
2 freight railroad industry indicate that a
3 State has freight railroad corridors that
4 operate at levels of service that are at or
5 exceed capacity, the statewide strategic
6 transportation plan shall include measures
7 by which the State department of trans-
8 portation and the freight railroads provide
9 relief for the congested corridors.

10 “(v) STATES WITH DEEP DRAFT
11 PORTS.—If a State has a deep draft port,
12 the statewide strategic transportation plan
13 shall take into account any plan for expan-
14 sion at that port and any projected in-
15 crease in shipping traffic at that port.

16 “(vi) STATES WITH NAVIGABLE IN-
17 LAND WATERWAYS.—Each State that has
18 navigable inland waterways shall include in
19 its statewide strategic transportation plan
20 any plans to use those waterways to facili-
21 tate the efficient and reliable transpor-
22 tation of freight and people.

23 “(vii) PROJECT
24 INTERCONNECTIVITY.—In developing a
25 statewide strategic long-range transpor-

1 tation plan, the State shall provide for
2 interconnectivity for freight and passengers
3 among different facilities and among dif-
4 ferent modes of transportation

5 “(viii) COST ESTIMATES FOR
6 PROJECTS THAT ARE OF STATEWIDE, RE-
7 GIONAL, AND NATIONAL IMPORTANCE.—In
8 developing the statewide strategic long-
9 range transportation plan, the State shall
10 include estimates of the costs of each of
11 the projects identified in clause (ii).”.

12 (C) in paragraph (2)—

13 (i) subparagraph (B) by striking the
14 last sentence and inserting the following:
15 “If a State has designated one or more
16 rural planning organizations, the Statewide
17 transportation plan shall be developed in
18 coordination with each such rural planning
19 organization.”; and

20 (ii) in subparagraph (D)(i) by insert-
21 ing “air quality, public health, housing,
22 and transportation,” after “conservation,”;
23 and

24 (D) in paragraph (7) by inserting “includ-
25 ing the incorporation of practical design stand-

1 ards as defined in section 331” after “meas-
2 ures”; and

3 (E) by inserting at the end the following:

4 “(9) EMISSIONS REDUCTION PROCESS.—

5 “(A) IN GENERAL.—Within a State, the
6 transportation planning process under this sec-
7 tion shall address transportation-related green-
8 house gas emissions by including emission re-
9 duction targets and strategies.

10 “(B) ESTABLISHMENT OF EMISSIONS RE-
11 DUCTION TARGETS AND STRATEGIES.—

12 “(i) IN GENERAL.—Not later than one
13 year after the promulgation of the final
14 regulations required under section 841 of
15 the Clean Air Act, each State shall develop
16 surface transportation-related greenhouse
17 gas emission reduction targets, as well as
18 strategies to meet such targets, as part of
19 the transportation planning process under
20 this section.

21 “(ii) MINIMUM REQUIREMENTS.—

22 Each State that develops targets and strat-
23 egies required by clause (i) shall dem-
24 onstrate progress in stabilizing and reduc-
25 ing transportation-related greenhouse gas

1 emissions in such State. The targets and
2 strategies shall, at a minimum—

3 “(I) be based on the models and
4 methodologies established in the final
5 regulations required under section
6 841 of the Clean Air Act;

7 “(II) address sources of surface
8 transportation-related greenhouse gas
9 emissions and contribute to achieve-
10 ment of the national transportation-
11 related greenhouse gas emissions re-
12 duction goals;

13 “(III) include efforts to increase
14 public transportation ridership; and

15 “(IV) include efforts to increase
16 walking, bicycling, and other forms of
17 nonmotorized transportation.

18 “(C) PUBLIC NOTICE.—Each State shall
19 make its emission reduction targets and strate-
20 gies, and an analysis of the anticipated effects
21 thereof, available to the public through its Web
22 site.

23 “(D) ENFORCEMENT.—If the Secretary
24 finds that a State has failed to develop, submit,
25 or publish its emission reduction targets and

1 strategies, the Secretary shall not certify that
2 the requirements of this section are met with
3 respect to such State.”.

4 (2) PLAN UPDATE.—Not later than September
5 30, 2011, each State shall update its long-range
6 transportation plan to comply with the requirements
7 of section 703 of title 23.

8 (d) STATEWIDE TRANSPORTATION IMPROVEMENT
9 PLAN.—Section 5304(g) is amended—

10 (1) in subparagraph (2)(B) by striking the last
11 sentence and inserting the following: “If a State has
12 designated one or more rural planning organizations,
13 the Statewide transportation plan shall be developed
14 in coordination with each such rural planning orga-
15 nization.”; and

16 (2) in the second sentence of paragraph (5) by
17 striking “on the National” and all that follows
18 through “maintenance program under this title” and
19 inserting the following: “under the critical asset in-
20 vestment and freight improvement programs”.

21 (e) PERFORMANCE MANAGEMENT.—Section 5304 is
22 further amended by adding at the end the following:

23 “(k) STATE PERFORMANCE MANAGEMENT.—

24 “(1) IN GENERAL.—To improve the outcomes
25 of the transportation planning process under this

1 section, States shall implement a system of perform-
2 ance management in accordance with paragraphs (2)
3 and (3).

4 “(2) ESTABLISHMENT OF PERFORMANCE MEAS-
5 URES.—

6 “(A) IN GENERAL.—Not later than one
7 year after the date of enactment of this sub-
8 section, the Secretary, in consultation with each
9 State, shall establish qualitative and quan-
10 titative performance measures for the State.

11 “(B) MINIMUM REQUIREMENTS.—The per-
12 formance measures established under this sub-
13 section shall—

14 “(i) be based, at a minimum, on best
15 practices of current State management
16 systems and strategies;

17 “(ii) measure, at a minimum, the de-
18 gree to which the long-range transpor-
19 tation plan reduces congestion, improves
20 mobility and safety, increases the state of
21 good repair of surface transportation as-
22 sets, decreases surface transportation-re-
23 lated emissions and energy consumption, is
24 consistent with land use plans, and in-

1 creases the connectivity of and access to
2 the surface transportation system; and

3 “(iii) include, at a minimum, any
4 other information the Secretary considers
5 appropriate.

6 “(3) ESTABLISHMENT OF PERFORMANCE TAR-
7 GETS.—Not later than 18 months after the date of
8 enactment of this subsection, each State shall estab-
9 lish a target level of performance—

10 “(A) in relation to each of the performance
11 measures established under paragraph (2); and

12 “(B) against which the State will measure
13 improvement in meeting such performance
14 measures.

15 “(4) REPORTING REQUIREMENTS.—Each State
16 shall submit to the Secretary, and publish annually,
17 a report documenting the progress that the State
18 has made in meeting the performance targets it es-
19 tablished under paragraph (3).

20 “(5) WITHHOLDING OF FUNDS.—If the Sec-
21 retary finds that a State has failed to meet the per-
22 formance requirements established under this sec-
23 tion, the Secretary may withhold up to 20 percent
24 of the funds made available for expenditure by the
25 State pursuant to section 505 of title 23.

1 “(6) RESTORATION OF WITHHELD FUNDS.—
2 The withheld funds shall be restored to the State at
3 such time as the Secretary determines the State at
4 such time as the Secretary determines the State is
5 meeting its performance targets.”.

6 **SEC. 3006. URBANIZED AREA FORMULA GRANTS.**

7 (a) DEFINITIONS.—Section 5307(a) is amended by
8 adding at the end the following:

9 “(3) STATE OF GOOD REPAIR INVESTMENT
10 PLAN.—The term ‘state of good repair investment
11 plan’ means a state of good repair investment plan
12 established by a designated recipient under sub-
13 section (n).

14 “(4) PERFORMANCE TARGET.—The term ‘per-
15 formance target’ means a performance target estab-
16 lished under subsection (m).”.

17 (b) GENERAL AUTHORITY.—

18 (1) _____.—Section 5307(b)(1) is
19 amended **【to be supplied】**:

20 () Operating costs of equipment and fa-
21 cilities for use in public transportation in an ur-
22 banized area with a population of at least
23 200,000, but not more than 500,000. Amounts
24 made available to any urbanized area under this
25 subparagraph shall not be more than 20 per-

1 cent of the amount apportioned under this
2 chapter in each fiscal year to the urbanized
3 area.

4 () Operating costs of equipment and fa-
5 cilities for use in public transportation in an ur-
6 banized area with a population of at least
7 500,000, but not more than 1,000,000.
8 Amounts made available to any urbanized area
9 under this subparagraph shall not be more than
10 10 percent of the amount apportioned under
11 this chapter in each fiscal year to the urbanized
12 area.

13 () Operating costs of equipment and fa-
14 cilities for use in public transportation in an ur-
15 banized area with a population of 1,000,000 or
16 more. Amounts made available to any urbanized
17 area under this subparagraph shall not be more
18 than 5 percent of the amount apportioned
19 under this chapter in each fiscal year to the ur-
20 banized area.”.

21 (2) SPECIAL RULE.—Section 5307(b) is amend-
22 ed by striking paragraph (2) and inserting the fol-
23 lowing:

24 “(2) _____.—The Secretary may make
25 grants under subparagraphs (), (), and () of

1 paragraph (1) only if the recipient of the grant cer-
2 tifies to the Secretary, in the time and manner the
3 Secretary prescribes, that—

4 “(A) a State, city, county, or local govern-
5 mental authority as defined in section 5302 in
6 which the recipient provides public transpor-
7 tation services has established a dedicated
8 source of revenue for operating costs of equip-
9 ment and facilities for use in public transpor-
10 tation; or

11 “(B) the percentage of current revenue for
12 operating costs of equipment and facilities for
13 use in public transportation from non-Federal
14 sources, excluding system-generated revenue, is
15 greater than such revenue during the previous
16 fiscal year.”.

17 (3) _____.—Section 5307(b)(3) is
18 amended—

19 (A) by inserting “TRANSPORTATION MAN-
20 AGEMENT AREAS.—” before “In a”; and

21 (B) by moving the text 2 ems to the right.

22 (c) GRANT RECIPIENT REQUIREMENTS.—Section
23 5307(d)(1) is amended—

1 (1) in subparagraph (D) by striking “handi-
2 capped individuals” and inserting “individuals with
3 disabilities”;

4 (2) in subparagraph (H) by striking “(a), sec-
5 tion 5301(d),”;

6 (3) by striking subparagraph (J); and

7 (4) by redesignating subparagraph (K) as sub-
8 paragraph (J).

9 (d) PERFORMANCE AND REPORTING.—Section 5307
10 is amended by adding at the end the following:

11 “(m) PERFORMANCE MANAGEMENT.—

12 “(1) PROGRAM GOALS.—The goals of the pro-
13 gram established by this section are to—

14 “(A) acquire, construct, rehabilitate, main-
15 tain, and preserve public transportation vehi-
16 cles, systems, and services;

17 “(B) reduce the maintenance backlog and
18 increase the state of good repair of the Nation’s
19 public transportation vehicles and systems;

20 “(C) increase the energy efficiency and en-
21 vironmental benefits of public transportation ve-
22 hicles, systems, and services; and

23 “(D) increase the overall ridership on pub-
24 lic transportation systems.

1 “(2) ESTABLISHMENT OF PERFORMANCE TAR-
2 GETS.—Not later than 6 months after the date on
3 which the Secretary receives asset condition informa-
4 tion from a majority of the entities subject to the re-
5 porting requirements of section 5335, and before the
6 last day of each 6-fiscal year period thereafter, the
7 Secretary shall establish quantifiable performance
8 targets for designated recipients of Federal assist-
9 ance under this section.

10 “(3) PERFORMANCE TARGET DATES.—Perform-
11 ance targets established by the Secretary for a des-
12 ignated recipient shall apply for a period of 6 fiscal
13 years.

14 “(4) MINIMUM REQUIREMENTS.—Performance
15 targets established for a designated recipient shall
16 provide that the investment strategy (described in
17 subsection (n)(3)(B)) implemented by the designated
18 recipient with funds apportioned under this section,
19 at a minimum, will result upon completion in the fol-
20 lowing:

21 “(A) A reduction in the percentage of its
22 transit rolling stock in revenue service that is
23 subject to replacement under the Federal Tran-
24 sit Administration’s standard for replacement,
25 as determined by the Secretary.

1 “(B) A reduction in the percentage of its
2 fixed guideway trackwork rated as being in poor
3 condition, as determined by the Secretary,
4 based on a broadly-accepted measure of the
5 condition or remaining service life of the track.

6 “(C) A reduction in the percentage of its
7 fixed guideway structures rated as being in
8 poor condition, as determined by the Secretary,
9 based on a broadly-accepted measure of the
10 condition or remaining service life of the fixed
11 guideway structures.

12 “(D) A reduction in the percentage of its
13 stations rated as being in poor condition, as de-
14 termined by the Secretary, based on a broadly-
15 accepted measure of the condition or remaining
16 service life of the stations.

17 “(E) An increase in the energy efficiency
18 of its rolling stock fleet, systems, facilities, and
19 services, as determined by the Secretary.

20 “(n) STATE OF GOOD REPAIR INVESTMENT
21 PLANS.—

22 “(1) SUBMISSION OF PLANS.—Not later than 6
23 months after the date on which the Secretary estab-
24 lishes quantifiable performance targets for a des-
25 ignated recipient under subsection (m)(2), the des-

1 designated recipient shall develop and submit to the
2 Secretary for approval a state of good repair invest-
3 ment plan.

4 “(2) UPDATES.—Not later than July 31 of the
5 second fiscal year beginning after the date of sub-
6 mission of a designated recipient’s state of good re-
7 pair investment plan under paragraph (1), and an-
8 nually thereafter, the designated recipient shall de-
9 velop and submit to the Secretary for approval an
10 update of the plan.

11 “(3) PLAN REQUIREMENTS.—An initial state of
12 good repair investment plan and any update of the
13 plan shall—

14 “(A) include documentation of the existing
15 condition of the designated recipient’s public
16 transportation assets, as reported under section
17 5335;

18 “(B) include a multi-year investment strat-
19 egy that—

20 “(i) beginning on the first day of the
21 first fiscal year that begins after submis-
22 sion of the initial plan, applies to all
23 projects to be funded under this section;

1 “(ii) describes the manner in which
2 the designated recipient will prioritize in-
3 vestments among, at a minimum—

4 “(I) assets in good condition, fair
5 condition, and poor condition;

6 “(II) projects for preservation,
7 rehabilitation, replacement, and ex-
8 pansion; and

9 “(III) other eligible costs, as de-
10 scribed in subsection (b); and

11 “(iii) provides for investment in
12 projects that, once completed, will allow
13 the designated recipient to meet the per-
14 formance targets established for the des-
15 ignated recipient; and

16 “(C) be consistent with the requirements
17 of this section.

18 “(4) REVIEWS.—

19 “(A) IN GENERAL.—Not later than 6
20 months after the date of receipt of a designated
21 recipient’s initial state of good repair invest-
22 ment plan or an update of the plan, the Sec-
23 retary shall review and approve or disapprove
24 the plan or update.

1 “(B) APPROVAL OF INITIAL PLANS AND
2 UPDATES.—The Secretary shall approve a des-
3 ignated recipient’s initial state of good repair
4 investment plan or an update of the plan if the
5 Secretary determines that the plan or update
6 will allow the designated recipient to meet the
7 performance targets established for the des-
8 ignated recipient.

9 “(C) INTERIM PROGRESS IN MEETING PER-
10 FORMANCE TARGETS.—In determining whether
11 to approve an update of a designated recipient’s
12 state of good repair investment plan, the Sec-
13 retary shall consider, at a minimum—

14 “(i) the designated recipient’s
15 progress relative to its performance tar-
16 gets; and

17 “(ii) the time remaining for the des-
18 ignated recipient to meet its performance
19 targets.

20 “(D) DISAPPROVAL OF PLANS.—If the
21 Secretary disapproves a designated recipient’s
22 initial state of good repair investment plan or
23 an update of the plan, the Secretary shall notify
24 the designated recipient of the reasons for the
25 disapproval and require the designated recipient

1 to resubmit the plan or update to the Secretary
2 with such modifications as the Secretary may
3 require.

4 “(E) EFFECT OF DISAPPROVAL OF
5 PLANS.—If the Secretary disapproves a des-
6 ignated recipient’s initial state of good repair
7 investment plan or an update of the plan, the
8 Secretary shall not approve the obligation of
9 funding to the designated recipient for addi-
10 tional projects under this section until the Sec-
11 retary approves the designated recipient’s initial
12 state of good repair investment plan or the up-
13 date of the plan, except that the Secretary shall
14 not withhold approval of the obligation of fund-
15 ing to the designated recipient for additional
16 projects under this section until 60 days after
17 the date of disapproval under subparagraph
18 (D).

19 “(F) AUTHORITY TO REDUCE PERFORM-
20 ANCE TARGETS.—If, in conducting a review of
21 a designated recipient’s initial state of good re-
22 pair investment plan or an update of the plan,
23 the Secretary determines that the designated
24 recipient’s ability to meet its performance tar-
25 gets is substantially limited by an insufficient

1 apportionment of funding under section 5336
2 and, if applicable, section 5337, or due to other
3 exceptional, external circumstances, the Sec-
4 retary may reduce the designated recipient's
5 performance targets in proportion to the extent
6 of the funding shortfall, or based on other ap-
7 propriate factors, and make a determination
8 under subparagraph (A) concerning approval or
9 disapproval of the initial plan or update based
10 on the reduced performance targets.

11 “(G) RESUBMITTAL OF PLANS WITH MODI-
12 FICATIONS.—If the Secretary requires a des-
13 ignated recipient to resubmit an initial state of
14 good repair investment plan or an update of the
15 plan with modifications, the Secretary shall re-
16 view and either approve or disapprove the modi-
17 fied plan or update not later than 30 days after
18 the date on which the plan or update is resub-
19 mitted.

20 “(5) PUBLIC NOTICE.—A designated recipient
21 shall make its initial state of good repair perform-
22 ance plan and each update of the plan, and any deci-
23 sion of the Secretary regarding approval or dis-
24 approval of the plan or update, available to the pub-
25 lic.

1 “(o) DESIGNATED RECIPIENT ANNUAL REPORTS.—

2 “(1) IN GENERAL.—Not later than December 1,
3 2011, and annually thereafter, a designated recipi-
4 ent receiving funds under this section shall submit
5 to the Secretary a report that documents the recipi-
6 ent’s progress in meeting its performance targets
7 through implementation of its state of good repair
8 investment plan.

9 “(2) CONTENTS.—A report submitted by a des-
10 ignated recipient in a fiscal year under paragraph
11 (1) shall contain, at a minimum, a description of the
12 extent to which the recipient’s use of funding appor-
13 tioned under this section during the fiscal year
14 achieved the program goals described in subsection
15 (m)(1) and was consistent with the investment strat-
16 egy described in the designated recipient’s state of
17 good repair investment plan.

18 “(p) ANNUAL REPORT TO CONGRESS.—Not later
19 than December 31, 2011, and annually thereafter, the
20 Secretary shall submit to the Committee on Transpor-
21 tation and Infrastructure of the House of Representatives
22 and the Committee on Banking, Housing, and Urban Af-
23 fairs of the Senate a report containing—

1 “(1) capital projects to construct, replace, and
2 rehabilitate an intermodal passenger facility for use
3 in public transportation that directly connects tran-
4 sit users to at least one additional mode or type of
5 transportation service; and

6 “(2) capital projects to construct, replace, and
7 rehabilitate a facility for use in public transportation
8 that will assist in reducing the energy consumption
9 or greenhouse gas emissions of public transportation
10 systems and facilities of such States and authorities.

11 “(b) GRANT REQUIREMENTS.—

12 “(1) IN GENERAL.—A grant under this section
13 shall be subject to the requirements of section 5307
14 for a project in an urbanized area, or section 5311
15 for a project in a rural area.

16 “(2) SELECTION CRITERIA.—In making a grant
17 under subsection (a)(2), the Secretary shall give pri-
18 ority to a project based on the total energy savings
19 or emissions reductions that are projected to result
20 from the investment, and projected energy savings
21 and emissions reductions as a percentage of the total
22 energy usage and emissions of the public transit
23 agency.

24 “(3) EQUITABLE DISTRIBUTION.—Not less than
25 5.5 percent of the total amount made by this section

1 shall be available in each fiscal year for projects that
2 are in rural areas.

3 “(c) GOVERNMENT’S SHARE OF COSTS.—A grant for
4 a capital project under this section shall be for 80 percent
5 of the net project cost of the project. The recipient may
6 provide additional local matching amounts.

7 “(d) AVAILABILITY OF FUNDS.—Any amount made
8 available or appropriated under section **【5338(b)(2)(E)】**
9 to carry out this section—

10 “(1) shall remain available for a project for 3
11 years after the fiscal year for which the amount is
12 made available or appropriated; and

13 “(2) that remains unobligated at the end of the
14 period described in paragraph (1), shall be added to
15 the amount made available in the following fiscal
16 year.”.

17 (b) CLERICAL AMENDMENT.—The analysis for chap-
18 ter 53 is amended by striking the item relating to section
19 5308 and inserting the following:

“5308. Intermodal and energy efficient transit facilities program.”.

20 **SEC. 3008. CAPITAL INVESTMENT GRANTS.**

21 (a) CAPITAL INVESTMENT GRANTS.—Section 5309 is
22 amended to read as follows:

23 **“§ 5309 Capital investment grants**

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

1 “(1) NEW FIXED GUIDEWAY CAPITAL
2 PROJECT.—The term ‘new fixed guideway capital
3 project’ means an operable segment of a capital
4 project for a new fixed guideway system or extension
5 to an existing fixed guideway system.

6 “(2) NEW START.—The term ‘new start’ means
7 a new fixed guideway capital project for which the
8 Federal assistance provided or to be provided under
9 this section is \$100,000,000 or more.

10 “(3) SMALL START.—The term ‘small start’
11 means a new fixed guideway capital project for
12 which the Federal assistance provided or to be pro-
13 vided under this section is less than \$100,000,000.

14 “(b) GENERAL AUTHORITY.—The Secretary may
15 make grants under this section to assist State and local
16 governmental authorities in financing—

17 “(1) new fixed guideway capital projects under
18 subsections (d) and (e), including the acquisition of
19 real property, the initial acquisition of rolling stock
20 for the systems, the acquisition of rights-of-way, and
21 relocation assistance, for fixed guideway corridor de-
22 velopment for projects in the advanced stages of
23 planning or in project development; and

24 “(2) the development of corridors to support
25 new fixed guideway capital projects under sub-

1 sections (d) and (e), including protecting rights-of-
2 way through acquisition, construction of dedicated
3 bus and high occupancy vehicle lanes and park and
4 ride lots, and other nonvehicular capital improve-
5 ments that the Secretary may determine would re-
6 sult in increased public transportation usage in the
7 corridor.

8 “(c) GRANT REQUIREMENTS.—The Secretary may
9 not approve a grant under this section unless the Sec-
10 retary determines that—

11 “(1) _____.—

12 “(A) the project is part of an approved
13 transportation plan and program of projects re-
14 quired under sections 5303, 5304, and 5306;
15 and

16 “(B) the applicant has, or will have—

17 “(i) the legal, financial, and technical
18 capacity to carry out the project, including
19 safety and security aspects of the project;

20 “(ii) satisfactory continuing control
21 over the use of the equipment or facilities;
22 and (iii) the capability and willingness to
23 maintain the equipment or facilities.

24 “(2) CERTIFICATION.—An applicant that has
25 submitted the certifications required under subpara-

1 graphs (A), (B), (C), and (H) of section 5307(d)(1)
2 shall be deemed to have provided sufficient informa-
3 tion upon which the Secretary may make the deter-
4 minations required under this subsection.

5 “(3) GRANTEE REQUIREMENTS.—The Secretary
6 shall require that any grant awarded under this sec-
7 tion to a recipient be subject to all terms, conditions,
8 requirements, and provisions that the Secretary de-
9 termines to be necessary or appropriate for the pur-
10 poses of this section, including requirements for the
11 disposition of net increases in the value of real prop-
12 erty resulting from the project assisted under this
13 section.

14 “(d) NEW START GRANTS OF \$100,000,000 OR
15 MORE.—

16 “(1) FULL FUNDING GRANT AGREEMENT.—

17 “(A) IN GENERAL.—A new start project
18 shall be carried out through a full funding
19 grant agreement.

20 “(B) CRITERIA.—The Secretary shall enter
21 into a full funding grant agreement, based on
22 the evaluations and ratings required under this
23 subsection, with each grantee receiving assist-
24 ance for a new start project that—

1 “(i) is authorized for project develop-
2 ment; and

3 “(ii) has been rated as high, medium-
4 high, or medium, in accordance with para-
5 graph (5).

6 “(2) APPROVAL OF GRANTS.—The Secretary
7 may approve a grant under this section for a new
8 start project only if the Secretary, based upon eval-
9 uations and considerations set forth in paragraph
10 (3), determines that the project—

11 “(A) has been adopted as the locally pre-
12 ferred alternative as part of the long-range
13 transportation plan required under section
14 5303;

15 “(B) is based on the results of an evalua-
16 tion of the benefits of the project as set forth
17 in paragraph (3); and

18 “(C) is supported by an acceptable degree
19 of local financial commitment (including evi-
20 dence of stable and dependable financing
21 sources) to construct, maintain, and operate the
22 system or extension, and maintain and operate
23 the entire public transportation system without
24 requiring a permanent reduction in existing

1 public transportation services or level of service
2 to operate the proposed project.

3 “(3) EVALUATION OF BENEFITS AND FEDERAL
4 INVESTMENT.—In making the determination under
5 paragraph (2)(B) for a new start grant, the Sec-
6 retary shall analyze, evaluate, and consider—

7 “(A) the benefits that the proposed project
8 will bring to the community, including mobility
9 and accessibility benefits, congestion relief, en-
10 ergy and environmental benefits, economic de-
11 velopment benefits, and benefits resulting from
12 public transportation supportive land use poli-
13 cies and future patterns as compared to a no-
14 action alternative; and

15 “(B) the amount of Federal assistance
16 provided or to be provided under this section
17 for the project.

18 “(4) EVALUATION OF LOCAL FINANCIAL COM-
19 MITMENT.—In evaluating a project under paragraph
20 (2)(C), the Secretary shall—

21 “(A) require that the proposed project plan
22 provides for the availability of contingency
23 amounts that the Secretary determines to be
24 reasonable to cover unanticipated cost in-
25 creases;

1 “(B) require that each proposed local
2 source of capital and operating financing is sta-
3 ble, reliable, and available within the proposed
4 project timetable; and

5 “(C) consider the elements of the project
6 advanced with 100 percent non-Federal funds.

7 “(5) RATINGS.—In making a determination
8 under paragraphs (3) and (4), the Secretary shall
9 evaluate and rate the project on a 5-point scale
10 (high, medium-high, medium, medium-low, or low)
11 based on an evaluation of the benefits of the project
12 as compared to the Federal assistance to be provided
13 and the degree of local financial commitment, as re-
14 quired under this subsection. In rating the projects,
15 the Secretary shall provide, in addition to the overall
16 project rating, individual ratings for each of the cri-
17 teria established by this subsection and shall give
18 comparable, but not necessarily equal, numerical
19 weight to the benefits that the proposed project will
20 bring to the community in calculating the overall
21 project rating.

22 “(e) SMALL START GRANTS OF LESS THAN
23 \$100,000,000.—

24 “(1) IN GENERAL.—

1 “(A) APPLICABILITY OF REQUIRE-
2 MENTS.—Except as provided by subparagraph
3 (B), a small start project shall be subject to the
4 requirements of this subsection if the Federal
5 assistance provided or to be provided under this
6 section for the project is less than
7 \$100,000,000.

8 “(B) PROJECTS RECEIVING LESS THAN
9 \$25,000,000 IN FEDERAL ASSISTANCE.—If the
10 assistance provided under this section with re-
11 spect to a small start project is less than
12 \$25,000,000, the requirements of this sub-
13 section shall not apply to the project and the
14 Secretary shall utilize special warrants to ad-
15 vance the project and provide Federal assist-
16 ance as appropriate.

17 “(2) SELECTION CRITERIA.—The Secretary
18 may provide Federal assistance under this sub-
19 section with respect to a proposed project only if the
20 Secretary finds that the project—

21 “(A) has been adopted as the locally pre-
22 ferred alternative as part of the long-range
23 transportation plan required under section
24 5303;

1 “(B) is based on the results of an analysis
2 of the benefits of the project as set forth in
3 paragraph (3); and

4 “(C) is supported by an acceptable degree
5 of local financial commitment.

6 “(3) EVALUATION OF BENEFITS AND FEDERAL
7 INVESTMENT.—In making the determination under
8 paragraph (2)(B) for a small start grant, the Sec-
9 retary shall analyze, evaluate, and consider—

10 “(A) the benefits that the proposed project
11 will bring to the community, including mobility
12 and accessibility benefits, energy and environ-
13 mental benefits, economic development benefits,
14 and benefits resulting from public transpor-
15 tation supportive land use policies and future
16 patterns as compared to a no-action alternative;
17 and

18 “(B) the amount of Federal assistance
19 provided or to be provided under this section
20 for the project.

21 “(4) EVALUATION OF LOCAL FINANCIAL COM-
22 MITMENT.—For purposes of paragraph (2)(C), the
23 Secretary shall—

24 “(A) require that each proposed local
25 source of capital and operating financing is sta-

1 ble, reliable, and available within the proposed
2 project timetable; and

3 “(B) consider elements of the project ad-
4 vanced with 100 percent non-Federal funds.

5 “(5) RATINGS.—In making a determination
6 under paragraphs (3) and (4), the Secretary shall
7 evaluate and rate the project on a 5-point scale
8 (high, medium-high, medium, medium-low, or low)
9 based on an evaluation of the benefits of the project
10 as compared to the Federal assistance to be provided
11 and the degree of local financial commitment, as re-
12 quired under this subsection. In rating the projects,
13 the Secretary shall provide, in addition to the overall
14 project rating, individual ratings for each of the cri-
15 teria established by this subsection and shall give
16 comparable, but not necessarily equal, numerical
17 weight to the benefits that the proposed project will
18 bring to the community in calculating the overall
19 project rating.

20 “(6) GRANTS.—The Secretary shall, to the
21 maximum extent practicable, provide Federal assist-
22 ance under this subsection in a single grant. If the
23 Secretary cannot provide such a single grant, the
24 Secretary may execute an expedited grant agreement
25 in order to include a commitment on the part of the

1 Secretary to provide funding for the project in fu-
2 ture fiscal years. In executing an expedited grant
3 agreement under this subsection, the Secretary may
4 include in the agreement terms similar to those es-
5 tablished under subsection (g)(2)(A).

6 “(7) NEW FIXED GUIDEWAY CAPITAL
7 PROJECT.—In this subsection, the term ‘new fixed
8 guideway capital project’ includes a corridor-based
9 capital project if—

10 “(A) a majority of the project operates in
11 a separate right-of-way dedicated for public
12 transit use during peak hour operations; and

13 “(B) the project represents a substantial
14 investment in a defined corridor as dem-
15 onstrated by investment in fixed transit facili-
16 ties and equipment such as substantial transit
17 stations, intelligent transportation systems tech-
18 nology, traffic signal priority, off-board fare col-
19 lection, and other direct investments in the cor-
20 ridor.

21 “(f) PREVIOUSLY ISSUED LETTER OF INTENT OR
22 GRANT AGREEMENT.—Subsections (d) and (e) do not
23 apply to projects for which the Secretary has issued a let-
24 ter of intent or entered into a full funding grant agree-

1 ment before the date of enactment of the Public Transpor-
2 tation Act of 2009.

3 “(g) LETTERS OF INTENT, FULL FUNDING GRANT
4 AGREEMENTS, AND EARLY SYSTEMS WORK AGREE-
5 MENTS.—

6 “(1) LETTERS OF INTENT.—

7 “(A) AMOUNTS INTENDED TO BE OBLI-
8 GATED.—The Secretary may issue a letter of
9 intent to an applicant announcing an intention
10 to obligate, for a new start or small start cap-
11 ital project under this section, an amount from
12 future available budget authority specified in
13 law that is not more than the amount stipu-
14 lated as the financial participation of the Sec-
15 retary in the project.

16 “(B) TREATMENT.—The issuance of a let-
17 ter under subparagraph (A) is deemed not to be
18 an obligation under sections 1108(c), 1108(d),
19 1501, and 1502(a) of title 31 or an administra-
20 tive commitment.

21 “(2) FULL FUNDING GRANT AGREEMENTS.—

22 “(A) TERMS.—The Secretary may make a
23 full funding grant agreement with an applicant
24 for a grant under this section. The agreement
25 shall—

1 “(i) establish the terms of participa-
2 tion by the Government in a project under
3 this section;

4 “(ii) establish the maximum amount
5 of Government financial assistance for the
6 project;

7 “(iii) cover the period of time for com-
8 pleting the project, including, if necessary,
9 a period extending beyond the period of an
10 authorization; and

11 “(iv) make timely and efficient man-
12 agement of the project easier according to
13 the law of the United States.

14 “(B) SPECIAL FINANCIAL RULES.—

15 “(i) IN GENERAL.—A full funding
16 grant agreement under this paragraph ob-
17 ligates an amount of available budget au-
18 thority specified in law and may include a
19 commitment, contingent on amounts to be
20 specified in law in advance for commit-
21 ments under this paragraph, to obligate an
22 additional amount from future available
23 budget authority specified in law.

24 “(ii) STATEMENT OF CONTINGENT
25 COMMITMENT.—The agreement shall state

1 that the contingent commitment is not an
2 obligation of the Government.

3 “(iii) INTEREST AND OTHER FINANC-
4 ING COSTS.—Interest and other financing
5 costs of efficiently carrying out a part of
6 the project within a reasonable time are a
7 cost of carrying out the project under a
8 full funding grant agreement, except that
9 eligible costs may not be more than the
10 cost of the most favorable financing terms
11 reasonably available for the project at the
12 time of borrowing. The applicant shall cer-
13 tify, in a way satisfactory to the Secretary,
14 that the applicant has shown reasonable
15 diligence in seeking the most favorable fi-
16 nancing terms.

17 “(iv) COMPLETION OF OPERABLE
18 SEGMENT.—The amount stipulated in an
19 agreement under this paragraph for a new
20 start or small start project shall be suffi-
21 cient to complete at least one operable seg-
22 ment.

23 “(C) BEFORE AND AFTER STUDY.—

24 “(i) IN GENERAL.—A full funding
25 grant agreement under this paragraph

1 shall require the applicant to conduct a
2 study that—

3 “(I) describes and analyzes the
4 impacts of the new fixed guideway
5 capital project on transit services and
6 transit ridership;

7 “(II) evaluates the consistency of
8 predicted and actual project charac-
9 teristics and performance; and

10 “(III) identifies sources of dif-
11 ferences between predicted and actual
12 outcomes.

13 “(ii) INFORMATION COLLECTION AND
14 ANALYSIS PLAN.—

15 “(I) SUBMISSION OF PLAN.—Ap-
16 plicants seeking an agreement under
17 this paragraph shall submit a com-
18 plete plan for the collection and anal-
19 ysis of information to identify the im-
20 pacts of the new fixed guideway cap-
21 ital project and the accuracy of the
22 forecasts prepared during the develop-
23 ment of the project. Preparation of
24 this plan shall be included in the full

1 funding grant agreement as an eligi-
2 ble activity.

3 “(II) CONTENTS OF PLAN.—The
4 plan submitted under subclause (I)
5 shall provide for—

6 “(aa) the collection of data
7 on the current transit system re-
8 garding transit service levels and
9 ridership patterns, including ori-
10 gins and destinations, access
11 modes, trip purposes, and rider
12 characteristics;

13 “(bb) documentation of the
14 predicted scope, service levels,
15 capital costs, operating costs, and
16 ridership of the project;

17 “(cc) collection of data on
18 the transit system 2 years after
19 the opening of the new fixed
20 guideway capital project, includ-
21 ing analogous information on
22 transit service levels and rider-
23 ship patterns and information on
24 the as-built scope and capital
25 costs of the project; and

1 “(dd) analysis of the consist-
2 ency of predicted project charac-
3 teristics with the after data.

4 “(D) COLLECTION OF DATA ON CURRENT
5 SYSTEM.—To be eligible for a full funding
6 grant agreement under this paragraph, appli-
7 cants shall have collected data on the current
8 system, according to the plan required, before
9 the beginning of construction of the proposed
10 new start project. Collection of this data shall
11 be included in the full funding grant agreement
12 as an eligible activity.

13 “(3) EARLY SYSTEMS WORK AGREEMENTS.—

14 “(A) CONDITIONS.—The Secretary may
15 make an early systems work agreement with an
16 applicant if a record of decision under the Na-
17 tional Environmental Policy Act of 1969 (42
18 U.S.C. 4321 et seq.) has been issued on the
19 project and the Secretary finds there is reason
20 to believe a full funding grant agreement for
21 the project will be made.

22 “(B) CONTENTS.—

23 “(i) IN GENERAL.—A work agreement
24 under this paragraph obligates an amount
25 of available budget authority specified in

1 law and shall provide for reimbursement of
2 preliminary costs of carrying out the
3 project, including land acquisition, timely
4 procurement of system elements for which
5 specifications are decided, and other activi-
6 ties the Secretary decides are appropriate
7 to make efficient, long-term project man-
8 agement easier.

9 “(ii) PERIOD COVERED.—A work
10 agreement under this paragraph shall
11 cover the period of time the Secretary con-
12 siders appropriate. The period may extend
13 beyond the period of current authorization.

14 “(iii) INTEREST AND OTHER FINANC-
15 ING COSTS.—Interest and other financing
16 costs of efficiently carrying out the work
17 agreement within a reasonable time are a
18 cost of carrying out the agreement, except
19 that eligible costs may not be more than
20 the cost of the most favorable financing
21 terms reasonably available for the project
22 at the time of borrowing. The applicant
23 shall certify, in a manner satisfactory to
24 the Secretary, that the applicant has

1 shown reasonable diligence in seeking the
2 most favorable financing terms.

3 “(iv) FAILURE TO CARRY OUT
4 PROJECT.—If an applicant does not carry
5 out the project for reasons within the con-
6 trol of the applicant, the applicant shall
7 repay all Government payments made
8 under the work agreement plus reasonable
9 interest and penalty charges the Secretary
10 establishes in the agreement.

11 “(4) LIMITATION ON AMOUNTS.—

12 “(A) NEW START GRANTS CONTINGENT
13 COMMITMENT AUTHORITY.—The total estimated
14 amount of future obligations of the Government
15 and contingent commitments to incur obliga-
16 tions covered by all outstanding letters of in-
17 tent, full funding grant agreements, and early
18 systems work agreements under this subsection
19 for new start projects may be not more than
20 the greater of the amount authorized under sec-
21 tions 5338(c) for such projects or an amount
22 equivalent to the last 3 fiscal years of funding
23 allocated under subsections [(m)(1)(A) and
24 (m)(2)(A)(ii)] for such projects, less an amount
25 the Secretary reasonably estimates is necessary

1 for grants under this section for the projects
2 that are not covered by a letter or agreement.
3 The total amount covered by new letters and
4 contingent commitments included in full fund-
5 ing grant agreements and early systems work
6 agreements for such projects may be not more
7 than a limitation specified in law.

8 “(B) SMALL START GRANTS CONTINGENT
9 COMMITMENT AUTHORITY.—The total estimated
10 amount of future obligations of the Government
11 and contingent commitments to incur obliga-
12 tions covered by all expedited grant agreements
13 and early systems work agreements under this
14 subsection for small start projects described in
15 subsection (e) may be not more than the great-
16 er of the amount allocated under subsection
17 **[(m)(2)(A)(i)]** for such projects or an amount
18 equivalent to the last fiscal year of funding allo-
19 cated under such subsection for such projects,
20 less an amount the Secretary reasonably esti-
21 mates is necessary for grants under this section
22 for such projects that are not covered by an
23 agreement. The total amount covered by new
24 contingent commitments included in expedited
25 grant agreements and early systems work

1 agreements for such projects may be not more
2 than a limitation specified in law.

3 “(C) APPROPRIATION REQUIRED.—An ob-
4 ligation may be made under this subsection only
5 when amounts are appropriated for the obliga-
6 tion.

7 “(5) NOTIFICATION OF CONGRESS.—At least 10
8 days before issuing a letter of intent, or early sys-
9 tems work agreement, or a small start grant and at
10 least 21 days before entering into a full funding
11 grant agreement under this section, the Secretary
12 shall notify, in writing, the Committees on Trans-
13 portation and Infrastructure and Appropriations of
14 the House of Representatives and the Committees
15 on Banking, Housing, and Urban Affairs and Ap-
16 propriations of the Senate of the proposed letter or
17 agreement. The Secretary shall include with the no-
18 tification a copy of the proposed letter or agreement
19 as well as the evaluations and ratings for the
20 project.

21 “(h) GOVERNMENT’S SHARE OF NET PROJECT
22 COST.—

23 “(1) IN GENERAL.—Based on engineering stud-
24 ies, studies of economic feasibility, and information
25 on the expected use of equipment or facilities, the

1 Secretary shall estimate the net project cost. A
2 grant under this section for the project shall be for
3 80 percent of the net capital project cost. The recipi-
4 ent may provide additional local matching amounts.

5 “(2) ADJUSTMENT FOR COMPLETION UNDER
6 BUDGET.—The Secretary may adjust the final net
7 project cost of a new fixed guideway capital project
8 evaluated under subsections (d) and (e) to include
9 the cost of eligible activities not included in the
10 originally defined project if the Secretary determines
11 that the originally defined project has been com-
12 pleted at a cost that is significantly below the origi-
13 nal estimate.

14 “(3) REMAINDER OF NET PROJECT COST.—The
15 remainder of net project costs shall be provided from
16 an undistributed cash surplus, a replacement or de-
17 preciation cash fund or reserve, or new capital.

18 “(4) LIMITATION ON STATUTORY CONSTRUC-
19 TION.—Nothing in this section shall be construed as
20 authorizing the Secretary to request or require a
21 non-Federal financial commitment for a project that
22 is more than 20 percent of the net capital project
23 cost.

24 “(5) SPECIAL RULE FOR ROLLING STOCK
25 COSTS.—In addition to amounts allowed pursuant to

1 paragraph (1), a planned extension to a fixed guide-
2 way system may include the cost of rolling stock pre-
3 viously purchased if the applicant satisfies the Sec-
4 retary that only amounts other than amounts of the
5 Government were used and that the purchase was
6 made for use on the extension. A refund or reduc-
7 tion of the remainder may be made only if a refund
8 of a proportional amount of the grant of the Govern-
9 ment is made at the same time.

10 “(i) UNDERTAKING PROJECTS IN ADVANCE.—

11 “(1) IN GENERAL.—The Secretary may pay the
12 Government’s share of the net capital project cost to
13 a State or local governmental authority that carries
14 out any part of a project described in this section
15 without the aid of amounts of the Government and
16 according to all applicable procedures and require-
17 ments if—

18 “(A) the State or local governmental au-
19 thority applies for the payment;

20 “(B) the Secretary approves the payment;
21 and

22 “(C) before carrying out the part of the
23 project, the Secretary approves the plans and
24 specifications for the part in the same way as
25 other projects under this section.

1 “(2) FINANCING COSTS.—

2 “(A) IN GENERAL.—The cost of carrying
3 out part of a project includes the amount of in-
4 terest earned and payable on bonds issued by
5 the State or local governmental authority to the
6 extent proceeds of the bonds are expended in
7 carrying out the part.

8 “(B) LIMITATION ON AMOUNT OF INTER-
9 EST.—The amount of interest under this para-
10 graph may not be more than the most favorable
11 interest terms reasonably available for the
12 project at the time of borrowing.

13 “(C) CERTIFICATION.—The applicant shall
14 certify, in a manner satisfactory to the Sec-
15 retary, that the applicant has shown reasonable
16 diligence in seeking the most favorable financial
17 terms.

18 “(j) AVAILABILITY OF AMOUNTS.—

19 “(1) IN GENERAL.—An amount made available
20 or appropriated under section 5338 for new start or
21 small start projects shall remain available for 3 fis-
22 cal years after the fiscal year in which the amount
23 is made available or appropriated. Any of such
24 amounts that are unobligated at the end of the

1 fourth fiscal year may be used by the Secretary for
2 any purpose under this section.

3 “(2) USE OF DEOBLIGATED AMOUNTS.—An
4 amount available under this section that is
5 deobligated may only be used for a purpose under
6 this section.

7 “(k) REPORTS ON NEW START PROJECTS.—

8 “(1) ANNUAL REPORT ON FUNDING REC-
9 OMMENDATIONS.—Not later than the first Monday
10 in February of each year, the Secretary shall submit
11 to the Committees on Transportation and Infra-
12 structure and Appropriations of the House of Rep-
13 resentatives and the Committees on Banking, Hous-
14 ing, and Urban Affairs and Appropriations of the
15 Senate a report that includes—

16 “(A) a proposal of allocations of amounts
17 to be available to finance grants for new fixed
18 guideway capital projects among applicants for
19 these amounts;

20 “(B) evaluations and ratings, as required
21 under subsections (d) and (e), for each such
22 project that is authorized by the Public Trans-
23 portation Act of 2009; and

24 “(C) recommendations of such projects for
25 funding based on the evaluations and ratings

1 and on existing commitments and anticipated
2 funding levels for the next 3 fiscal years based
3 on information currently available to the Sec-
4 retary.

5 “(2) BIENNIAL GAO REVIEW.—Beginning 2
6 years after the date of enactment of the Public
7 Transportation Act of 2009 the Comptroller General
8 shall—

9 “(A) conduct a biennial review of—

10 “(i) the processes and procedures for
11 evaluating, rating, and recommending new
12 fixed guideway capital projects; and

13 “(ii) the Secretary’s implementation
14 of such processes and procedures; and

15 “(B) on a biennial basis, report to Con-
16 gress on the results of such review by May 31.

17 “(1) BEFORE AND AFTER STUDY REPORT.—Not
18 later than the first Monday of August of each year, the
19 Secretary shall submit to the committees referred to in
20 subsection (k)(1) a report containing a summary of the
21 results of the studies conducted under subsection
22 (g)(2)(C).

23 “(m) LIMITATIONS.—

24 “(1) LIMITATION ON GRANTS.—The Secretary
25 may make a grant or enter into a grant agreement

1 for a new start or small start project under this sec-
2 tion only if the project has been rated as high, me-
3 dium-high, or medium or the Secretary has issued a
4 warrant described in subsection (n) in lieu of such
5 ratings.

6 “(2) FISCAL YEARS 2010 THROUGH 2015.—Of
7 the amounts made available or appropriated under
8 section 5338(c)—

9 “(A) [§] for each fiscal year shall be allo-
10 cated for small start projects in accordance
11 with subsection (e); and

12 “(B) the remainder shall be allocated for
13 new start projects in accordance with sub-
14 section (d).

15 “(3) LIMITATION ON EXPENDITURES.—None of
16 the amounts made available or appropriated under
17 section 5338(c) may be expended on a project that
18 has not been adopted as the locally preferred alter-
19 native as part of a long-range transportation plan.

20 “(4) LIMITATION ON EVALUATION METHODS.—
21 In evaluating and rating proposed new start and
22 small start projects under this section, the Secretary
23 shall not use any form of a cost-effectiveness index
24 and shall not use a transportation system user ben-

1 efit calculation to evaluate any benefit other than
2 mobility.

3 “(n) EXPEDITED PROJECT ADVANCEMENT.—

4 “(1) WARRANTS.—The Secretary shall, to the
5 maximum extent practicable, develop and utilize spe-
6 cial warrants to advance projects and provide Fed-
7 eral assistance under this subsection, including war-
8 rants—

9 “(A) based on current transit ridership,
10 corridor characteristics, and service on existing
11 alignments;

12 “(B) designed to assess distinct categories
13 of projects such as proposed new service en-
14 hancements on existing alignments, new line
15 haul service, and new urban circulator service;
16 and

17 “(C) based on the benefits for proposed
18 projects as set forth in subsections (d)(3) and
19 (e)(3) for the Federal assistance provided or to
20 be provided under this subsection.

21 “(2) ENTRANCE INTO PROJECT DEVELOP-
22 MENT.—The Secretary shall approve a proposed
23 project under this section for entrance into project
24 development as soon as the Secretary is notified by
25 the project sponsor that the project has been adopt-

1 ed as the locally preferred alternative as part of the
2 long-range transportation plan required under sec-
3 tion 5303, and that the project sponsor intends to
4 seek Federal assistance under subsection (d) or (e).

5 “(3) LETTERS OF INTENT AND EARLY SYSTEMS
6 WORK AGREEMENTS.—The Secretary shall, to the
7 maximum extent practicable, issue letters of intent
8 and make early systems work agreements upon
9 issuance of a record of decision.

10 “(4) FUNDING AGREEMENTS.—The Secretary
11 shall enter into a full funding grant agreement, ex-
12 pedited grant agreement, or grant, as appropriate,
13 between the Government and the project sponsor as
14 soon as the Secretary determines that the project
15 meets the requirements of subsection (d) or (e).

16 “(5) RECORDS RETENTION.—The Secretary
17 shall adhere to a uniform records retention policy re-
18 garding all documentation related to new start and
19 small start projects.

20 “(6) OFFICE OF EXPEDITED PROJECT DELIV-
21 ERY.—The Secretary shall further expedite the ad-
22 vancement of new start and small start projects
23 under this section in conjunction with the Office of
24 Expedited Project Delivery established under section
25 5326.

1 “(o) REGULATIONS.—Not later than 240 days after
2 the date of enactment of the Public Transportation Act
3 of 2009, the Secretary shall issue regulations establishing
4 new program requirements for the programs created
5 under this section, including new evaluation and rating
6 processes for proposed projects under this section.”.

7 (b) CLERICAL AMENDMENT.—The analysis for chap-
8 ter 53 is amended by striking the item relating to section
9 5309 and inserting the following:

“5309. Capital investment grants.”.

10 **SEC. 3009. COORDINATED ACCESS AND MOBILITY PRO-**
11 **GRAM FORMULA GRANTS.**

12 (a) IN GENERAL.—Section 5310 is amended to read
13 as follows:

14 **“§ 5310. Coordinated access and mobility program**
15 **formula grants**

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

18 “(1) ELDERLY INDIVIDUAL.—The term ‘elderly
19 individual’ means an individual who is age 65 or
20 older.

21 “(2) ELIGIBLE LOW-INCOME INDIVIDUAL.—The
22 term ‘eligible low-income individual’ means an indi-
23 vidual whose family income is at or below 150 per-
24 cent of the poverty line (as that term is defined in
25 section 673(2) of the Community Services Block

1 Grant Act (42 U.S.C. 9902(2)), including any revision required by that section) for a family of the size
2 involved.
3

4 “(3) JOB ACCESS AND REVERSE COMMUTE
5 PROJECT.—The term ‘job access and reverse commute project’ means a project relating to the development and maintenance of transportation services
6 designed to transport welfare recipients and eligible
7 low-income individuals to and from jobs and activities related to their employment, including—
8
9
10

11 “(A) transportation projects to finance
12 planning, capital, and operating costs of providing new or expanded public transportation
13 access to employment locations;
14

15 “(B) promoting public transportation by
16 low-income workers, including the use of public transportation by workers with nontraditional
17 work schedules;
18

19 “(C) promoting the use of transit vouchers
20 for welfare recipients and eligible low-income individuals;
21

22 “(D) promoting the use of employer-provided transportation, including the transit pass
23 benefit program under section 132 of the Internal Revenue Code of 1986;
24
25

1 “(E) transportation projects designed to
2 transport welfare recipients and low-income
3 residents of urbanized areas and rural areas to
4 suburban employment locations; and

5 “(F) otherwise facilitate the provision of
6 public transportation services to suburban em-
7 ployment opportunities.

8 “(4) RECIPIENT.—The term ‘recipient’ means a
9 designated recipient (as defined in section
10 5307(a)(2)) and a State that directly receives a
11 grant under this section.

12 “(5) SUBRECIPIENT.—The term ‘subrecipient’
13 means a State or local governmental authority, non-
14 profit organization, or operator of public transpor-
15 tation services that receives a grant under this sec-
16 tion indirectly through a recipient.

17 “(6) WELFARE RECIPIENT.—The term ‘welfare
18 recipient’ means an individual who has received as-
19 sistance under a State or tribal program funded
20 under part A of title IV of the Social Security Act
21 (42 U.S.C. 601 et seq.) at any time during the 3-
22 year period before the date on which the applicant
23 applies for a grant under this section.

24 “(b) GOALS.—The goals of the program established
25 under this section are to—

1 “(1) improve the accessibility of the Nation’s
2 public transportation systems and services;

3 “(2) improve the mobility of or otherwise meet
4 the special needs of elderly individuals, eligible low-
5 income individuals, and individuals with disabilities;
6 and

7 “(3) improve the coordination among all pro-
8 viders of public transportation and human services
9 transportation.

10 “(c) GENERAL AUTHORITY.—

11 “(1) GRANTS.—The Secretary may make
12 grants under this section to recipients for the fol-
13 lowing purposes:

14 “(A) For public transportation projects
15 planned, designed, and carried out to meet the
16 special needs of elderly individuals and individ-
17 uals with disabilities.

18 “(B) For job access and reverse commute
19 projects carried out by the recipient or a sub-
20 recipient.

21 “(C) For new public transportation serv-
22 ices, and for public transportation alternatives
23 beyond those required by the Americans with
24 Disabilities Act of 1990 (42 U.S.C. 12101 et
25 seq.), that assist individuals with disabilities

1 with transportation, including transportation to
2 and from jobs and employment support serv-
3 ices.

4 “(2) ACQUIRING PUBLIC TRANSPORTATION
5 SERVICES.—A public transportation capital project
6 under this section may include acquisition of public
7 transportation services as an eligible capital expense.

8 “(3) ADMINISTRATIVE EXPENSES.—A recipient
9 may use not more than 10 percent of the amounts
10 apportioned to the recipient under this section to ad-
11 minister, plan, and provide technical assistance for
12 a project funded under this section.

13 “(d) APPORTIONMENTS.—

14 “(1) FORMULA.—The Secretary, using the most
15 recent decennial census data, shall apportion
16 amounts made available for a fiscal year to carry out
17 this section as follows:

18 “(A) 60 percent of the funds shall be ap-
19 portioned among designated recipients (as de-
20 fined in section 5307(a)(2)) for urbanized areas
21 with a population of 200,000 or more in the
22 ratio that—

23 “(i) the number of elderly individuals,
24 individuals with disabilities, eligible low-in-

1 come individuals, and welfare recipients in
2 each such urbanized area; bears to

3 “ (ii) the number of elderly individuals,
4 individuals with disabilities, eligible low-in-
5 come individuals, and welfare recipients in
6 all such urbanized areas.

7 “(B) 20 percent of the funds shall be ap-
8 portioned among the States in the ratio that—

9 “ (i) the number of elderly individuals,
10 individuals with disabilities, eligible low-in-
11 come individuals, and welfare recipients in
12 urbanized areas with a population of less
13 than 200,000 in each State; bears to

14 “ (ii) the number of elderly individuals,
15 individuals with disabilities, eligible low-in-
16 come individuals, and welfare recipients in
17 urbanized areas with a population of less
18 than 200,000 in all States.

19 “(C) 20 percent of the funds shall be ap-
20 portioned among the States in the ratio that—

21 “ (i) the number of elderly individuals,
22 individuals with disabilities, eligible low-in-
23 come individuals, and welfare recipients in
24 rural areas with a population of less than
25 50,000 in each State; bears to

1 “(ii) the number of elderly individuals,
2 individuals with disabilities, eligible low-in-
3 come individuals, and welfare recipients in
4 rural areas with a population of less than
5 50,000 in all States.

6 “(2) USE OF APPORTIONED FUNDS.—Except as
7 provided in paragraph (3)—

8 “(A) funds apportioned under paragraph
9 (1)(A) shall be used for projects serving urban-
10 ized areas with a population of 200,000 or
11 more;

12 “(B) funds apportioned under paragraph
13 (1)(B) shall be used for projects serving urban-
14 ized areas with a population of less than
15 200,000; and

16 “(C) funds apportioned under paragraph
17 (1)(C) shall be used for projects serving rural
18 areas.

19 “(3) EXCEPTIONS.—A State may use funds ap-
20 portioned under paragraphs (1)(B) and (1)(C)—

21 “(A) for projects serving areas other than
22 the area specified in paragraph (2)(B) or
23 (2)(C), as the case may be, if the Governor of
24 the State certifies that all of the objectives of

1 this section are being met in the specified area;

2 or

3 “(B) for projects anywhere in the State if
4 the State has established a statewide program
5 for meeting the objectives of this section.

6 “(e) COMPETITIVE PROCESS FOR GRANTS TO SUB-
7 RECIPIENTS.—

8 “(1) AREAWIDE SOLICITATIONS.—A recipient of
9 funds apportioned under subsection (d)(1)(A) shall
10 conduct, in cooperation with the appropriate metro-
11 politan planning organization, an areawide sollicita-
12 tion for applications for grants to the recipient and
13 subrecipients under this section.

14 “(2) STATEWIDE SOLICITATION.—A recipient of
15 funds apportioned under subsection (d)(1)(B) or
16 (d)(1)(C) shall conduct a statewide solicitation for
17 applications for grants to the recipient and sub-
18 recipients under this section.

19 “(3) SPECIAL RULE.—A recipient of a grant
20 under this section may allocate the amounts pro-
21 vided under the grant to—

22 “(A) a nonprofit organization, if the public
23 transportation service provided under sub-
24 section (c)(1) is unavailable, insufficient, or in-
25 appropriate; or

1 “(B) in the case of a grant to provide the
2 services described in subsection (c)(1)(A) a gov-
3 ernmental authority that—

4 “(i) is approved by the recipient to co-
5 ordinate services for elderly individuals and
6 individuals with disabilities; or

7 “(ii) certifies that there are not any
8 nonprofit organizations readily available in
9 the area to provide the services described
10 in subsection (c)(1)(A).

11 “(4) APPLICATION.—Recipients and subrecipi-
12 ents seeking to receive a grant from funds appor-
13 tioned under subsection (d) shall submit to the re-
14 cipient an application in such form and in accord-
15 ance with such requirements as the recipient shall
16 establish.

17 “(5) GRANT AWARDS.—The recipient shall
18 award grants under paragraphs (1) and (2) on a
19 competitive basis.

20 “(6) FAIR AND EQUITABLE DISTRIBUTION.—A
21 recipient of a grant under this section shall certify
22 to the Secretary that allocations of the grant to sub-
23 recipients are distributed on a fair, equitable, and
24 competitive basis.

25 “(f) PERFORMANCE MANAGEMENT.—

1 “(1) IN GENERAL.—To improve public trans-
2 portation systems and services for elderly individ-
3 uals, individuals with disabilities and eligible low-in-
4 come individuals, recipients of grants under this sec-
5 tion shall implement a system of performance man-
6 agement.

7 “(2) ESTABLISHMENT OF PERFORMANCE MEAS-
8 URES.—

9 “(A) IN GENERAL.—Not later than 12
10 months after the date of enactment of the Pub-
11 lic Transportation Act of 2009, the Secretary,
12 in consultation with recipients, shall establish
13 performance measures for the coordinated ac-
14 cess and mobility program formula grants
15 under this section.

16 “(B) MINIMUM REQUIREMENTS.—The per-
17 formance measures established under this sub-
18 section shall include, at a minimum, a perform-
19 ance measure designed to ensure that transit
20 systems and operations are fully compliant with
21 the regulations established under title 37 of the
22 Code of Federal Regulations for Americans
23 with disabilities.

24 “(3) ESTABLISHMENT OF PERFORMANCE TAR-
25 GETS.—Not later than 18 months after the date of

1 enactment of the Public Transportation Act of 2009,
2 each recipient shall establish a target level of per-
3 formance—

4 “(A) in relation to each of the performance
5 measures established by the Secretary under
6 paragraph (2); and

7 “(B) against which the recipient shall
8 measure improvement in meeting such perform-
9 ance measures.

10 “(4) PERFORMANCE PLANS.—

11 “(A) IN GENERAL.—A recipient shall de-
12 velop a performance plan in accordance with
13 the requirements of this subsection.

14 “(B) ELIGIBILITY FOR FUNDING.—A re-
15 cipient may use grant funds made available
16 under this section for a project only if the
17 project is included in a performance plan that
18 has been developed by the recipient and ap-
19 proved by the Secretary.

20 “(C) PLAN REQUIREMENTS.—A perform-
21 ance plan developed by a recipient under this
22 subsection shall—

23 “(i) be designed to meet the program
24 goals contained in subsection (b);

1 “(ii) include specific performance tar-
2 gets developed under paragraph (3); and

3 “(iii) be based on an estimate of the
4 recipient’s cumulative annual apportion-
5 ment under this section in the following 4
6 fiscal years.

7 “(D) ANNUAL APPROVAL.—For each fiscal
8 year, a recipient shall submit a performance
9 plan developed under this subsection to the Sec-
10 retary for approval.

11 “(E) REPORTING REQUIREMENTS.—Each
12 recipient shall submit to the Secretary, and
13 publish annually, a report documenting the de-
14 gree of progress that the recipient has made in
15 reference to the performance targets established
16 under paragraph (3).

17 “(F) ASSESSMENT.—Beginning in fiscal
18 year 2012, and each fiscal year thereafter, the
19 Secretary shall determine, before the last day of
20 the previous fiscal year, whether or not a recipi-
21 ent has met for that fiscal year the performance
22 targets contained in the performance plan de-
23 veloped by the recipient under this subsection.

24 “(5) EFFECT OF DISAPPROVAL OF PLANS.—If
25 the Secretary disapproves a recipient’s initial per-

1 performance plan or an update of the plan, the Sec-
2 retary shall not approve the obligation of funding to
3 the recipient for additional projects under this sec-
4 tion until the Secretary approves the recipients ini-
5 tial plan or the update of the plan, except that the
6 Secretary shall not withhold approval of the obliga-
7 tion of funding to the recipient for additional
8 projects under this section until 60 days after the
9 date of disapproval under this paragraph.

10 “(g) GRANT REQUIREMENTS.—

11 “(1) APPLICABILITY OF REQUIREMENTS.—

12 “(A) IN GENERAL.—Subject to subpara-
13 graph (B), a grant under this section shall be
14 subject to the requirements of section 5307 for
15 a project in an urbanized area or section 5311
16 for a project in a rural area.

17 “(B) WAIVERS.—With respect to a grant
18 made to provide services described in subsection
19 (c)(1)(A), the Secretary may waive application
20 of the requirements of section 5307 or 5311 to
21 the extent the Secretary considers appropriate.

22 “(2) MINIMUM EXPENDITURES.—For fiscal
23 year 2010, a recipient shall certify to the Secretary
24 that—

1 “(A) not less than 30 percent of the total
2 amount of funds apportioned to the recipient
3 under this section will be expended for eligible
4 activities described in subsection (c)(1)(A);

5 “(B) not less than 40 percent of the total
6 amount of funds apportioned to the recipient
7 under this section will be expended for eligible
8 activities described in subsection (c)(1)(B); and

9 “(C) not less than 15 percent of the total
10 amount of funds apportioned to the recipient
11 under this section will be expended for eligible
12 activities described in subsection (c)(1)(C).

13 “(3) RECIPIENTS NOT MEETING PERFORMANCE
14 MEASURES.—A recipient shall be required to make a
15 certification under paragraph (2) for fiscal year
16 2011, and any fiscal year thereafter, if the Secretary
17 determines under subsection (g)(6) that the recipient
18 in the preceding fiscal year did not meet the per-
19 formance measures contained in the performance
20 plan developed by the recipient under this sub-
21 section.

22 “(h) COORDINATION.—

23 “(1) IN GENERAL.—The Secretary shall coordi-
24 nate activities under this section with related activi-

1 ties under programs of other Federal departments
2 and agencies.

3 “(2) PROJECT SELECTION AND PLANNING.—A
4 recipient of funds under this section shall certify to
5 the Secretary that—

6 “(A) the projects selected to receive fund-
7 ing under this section were derived from a lo-
8 cally developed, coordinated public transpor-
9 tation-human services transportation plan;

10 “(B) the plan was developed through a
11 process that included participation by rep-
12 resentatives of public, private, and nonprofit
13 transportation and human services providers
14 and participation by the public; and

15 “(C) the planning process provided for
16 consideration of projects and strategies to cre-
17 ate or improve regional transportation services
18 that connect multiple jurisdictions.

19 “(i) GOVERNMENT’S SHARE OF COSTS.—

20 “(1) CAPITAL PROJECTS.—

21 “(A) IN GENERAL.—Except as provided in
22 subparagraph (B), a grant for a capital project
23 under this section shall be for 80 percent of the
24 net capital costs of the project, as determined

1 by the Secretary. The recipient may provide ad-
2 ditional local matching amounts.

3 “(B) EXCEPTION.—A State described in
4 section 120(b) of title 23 shall receive an in-
5 creased Government share in accordance with
6 the formula under such section.

7 “(2) OPERATING ASSISTANCE.—

8 “(A) IN GENERAL.—Except as provided in
9 subparagraph (B), a grant made under this sec-
10 tion for operating assistance may not exceed 50
11 percent of the net operating costs of the
12 project, as determined by the Secretary.

13 “(B) EXCEPTION.—A State described in
14 section 120(b) of title 23 shall receive a Gov-
15 ernment share of the net operating costs to
16 62.5 percent of the Government share provided
17 for under paragraph (1)(B).

18 “(3) REMAINDER.—The remainder of the net
19 project costs—

20 “(A) may be provided from an undistrib-
21 uted cash surplus, a replacement or deprecia-
22 tion cash fund or reserve, a service agreement
23 with a State or local social service agency or a
24 private social service organization, or new cap-
25 ital;

1 “(B) may be derived from amounts appro-
2 priated to or made available to a department or
3 agency of the Government (other than the De-
4 partment of Transportation) that are eligible to
5 be expended for transportation; and

6 “(C) notwithstanding subparagraph (B),
7 may be derived from amounts made available to
8 carry out the Federal lands highway program
9 established by section 204 of title 23.

10 “(4) USE OF CERTAIN FUNDS.—For purposes
11 of paragraph (4)(B), the prohibitions on the use of
12 funds for matching requirements under section
13 403(a)(5)(C)(vii) of the Social Security Act (42
14 U.S.C. 603(a)(5)(C)(vii)) shall not apply to Federal
15 or State funds to be used for transportation pur-
16 poses.

17 “(5) LIMITATION ON OPERATING ASSIST-
18 ANCE.—A recipient carrying out a program of oper-
19 ating assistance under this section may not limit the
20 level or extent of use of the Government grant for
21 the payment of operating expenses.

22 “(j) LEASING VEHICLES.—Vehicles acquired under
23 this section may be leased to local governmental authori-
24 ties to improve transportation services designed to meet

1 the special needs of elderly individuals, eligible low-income
2 individuals, and individuals with disabilities.

3 “(k) MEAL DELIVERY FOR HOMEBOUND INDIVID-
4 UALS.—Public transportation service providers receiving
5 assistance under this section or section 5311(e) may co-
6 ordinate and assist in regularly providing meal delivery
7 service for homebound individuals if the delivery service
8 does not conflict with providing public transportation serv-
9 ice or reduce service to public transportation passengers.

10 “(l) TRANSFERS OF FACILITIES AND EQUIPMENT.—
11 With the consent of the recipient in possession of a facility
12 or equipment acquired with a grant under this section, a
13 State may transfer the facility or equipment to any recipi-
14 ent eligible to receive assistance under this chapter if the
15 facility or equipment will continue to be used as required
16 under this section.

17 “(m) TECHNICAL ASSISTANCE.—The Secretary shall
18 provide public transportation-related technical assistance
19 under this section as follows

20 “(1) to help public transportation providers
21 comply with the Americans with Disabilities Act of
22 1990 (42 U.S.C. 12101 et seq.) through a competi-
23 tively selected contract with a national nonprofit or-
24 ganization serving individuals with disabilities that
25 has a demonstrated capacity to carry out technical

1 assistance, demonstration programs, research, public
2 education, and other activities related to complying
3 with such Act;

4 “(2) to help public transportation providers
5 comply with human services transportation coordina-
6 tion requirements and to enhance the coordination of
7 Federal resources for human services transportation
8 with those of the Department of Transportation
9 through a competitively selected contract with a na-
10 tional nonprofit organization that has a dem-
11 onstrated capacity to carry out technical assistance,
12 training, and support services related to complying
13 with such requirements;

14 “(3) to help public transportation providers
15 meet the transportation needs of elderly individuals
16 through a competitively selected contract with a na-
17 tional nonprofit organization serving elderly individ-
18 uals that has a demonstrated capacity to carry out
19 such activities; and

20 “(4) to provide additional technical assistance,
21 training, and research that the Secretary determines
22 will assist public transportation providers meet the
23 goals of this section.

24 “(n) PROGRAM EVALUATION.—

1 “(1) COMPTROLLER GENERAL.—Beginning one
2 year after the date of enactment of the Public
3 Transportation Act of 2009, and every 2 years
4 thereafter, the Comptroller General shall—

5 “(A) conduct a study to evaluate the grant
6 program authorized by this section; and

7 “(B) transmit to the Committee on Trans-
8 portation and Infrastructure of the House of
9 Representatives and the Committee on Bank-
10 ing, Housing, and Urban Affairs of the Senate
11 a report describing the results of the study
12 under subparagraph (A).

13 “(2) DEPARTMENT OF TRANSPORTATION.—Not
14 later than 3 years after the date of enactment of the
15 Public Transportation Act of 2009, the Secretary
16 shall—

17 “(A) conduct a study to evaluate the effec-
18 tiveness of the grant program authorized by
19 this section and the effectiveness of recipients
20 making grants to subrecipients under this sec-
21 tion; and

22 “(B) transmit to the committees referred
23 to in paragraph (1)(B) a report describing the
24 results of the study under subparagraph (A).”.

1 (b) REPEALS.—Sections 5316 and 5317, and the
2 items relating to such sections in the analysis for chapter
3 53, are repealed.

4 (c) CONFORMING AMENDMENTS.—Chapter 53 is
5 amended—

6 (1) in section 5304(g)(5) by striking “sections
7 5310, 5311, 5316, and 5317” and inserting “sec-
8 tions 5310 and 5311” each place it appears;

9 (2) in section 5333(a) by striking “5316,” each
10 place it appears;

11 (3) in section 5338(b)—

12 (A) in paragraph (1) by striking “5316,
13 5317,”; and

14 (B) in paragraph (2) by striking subpara-
15 graphs (H) and (I).

16 (4) in the analysis for such chapter—

17 (A) by striking the item relating to section
18 5310 and inserting the following:

“Sec. 5310. Coordinated access and mobility program formula grants.”; and

19 (B) by striking the items relating to sec-
20 tion 5316 and 5317.

21 **SEC. 3010. RURAL AREA FORMULA GRANTS.**

22 (a) SECTION HEADING.—Section 5311 is amended by
23 striking the section heading and inserting the following:

1 **“§ 5311. Rural area formula grants”.**

2 (b) GENERAL AUTHORITY.—Section 5311(b)(2) of
3 title 49, United States Code, is amended—

4 (1) in subparagraph (C)—

5 (A) by striking “and” at the end of clause
6 (i);

7 (B) by striking the period and inserting “;
8 and” at the end of clause (ii); and

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

10 “(iii) the program provides for the
11 achievement of program goals described in
12 paragraph (5) and the performance targets
13 in subsection (j)(3).”.

14 (2) by adding at the end the following:

15 “(D) REPORT.—Not later than 2 fiscal
16 years after the date of enactment of the Public
17 Transportation Act of 2009 and every 2 years
18 thereafter, the Secretary shall transmit to the
19 Committee on Transportation and Infrastruc-
20 ture of the House of Representatives and the
21 Committee on Banking, Housing and Urban
22 Affairs of the Senate a report evaluating the ef-
23 fectiveness of the grant program authorized by
24 this section and the effectiveness of States in
25 achieving the performance goals established by
26 this section.”.

1 (c) PROGRAM GOALS.—Section 5311(b) of title 49,
2 United States Code, is further amended by adding at the
3 end the following:

4 “(5) PROGRAM GOALS.—The goals of this sec-
5 tion are—

6 “(A) to enhance the mobility and access of
7 people in rural areas by assisting in the devel-
8 opment, construction, operation, improvement,
9 maintenance, and use of public transportation
10 systems and services in rural areas;

11 “(B) to increase the intermodalism of and
12 connectivity among public transportation sys-
13 tems and services within rural areas and to
14 urban areas by providing for maximum coordi-
15 nation of programs and services;

16 “(C) to increase the state of good repair of
17 rural public transit assets; and

18 “(D) to enhance the mobility and access of
19 people in rural areas by assisting in the devel-
20 opment and support of intercity bus transpor-
21 tation.

22 “(d) **【TO BE SUPPLIED】**.—

23 “(e) **【TO BE SUPPLIED】**.—

24 “(f) **【TO BE SUPPLIED】**.—”.

1 (g) USE FOR ADMINISTRATIVE, PLANNING, AND
2 TECHNICAL ASSISTANCE.—Section 5311(e) is amended by
3 striking “15” and inserting “10”.

4 (h) INTERCITY BUS TRANSPORTATION.—Section
5 5311(f) is amended—

6 (1) in paragraph (1)—

7 (A) subparagraph (B), by striking “shel-
8 ters” and inserting “facilities”; and

9 (B) subparagraph (C), by striking “stops
10 and depots” and inserting “facilities”; and

11 (2) by adding at the end the following:

12 “(3) IN-KIND MATCHING SHARE FOR INTERCITY
13 BUS.—

14 “(A) IN GENERAL.—The Secretary may in-
15 clude a State’s unsubsidized capital costs of pri-
16 vate sector intercity-bus service as in-kind
17 matching share—

18 “(i) for the operating costs of con-
19 necting rural intercity bus feeder service
20 funded under this subsection; and

21 “(ii) if funds available under this sub-
22 section are used to subsidize an unprofit-
23 able rural intercity bus route that might
24 otherwise be discontinued by the private
25 operator.

1 “(B) ELIGIBLE PROJECTS.—A project eli-
2 gible under this paragraph shall include both
3 the feeder service and an unsubsidized segment
4 of the intercity bus network to which it con-
5 nects.

6 “(C) CAPITAL COSTS.—The Secretary shall
7 have the discretion to determine, through prac-
8 ticable administrative procedures, a private op-
9 erator’s total costs attributable to capital ex-
10 penses.

11 “(D) IN-KIND MATCHING SHARE REQUIRE-
12 MENTS.—Any excess value of the unsubsidized
13 capital costs may not be used to increase the
14 Federal share above the operating deficit of the
15 project. The shortfall between the value of the
16 unsubsidized capital costs and the operating
17 deficit shall be provided from a cash surplus.

18 “(E) STATE APPLICATION.—A State apply-
19 ing to use unsubsidized capital as in-kind
20 matching share pursuant to this paragraph
21 must provide supplemental information with its
22 grant application as required by the Sec-
23 retary.”.

1 (i) RURAL TRANSIT PERFORMANCE MANAGE-
2 MENT.—Section 5311 is amended by adding at the end
3 the following:

4 “(j) RURAL TRANSIT PERFORMANCE MANAGE-
5 MENT.—

6 “(1) IN GENERAL.—To improve public trans-
7 portation systems and services in rural areas, States
8 shall implement a system of rural transit perform-
9 ance management.

10 “(2) ESTABLISHMENT OF PERFORMANCE MEAS-
11 URES.—

12 “(A) IN GENERAL.—Not later than 12
13 months after the date of enactment of this sub-
14 section, the Secretary, in consultation with the
15 States, shall establish performance measures
16 for public transportation in rural areas.

17 “(B) MINIMUM REQUIREMENTS.—The per-
18 formance measures established under this sub-
19 section shall—

20 “(i) be based, at a minimum, on data
21 collected in the National Transit Database
22 under section 5335;

23 “(ii) include, at a minimum, perform-
24 ance measures aligned with the program
25 goals described in subsection (b)(5); and

1 “(iii) include any other information
2 the Secretary considers appropriate.

3 “(3) ESTABLISHMENT OF PERFORMANCE TAR-
4 GETS.—Not later than 18 months after the date of
5 enactment of this subsection, each State shall estab-
6 lish a target level of performance—

7 “(A) in relation to each performance meas-
8 ure established by the Secretary under para-
9 graph (2); and

10 “(B) against which the State shall measure
11 improvement in meeting each such performance
12 measure.

13 “(4) REPORTING REQUIREMENTS.—Beginning
14 in 2012, each State shall submit to the Secretary,
15 and publish annually, a report documenting the
16 progress that the State has made regarding the per-
17 formance targets established under paragraph (3).”.

18 (j) CLERICAL AMENDMENT.—The analysis for chap-
19 ter 53 is amended by striking the item relating to section
20 5311 and inserting the following:

“5311. Rural area formula grant.”.

21 **SEC. 3011. TRANSIT RESEARCH GRANTS.**

22 (a) SECTION HEADING.—Section 5312 is amended by
23 striking the section heading and inserting the following:

1 **“§ 5312. Transit research grants”.**

2 (b) RESEARCH PROJECTS.—Section 5312 is amended
3 by striking subsection (a) and inserting the following:

4 “(a) RESEARCH, PLANNING, DEVELOPMENT, DEM-
5 ONSTRATION, DEPLOYMENT, AND TRAINING PROJECTS.—

6 “(1) IN GENERAL.—The Secretary may make
7 grants, contracts, cooperative agreements, and other
8 agreements (including agreements with departments,
9 agencies, and instrumentalities of the United States
10 Government) for research, planning, development,
11 demonstration, deployment, and training projects,
12 and evaluation of technology of national significance
13 to public transportation, that the Secretary deter-
14 mines will improve public transportation service or
15 help public transportation service meet the total
16 transportation needs at a minimum cost.

17 “(3) INFORMATION.—The Secretary may re-
18 quest and receive appropriate information from any
19 source.

20 “(4) SAVINGS PROVISION.—This subsection
21 does not limit the authority of the Secretary under
22 any other law.

23 “(5) FUNDING.—

24 “(A) The amounts made available under
25 section 5338(d) are available to the Secretary
26 of Transportation for grants, contracts, cooper-

1 ative agreements, or other agreements for the
2 purposes of this section and sections 5305,
3 5315, and 5322, as the Secretary considers ap-
4 propriate.

5 “(B) Not more than 25 percent of the
6 amounts available under this subsection is
7 available to the Secretary for special dem-
8 onstration initiatives, subject to terms the Sec-
9 retary considers consistent with this chapter,
10 except that section 5323(a)(1)(D) applies to an
11 operational grant financed in carrying out sub-
12 section (a). For a nonrenewable grant of not
13 more than \$100,000, the Secretary shall pro-
14 vide expedited procedures on complying with
15 the requirements of this chapter.”.

16 (c) NATIONAL FUEL CELL BUS TECHNOLOGY DE-
17 VELOPMENT PROGRAM.—Section 5312 is amended by
18 adding at the end the following:

19 “(d) NATIONAL FUEL CELL BUS TECHNOLOGY DE-
20 VELOPMENT PROGRAM.—

21 “(1) ESTABLISHMENT.—The Secretary shall es-
22 tablish a national fuel cell bus technology develop-
23 ment program (in this section referred to as the
24 ‘program’) to facilitate the development of a globally
25 competitive United States industry for manufac-

1 turing commercially viable fuel cell bus technology
2 and related infrastructure.

3 “(2) GENERAL AUTHORITY.—The Secretary
4 may enter into grants, contracts, and cooperative
5 agreements with not more than 3 geographically di-
6 verse nonprofit organizations and recipients under
7 this chapter, to conduct fuel cell bus technology and
8 infrastructure projects under the program.

9 “(3) APPLICANT SELECTION CRITERIA.—In se-
10 lecting applicants for grants, contracts, and coopera-
11 tive agreements under the program, the Secretary
12 shall consider the applicant’s—

13 “(A) ability to contribute significantly to
14 furthering fuel cell technology as it relates to
15 transit bus operations, including hydrogen pro-
16 duction, energy storage, fuel cell technologies,
17 vehicle systems integration, and power elec-
18 tronics technologies;

19 “(B) financing plan and cost share poten-
20 tial;

21 “(C) fuel cell technology to ensure that the
22 program advances different fuel cell tech-
23 nologies, including hydrogen-fueled and meth-
24 anol-powered liquid-fueled fuel cell technologies,
25 hydrogen internal combustion engine tech-

1 nologies, pure electric drive systems, and hybrid
2 technologies that include all types of clean fuels
3 that may be viable for public transportation
4 systems; and

5 “(D) other criteria that the Secretary de-
6 termines are necessary to carry out the pro-
7 gram.

8 “(4) COMPETITIVE GRANT SELECTION.—The
9 Secretary shall conduct a national solicitation for ap-
10 plications for grants under the program. Through a
11 competitive grant process, the Secretary shall also
12 give priority consideration to applicants that have
13 successfully managed advanced transportation tech-
14 nology projects, including projects related to hydro-
15 gen and fuel cell public transportation operations for
16 a period of not less than 5 years.

17 “(5) FEDERAL SHARE.—The Federal share of
18 costs of the program shall be provided from funds
19 made available to carry out this section. The Federal
20 share of the cost of a project carried out under the
21 program shall not exceed 50 percent of such cost.

22 “(6) GRANT REQUIREMENTS.—A grant under
23 this subsection shall be subject to—

24 “(A) all terms and conditions applicable to
25 a grant made under section 5309; and

1 “(B) such other terms and conditions as
2 are determined by the Secretary.

3 “(e) TECHNOLOGY DEVELOPMENT.—

4 “(1) IN GENERAL.—The Secretary may under-
5 take a program of public transportation technology
6 development in coordination with affected entities.

7 “(2) GUIDELINES.—The Secretary shall develop
8 guidelines for cost sharing in technology develop-
9 ment projects financed under this paragraph. The
10 guidelines shall be flexible and reflect the extent of
11 technical risk, market risk, and anticipated supplier
12 benefits and payback periods.

13 “(3) SUPPLEMENT CERTAIN FUNDS.—The Sec-
14 retary may use amounts appropriated under this
15 subsection to supplement amounts available under
16 section 5313(a), as the Secretary considers appro-
17 priate.

18 “(f) GOVERNMENT SHARE.—If there is a clear and
19 direct financial benefit to an entity under a grant, con-
20 tract, cooperative agreement, or other agreement under
21 subsections (a), (b), (c), and (e), the Secretary shall estab-
22 lish a United States Government share consistent with the
23 benefit.

24 “(g) AVAILABILITY OF FUNDS.—The amounts of
25 funds made available under section **【5338(d)】** are avail-

1 able to the Secretary of Transportation for grants, con-
2 tracts, cooperative agreements, or other agreements for
3 the purposes of this subsection and sections 5305, 5313,
4 5315, and 5322, as the Secretary considers appropriate.”.

5 (d) CONFORMING AMENDMENTS.—

6 (1) NATIONAL RESEARCH PROGRAMS.—Section
7 5314 is repealed.

8 (2) SAFETEA-LU.—Sections 3045 and 3046
9 of SAFETEA-LU are repealed.

10 (e) CLERICAL AMENDMENT.—The analysis for chap-
11 ter 53 is amended—

12 (1) by striking the item relating to section 5312
13 and inserting the following:

“5312. Transit research grants”; and

14 (2) by striking the item relating to section
15 5314.

16 **SEC. 3012. BUS TESTING FACILITY.**

17 Section 5318 is amended by adding at the end the
18 following:

19 “(f) RETESTING REQUIREMENT FOR MODIFICA-
20 TION.—If a new bus model is modified after completion
21 of testing under subsection (a) and the Secretary deter-
22 mines that such modification may have materially affected
23 the results of any such testing, the modified bus shall be
24 retested for any test in which such modification may have
25 affected a test result.”.

1 **SEC. 3013. TRANSIT IN THE PARKS GRANTS.**

2 (a) SECTION HEADING.—Section 5320 is amended by
3 striking the section heading and inserting:

4 **“§ 5320. Transit in the parks grants”.**

5 (b) AUTHORIZATION AND USE OF FUNDS.—

6 (1) AUTHORIZATION.—Section 5320(a)(1) is
7 amended—

8 (A) by striking “(1) AUTHORIZATION.—”
9 and all that follows through “(A) IN GEN-
10 ERAL.—The Secretary, in consultation with the
11 Secretary of the Interior,” and inserting the fol-
12 lowing:

13 “(1) AUTHORIZATION.—The Secretary”;

14 (B) by striking subparagraph (B);

15 (C) by moving the remainder of the text,
16 including clauses (i) through (iii), 2 ems to the
17 left; and

18 (D) by redesignating clauses (i) through
19 (iii) as subparagraphs (A) through (C), respec-
20 tively.

21 (2) USE OF FUNDS.—Section 5320(b)(2) is
22 amended by striking “intra—agency” and inserting
23 “intraagency”.

24 (c) EXPEDITED PROJECT DELIVERY.—Section
25 5320(d) is amended to read as follows:

1 “(d) EXPEDITED PROJECT DELIVERY.—The Sec-
2 retary shall develop policies and procedures for the pro-
3 gram that provide for—

4 “(1) expedited technical assistance in alter-
5 native transportation;

6 “(2) multidisciplinary teams to develop alter-
7 native transportation policies, procedures, and cri-
8 teria; and

9 “(3) expedited analysis of criteria relating to
10 the planning, selection, and funding of qualified
11 projects and the implementation and oversight of the
12 program of projects in accordance with this sec-
13 tion.”.

14 (d) LIMITATION ON USE OF AVAILABLE AMOUNTS.—
15 Section 5320(e)(1) is amended by striking “, in consulta-
16 tion with the Secretary of the Interior,”.

17 (e) PLANNING PROCESS.—Section 5320(f)(1)(A) is
18 amended—

19 (1) by striking “, in cooperation with the Sec-
20 retary of the Interior,”; and

21 (2) in clause (iii) by striking “(d)”.

22 (f) COST SHARING.—Section 5320(g)(1) is amended
23 by striking “, in cooperation with the Secretary of the In-
24 terior,”.

1 (g) SELECTION OF QUALIFIED PROJECTS.—Section
2 5320(h) is amended—

3 (1) in paragraph (1) by striking “, of the Inte-
4 rior after consultation with and in cooperation with
5 the Secretary,”; and

6 (2) in paragraph (2)—

7 (A) in the matter preceding subparagraph

8 (A) by striking “of the Interior”;

9 (B) by striking subparagraph (D) and in-
10 sserting the following:

11 “(D) visitation levels;”; and

12 (C) in subparagraph (G)—

13 (i) in the matter preceding clause (i)

14 by striking “of the Interior”; and

15 (ii) by striking clause (i) and inserting
16 the following:

17 “(i) the historical and cultural signifi-
18 cance of a qualified project;”.

19 (h) QUALIFIED PROJECTS CARRIED OUT IN AD-
20 VANCE.—Section 5320(i) is amended in the matter pre-
21 ceding subparagraph (A) by striking “, in consultation
22 with the Secretary of the Interior,”.

23 (i) ASSET MANAGEMENT.—Section 5320(k) is
24 amended by striking “, in consultation with the Secretary
25 of the Interior,”.

1 (j) COORDINATION OF RESEARCH AND DEPLOYMENT
2 OF NEW TECHNOLOGIES.—Section 5320 is amended by
3 striking subsection (l) and redesignating subsections (m)
4 and (n) as subsections (l) and (m), respectively.

5 (k) REPORTS.—Section 5320(m)(1) (as so redesign-
6 nated) is amended—

7 (1) in the matter preceding subparagraph (A)
8 by striking “, in consultation with the Secretary of
9 the Interior,”;

10 (2) in subparagraph (A) by adding “and” at
11 the end;

12 (3) in subparagraph (B) by striking “; and”
13 and inserting a period; and

14 (4) by striking subparagraph (C).

15 **SEC. 3014. WORKFORCE DEVELOPMENT PROGRAMS.**

16 (a) IN GENERAL.—Section 5322 is amended to read
17 as follows:

18 **“§ 5322. Workforce development programs**

19 “(a) NATIONAL JOINT WORKFORCE DEVELOPMENT
20 COUNCIL.—

21 “(1) ESTABLISHMENT.—Not later than 180
22 days after the date of enactment of the Public
23 Transportation Act of 2009, the Administrator of
24 the Federal Transit Administration shall establish a

1 National Joint Workforce Development Council (re-
2 ferred to in this section as the ‘National Council’).

3 “(2) COMPOSITION.—

4 “(A) VOTING MEMBERS.—Two representa-
5 tives, one representing labor and one rep-
6 resenting management, from each Regional
7 Workforce Development Board described in
8 subsection (c), shall be elected by majority vote
9 of labor and management representatives re-
10 spectively, on each Regional Board, to serve on
11 the National Council.

12 “(B) EX OFFICIO MEMBERS.—The Admin-
13 istrator shall appoint as non-voting ex officio
14 members to the National Council—

15 “(i) up to 10 members, such as rep-
16 resentatives of transit trade associations,
17 non-profit organizations, research organi-
18 zations, community colleges and univer-
19 sities, private industry, and any other
20 group or individual the Administrator be-
21 lieves would contribute to the National
22 Council;

23 “(ii) a representative of the Inter-
24 national Transportation Learning Center
25 which administers the transit career ladder

1 training program authorized pursuant to
2 section 3046 of the Safe, Accountable,
3 Flexible, Efficient Transportation Equity
4 Act: A Legacy for Users (49 U.S.C. 5338
5 note); and

6 “(iii) an individual who has expertise
7 in youth development programs.

8 “(3) DUTIES.—The National Council shall with
9 a national focus—

10 “(A) conduct a prevue national study on
11 transit workforce development issues;

12 “(B) identify skills gaps in transit agency
13 maintenance departments and develop programs
14 to train maintenance employees and fixed route
15 and paratransit operators;

16 “(C) develop programs to address the re-
17 cruitment and retention of managerial and non-
18 managerial employees;

19 “(D) initiate relationships with nontrans-
20 portation sector industries, associations, and
21 groups in the public and private sector to de-
22 velop best practices in training and skills devel-
23 opment and determine appropriate ways to col-
24 laborate on behalf of disconnected youth;

1 “(E) conduct research on transit workforce
2 development issues and develop best practices
3 for recruitment, training, and retention of em-
4 ployees;

5 “(F) conduct research on the extent of
6 labor market disconnection among disconnected
7 youth and assess the provision of employment
8 services for such youth;

9 “(G) make recommendations to the Sec-
10 retary and to public transit agencies regarding
11 how to expand current employment training
12 programs, outreach programs to increase mi-
13 nority and female employment in public trans-
14 portation activities, and apprenticeship pro-
15 grams;

16 “(H) develop programs and make rec-
17 ommendations to public transit agencies to ad-
18 dress issues related to workplace quality of life
19 issues, including absenteeism, scheduling, child
20 care, and other issues that may be necessary to
21 improve recruitment and retention of employ-
22 ees;

23 “(I) maintain and update routinely an elec-
24 tronic library, consisting of such materials as
25 online courseware and training manuals, white

1 papers, research materials, and other related
2 items;

3 “(J) provide periodic assessments to the
4 Secretary, on studies and programs carried out
5 on the national level;

6 “(K) coordinate research and program de-
7 velopment of the Regional Boards pursuant to
8 subsection (c), to reduce duplication and assure
9 complimentary research goals; and

10 “(L) make recommendations to the Sec-
11 retary for guidance on grant programs carried
12 out in subsection (d) taking into account the
13 recommendations of the Regional Boards.

14 “(b) REGIONAL WORKFORCE DEVELOPMENT COUN-
15 CILS.—[community colleges—to be supplied]

16 “(c) REGIONAL GOVERNING BOARDS.—

17 “(1) COMPOSITION OF GOVERNING BOARDS.—
18 The governing board for each region shall be com-
19 posed of not more than 10 members elected by the
20 Council pursuant to subsection (b)(2).

21 “(2) DUTIES.—The governing board for each
22 region shall on a regional basis—

23 “(A) identify skills gaps in transit agency
24 maintenance departments and develop programs

1 to train maintenance employees and fixed route
2 and paratransit operators on a regional basis;

3 “(B) develop programs to address the re-
4 cruitment and retention of managerial and non-
5 managerial employees;

6 “(C) initiate relationships with nontrans-
7 portation sector industries, associations, and
8 groups in the public and private sector to de-
9 velop best practices in training and skills devel-
10 opment and determine appropriate ways to col-
11 laborate on behalf of disconnected youth;

12 “(D) conduct research on transit workforce
13 development issues and develop best practices
14 for recruitment, training, and retention of em-
15 ployees;

16 “(E) conduct research on the extent of
17 labor market disconnection among disconnected
18 youth and assess the provision of employment
19 services for such youth;

20 “(F) make recommendations to the Sec-
21 retary and to public transit agencies regarding
22 how to expand current employment training
23 programs, outreach programs to increase mi-
24 nority and female employment in public trans-

1 portation activities, and apprenticeship pro-
2 grams;

3 “(G) develop programs and make rec-
4 ommendations to public transit agencies to ad-
5 dress issues related to workplace quality of life
6 issues, including absenteeism, scheduling, child
7 care, and other issues that may be necessary to
8 improve recruitment and retention of employ-
9 ees;

10 “(H) provide periodic assessments to the
11 Secretary and to the National Joint Workforce
12 Development Council established under sub-
13 section (a), on studies and programs carried out
14 on the regional level; and

15 “(I) make recommendations to the Na-
16 tional Joint Workforce Development Council for
17 guidance on grant programs carried out under
18 subsection (d).

19 “(3) EX OFFICIO MEMBERS.—

20 “(A) POSSIBLE APPOINTMENTS.—The Ad-
21 ministrator—

22 “(i) shall appoint representatives in
23 accordance with subparagraph (B); and

24 “(ii) may appoint non-voting ex officio
25 members to each regional governing board

1 from among representatives of nonprofit
2 organizations, research organizations, and
3 any other groups or individuals the Admin-
4 istrator believes would contribute to the
5 board.

6 “(B) APPOINTMENTS FOR INTERNATIONAL
7 TRANSPORTATION LEARNING CENTER AND FED-
8 ERAL TRANSIT ADMINISTRATORS.—The Admin-
9 istrator shall appoint as a non-voting ex officio
10 member to the regional governing board of the
11 respective region—

12 “(i) one or more representatives of the
13 International Transportation Learning
14 Center which administers the transit ca-
15 reer ladder training program authorized by
16 section 3046 of the Safe, Accountable,
17 Flexible, Efficient Transportation Equity
18 Act: A Legacy for Users (Public Law 109–
19 59);

20 “(ii) the Federal Transit Administra-
21 tors of each of the 10 regions; and

22 “(iii) an individual who has expertise
23 in youth development programs.

24 “(d) GRANT PROGRAMS.—

1 “(1) IN GENERAL.—The Secretary, acting
2 through the Administrator and taking into account
3 the recommendations of the National Council under
4 subsection (a) and the Regional Governing Boards
5 under subsection (c), shall establish grant programs
6 as follows:

7 “(A) TRANSIT YOUTH OPPORTUNITY.—

8 “(i) BASIC SKILLS EDUCATION AND
9 PRE-APPRENTICESHIP SKILLS.—

10 “(I) APPLICATIONS.—The Ad-
11 ministrador shall accept applications
12 for grants from nonprofit organiza-
13 tions and public or privately funded
14 educational institutions providing aca-
15 demic or technical instruction to en-
16 courage and introduce youth discon-
17 nected to a variety of careers in the
18 transit industry by providing such
19 youth with basic skills education, if
20 necessary, and pre-apprenticeship
21 skills.

22 “(II) PRIORITY.—The Adminis-
23 trator shall give priority for such
24 grants to organizations with a proven
25 record of success in providing discon-

1 nected youth with basic education and
2 pre-apprenticeship skills.

3 “(ii) APPRENTICESHIPS.—The Admin-
4 istrator shall accept applications from
5 partnerships of transit agencies and the
6 unions representing non-managerial em-
7 ployees for grants to develop local and re-
8 gional labor-management apprenticeship
9 programs aligned with national transit in-
10 dustry apprenticeship programs for a vari-
11 ety of transit-related jobs, by giving pri-
12 ority to individuals who have successfully
13 completed a pre-apprenticeship program
14 pursuant to clause (i).

15 “(B) TRANSIT WORKER EDUCATION AND
16 RETENTION GRANTS.—

17 “(i) APPLICATIONS.—The Adminis-
18 trator shall accept applications from—

19 “(I) in the case of non-manage-
20 rial employees, partnerships of transit
21 agencies and the unions representing
22 non-managerial employees; and

23 “(II) in the case of managerial
24 employees, from providers of manage-
25 ment and technical programs for the

1 delivery of such programs and the re-
2 lated costs of attendee participation.

3 “(ii) USE OF GRANT FUNDS.—Funds
4 for a grant under this subparagraph may
5 be used—

6 “(I) to develop education pro-
7 grams in a variety of training settings
8 for transit employees from diverse
9 population groups to maintain and
10 improve job skills and advance em-
11 ployee development across a career
12 span; and

13 “(II) assisting individuals to ob-
14 tain education and training required
15 to enter the transit profession and ad-
16 vance within such profession, such as
17 by providing career counseling and
18 mentoring.

19 “(C) WORKFORCE DIVERSITY GRANTS.—
20 The Administrator shall accept applications
21 from partnerships of transit agencies and the
22 unions representing non-managerial employees
23 for a grant to develop special projects to in-
24 crease education opportunities within the tran-
25 sit industry for individuals who are from dis-

1 advantaged backgrounds, including racial and
2 ethnic minorities under-represented among
3 transit management, by providing student
4 scholarships or stipends, pre-entry preparation,
5 and retention activities.

6 “(2) GRANT REQUIREMENTS.—A grant under
7 this section shall be subject to all requirements of a
8 grant under section 5307.

9 “(e) CERTIFICATION.—The Administrator shall de-
10 velop a category on ‘Workforce Development’ on its annual
11 Certifications and Assurances for Federal Transit Admin-
12 istration Assistance Programs in accordance with section
13 5323(n), and include such category as one of the areas
14 of certification beginning in fiscal year 2010. Such cat-
15 egory shall require transit agencies to develop short-range
16 and long-range planning with regard to workforce develop-
17 ment matters, with a particular focus on the recruitment,
18 retention, and training of managerial and non-managerial
19 employees.

20 “(f) DEFINITION.—For purposes of this section, the
21 term ‘disconnected youth’ means individuals ages 16
22 through 24 who are out of school and not employed and
23 composed primarily of youth of color from poor commu-
24 nities and at risk of becoming permanently disengaged
25 from the labor market which threatens their ability to

1 break out of the cycle of poverty and contribute to our
2 economy and communities.”.

3 (b) CLERICAL AMENDMENT.—The analysis for chap-
4 ter 53 is amended by striking the item relating to section
5 5322 and inserting the following:

“5322. Workforce development programs.”.

6 **SEC. 3015. GENERAL PROVISIONS.**

7 (a) PILOT PROGRAM FOR URBANIZED AREAS.—Sec-
8 tion 5323(e) is amended by striking paragraph (4).

9 (b) GOVERNMENT’S SHARE OF COSTS FOR CERTAIN
10 PROJECTS.—Section 5323 is amended:

11 “(i) GOVERNMENT’S SHARE OF COSTS FOR CERTAIN
12 PROJECTS.—

13 “(1) ADA COMPLIANCE.—A grant for a project
14 under this chapter that involves acquiring vehicle-re-
15 lated equipment or facilities required by the Ameri-
16 cans with Disabilities Act of 1990 (42 U.S.C. 12101
17 et seq.) is for 90 percent of the net project cost of
18 such equipment or facilities attributable to compli-
19 ance with such Act.

20 “(2) CLEAN AIR ACT COMPLIANCE.—A grant
21 for a project to be assisted under this chapter that
22 involves acquiring vehicle-related equipment or facili-
23 ties for purposes of complying with or maintaining
24 compliance with the Clean Air Act (including clean
25 fuel vehicle-related equipment or facilities), is for 90

1 percent of the net project cost of such equipment or
2 facilities.

3 “(3) CLEAN FUEL VEHICLE.—A grant for a
4 project under this chapter to acquire a new clean
5 fuel vehicle is for 90 percent of the cost of such vehi-
6 cle.

7 “(4) COSTS OF COMPLIANCE.—The Secretary
8 shall have discretion to determine, through prac-
9 ticable administrative procedures, the costs of the
10 equipment or facilities attributable to compliance
11 with the Acts referred to in paragraphs (1) and (2).

12 “(5) COSTS INCURRED BY PROVIDERS OF PUB-
13 LIC TRANSPORTATION BY VANPOOL.—

14 “(A) LOCAL MATCHING SHARE.—The local
15 matching share provided by a recipient of as-
16 sistance for a capital project under this chapter
17 may include any amounts expended by a pro-
18 vider of public transportation by vanpool for the
19 acquisition of rolling stock to be used by such
20 provider in the recipient’s service area, exclud-
21 ing any amounts the provider may have re-
22 ceived in Federal, State, or local government
23 assistance for such acquisition.

24 “(B) USE OF REVENUES.—A provider of
25 public transportation by vanpool may use reve-

1 nues it receives in the provision of public trans-
2 portation service in the service area of a recipi-
3 ent of assistance under this chapter that are in
4 excess of the provider's operating costs for the
5 purpose of acquiring rolling stock, if the pro-
6 vider enters into a legally binding agreement
7 with the recipient that requires the provider to
8 use the rolling stock in the recipient's service
9 area.

10 “(C) DEFINITIONS.—In this paragraph,
11 the following definitions apply:

12 “(i) PROVIDER OF PUBLIC TRANSPOR-
13 TATION BY VANPOOL.—The term ‘provider
14 of public transportation by vanpool’ means
15 an entity providing vanpool services in the
16 service area of a recipient of assistance
17 under this chapter using a commuter high-
18 way vehicle or vanpool vehicle.

19 “(ii) COMMUTER HIGHWAY VEHICLE;
20 VANPOOL VEHICLE.—The term ‘commuter
21 highway vehicle’ or ‘vanpool vehicle’ means
22 any vehicle—

23 “(I) the seating capacity of which
24 is at least 6 adults (not including the
25 driver); and

1 “(II) at least 80 percent of the
2 mileage use of which can be reason-
3 ably expected to be for the purposes
4 of transporting commuters in connec-
5 tion with travel between their resi-
6 dences and their place of employ-
7 ment.”.

8 (c) BUY AMERICA.—Section 5323(j) is amended—

9 (1) in paragraph (2)(C) by inserting other than
10 a rolling stock prototype after “stock”.

11 (2) by striking paragraph (3) and inserting the
12 following:

13 “(3) WRITTEN JUSTIFICATION OF WAIVER.—
14 When issuing a waiver based on a determination
15 under paragraph (2), the Secretary shall issue a de-
16 tailed written justification as to why the waiver
17 meets the requirements of such paragraph. The Sec-
18 retary shall publish such justification in the Federal
19 Register and provide the public with a reasonable
20 period of time for notice and comment.”.

21 (3) in paragraph (6) by striking “2005” and in-
22 serting “2009”.

1 **SEC. 3016. CONTRACT REQUIREMENTS.**

2 Section 5325(h) is amended by striking “Federal
3 Public Transportation Act of 2005” and inserting “Public
4 Transportation Act of 2009”.

5 **SEC. 3017. OFFICE OF EXPEDITED PROJECT DELIVERY.**

6 (a) IN GENERAL.—Chapter 53 is amended by insert-
7 ing after section 5325 the following:

8 **“§ 5326. Office of Expedited Project Delivery**

9 “(a) ESTABLISHMENT.—The Secretary shall estab-
10 lish an Office of Expedited Project Delivery in the Federal
11 Transit Administration to enhance the speed of project de-
12 livery for public transportation capital projects.

13 “(b) DIRECTOR.—The Office shall be headed by a Di-
14 rector who shall be appointed by the Secretary.

15 “(c) DUTIES OF DIRECTOR.—The Director shall pro-
16 vide national leadership to enhance the speed of delivery
17 of public transportation capital projects, with particular
18 focus on new starts projects and substantially delayed
19 projects.

20 “(d) ACTIONS TO SPEED DELIVERY OF NEW STARTS
21 PROJECTS.—

22 “(1) IN GENERAL.—For a new starts project,
23 the Director shall—

24 “(A) monitor the project throughout the
25 project delivery process;

1 “(B) monitor whether headquarters offices,
2 regional offices, other Federal agencies, and
3 other relevant parties are fully implementing
4 and complying with section 6002 of
5 SAFETEA-LU (Public Law 109-59) (relating
6 to efficient environmental reviews for project
7 decision making) and assist such parties in
8 reaching full compliance if necessary;

9 “(C) participate in the development of any
10 schedule for completion of the environmental re-
11 view process for the project established as part
12 of a coordination plan under section 6002 of
13 SAFETEA-LU (Public Law 109-59);

14 “(D) monitor the advancement of new
15 starts projects and review delays;

16 “(E) participate in the development of a
17 management plan for the project;

18 “(F) promote and assist in the use of prac-
19 tices and techniques (including best practices
20 from other project sponsors) that enhance the
21 speed of project delivery when suitable and al-
22 lowable under Federal, State, and local law, in-
23 cluding—

24 “(i) using design-build procurement
25 methods;

1 “(ii) using other procurement methods
2 that enhance the speed of project delivery
3 (such as cost-plus-time bidding and best-
4 value procurement);

5 “(iii) using accelerated construction
6 techniques;

7 “(iv) including early completion incen-
8 tives and late completion penalties in de-
9 sign and construction contracts;

10 “(v) maintaining up-to-date State in-
11 ventories of historic, cultural, and natural
12 resources;

13 “(vi) linking planning and the envi-
14 ronmental review process under NEPA by
15 focusing on the NEPA process in the early
16 phases of project planning and then car-
17 rying through the work done in the plan-
18 ning stage to the NEPA process;

19 “(vii) encouraging practices that re-
20 sult in good communication, coordination,
21 and collaboration between relevant parties
22 (including local communities, metropolitan
23 planning offices, State departments of
24 transportation, other State agencies, re-
25 gional offices, headquarters offices, the Of-

1 fice of the Secretary of Transportation,
2 other Federal agencies, and other transit
3 stakeholders);

4 “(viii) using conflict resolution tech-
5 niques and professionals, as appropriate;
6 and

7 “(ix) establishing programmatic
8 agreements, including memoranda of
9 agreement, between State departments of
10 transportation and the Federal Transit
11 Administration or environmental resource
12 agencies (such as the United States Fish
13 and Wildlife Service) regarding the NEPA
14 process in general and categorical exclu-
15 sions in particular;

16 “(G) using letter of intent and early sys-
17 tem work agreements for new starts projects

18 “(H) coordinating the activities of relevant
19 parties (including the parties described in sub-
20 paragraph (F)(vii)) and encouraging the parties
21 to collaborate throughout the phases of the
22 project delivery process; and

23 “(I) working with the designated points of
24 contact to expedite the project’s delivery and to
25 monitor the project’s progress.

1 “(2) SUBSTANTIALLY DELAYED NEW STARTS
2 PROJECTS.—For a new starts project that is experi-
3 encing substantial delays, as determined by the Di-
4 rector based on the monitoring of the project and
5 any additional information obtained from designated
6 points of contact and other relevant parties, the Di-
7 rector shall—

8 “(A) inform the Committee on Transpor-
9 tation and Infrastructure of the House of Rep-
10 resentatives and the Committee on Banking,
11 Housing, and Urban Affairs of the Senate of
12 the project in a quarterly report, to be sub-
13 mitted not later than the last day of each quar-
14 ter of a fiscal year, that contains for each such
15 project a description of—

16 “(i) the project;

17 “(ii) the location of the project;

18 “(iii) the estimated cost of the project;

19 “(iv) when the delays began;

20 “(v) the nature of the delays;

21 “(vi) the steps that the Director took
22 or will take to resolve the delays;

23 “(vii) the effectiveness of any steps
24 taken; and

1 “(viii) the current status of the
2 project;

3 “(B) identify and resolve the obstacles in
4 project delivery that are causing the delays, in-
5 cluding by working with the designated points
6 of contact;

7 “(C) coordinate relevant parties (including
8 the parties described in paragraph (1)(F)(vii))
9 to help resolve the delays;

10 “(D) utilize conflict resolution techniques
11 and professionals, as appropriate, to help re-
12 solve the delays; and

13 “(E) intensify the monitoring of the
14 project under paragraph (1)(A) after the delays
15 have been resolved in order to prevent, or iden-
16 tify and resolve, any further delays.

17 “(e) ACTIONS TO RESOLVE OBSTACLES TO DELIV-
18 ERY OF OTHER SUBSTANTIALLY DELAYED PROJECTS.—

19 “(1) IN GENERAL.—For public transportation
20 capital projects not covered under subsection (d), the
21 Director shall identify and resolve substantially de-
22 layed projects according to this subsection.

23 “(2) DATA MONITORING AND REPORTS.—The
24 Director shall obtain information on delays of public
25 transportation capital projects as follows:

1 “(A) The Director shall track and analyze
2 data on the progress of individual projects and
3 the time spent in different phases of project de-
4 livery.

5 “(B) A regional office shall submit to the
6 Director a report on any project that the office
7 considers to be experiencing significant delays.

8 “(C) A headquarters office, in which there
9 is a designated point of contact, shall submit to
10 the Director a report on any project that the of-
11 fice considers to be experiencing significant
12 delays.

13 “(3) CONTENTS OF REPORTS.—A report on a
14 project submitted under paragraph (1) shall include,
15 at a minimum, a description of—

16 “(A) the project;

17 “(B) the location of the project;

18 “(C) the estimated cost of the project;

19 “(D) when the delays began;

20 “(E) the nature of the delays; and

21 “(F) any steps that the reporting office be-
22 lieves that could be taken to resolve the delays.

23 “(4) IDENTIFICATION OF SUBSTANTIALLY DE-
24 LAYED PROJECTS.—Based on information obtained
25 on a project under paragraph (1), and after acquir-

1 ing any additional information needed on the project
2 from designated points of contact and other relevant
3 parties, the Director shall determine whether to
4 identify a project as a substantially delayed project
5 for the purposes of this subsection.

6 “(5) FUNCTIONS RELATING TO SUBSTANTIALLY
7 DELAYED PROJECTS.—For a project that the Direc-
8 tor identifies as a substantially delayed project, the
9 Director shall—

10 “(A) identify and resolve the obstacles in
11 project delivery that are causing the delays, in-
12 cluding by working with the designated points
13 of contact;

14 “(B) coordinate relevant parties (including
15 the parties described in subsection
16 (d)(1)(F)(vii)) to help resolve the delays;

17 “(C) utilize conflict resolution techniques
18 and professionals, as appropriate, to help re-
19 solve the delays; and

20 “(D) monitor the progress of the project
21 after the delays have been resolved through the
22 completion of the project in order to prevent, or
23 identify and resolve, any further delays.

24 “(f) LEADERSHIP ACTIVITIES TO ENHANCE SPEED
25 OF PROJECT DELIVERY.—In addition to the duties under

1 subsections (d) and (e), on an ongoing basis, the Director
2 shall—

3 “(1) monitor whether headquarters offices, re-
4 gional offices, other Federal agencies, and other rel-
5 evant parties are fully implementing and complying
6 with section 6002 of SAFETEA-LU (Public Law
7 109–59) (relating to efficient environmental reviews
8 for project decision making) and assist such parties
9 in reaching full compliance with such requirements
10 if necessary;

11 “(2) compile information on practices and tech-
12 niques (including practices and techniques described
13 in subsection (d)(1)(F)) that serve to enhance the
14 speed of project delivery;

15 “(3) disseminate to States information on such
16 practices and techniques;

17 “(4) promote the use of such practices and
18 techniques if suitable and allowable under Federal,
19 State, and local law;

20 “(5) serve as a clearinghouse among the States
21 for best practices in enhancing the speed of project
22 delivery;

23 “(6) coordinate the provision of technical assist-
24 ance to States by headquarters offices, regional of-
25 fices, and other entities regarding practices and

1 techniques that serve to enhance the speed of project
2 delivery; and

3 “(7) provide support to designated points of
4 contact within the Office of the Secretary in their
5 activities relating to any Executive order or inter-
6 agency body concerning enhancing the speed of
7 project delivery or expediting environmental reviews.

8 “(g) INTERMODAL COORDINATION.—The Office shall
9 coordinate its efforts with the Office of Expedited Project
10 Delivery of the Federal Highway Administration estab-
11 lished under section 302 of title 23, particularly in the
12 case of projects that encompass both highway and public
13 transportation elements and in developing techniques and
14 best practices to enhance the speed of project delivery that
15 are applicable to both highway and public transportation
16 projects.

17 “(h) DESIGNATION OF POINTS OF CONTACT.—The
18 Secretary shall designate, to work with the Office in its
19 efforts to enhance the speed of project delivery, one or
20 more points of contact within—

21 “(1) the Office of the Secretary, with at least
22 one point of contact located in the Office of the As-
23 sistant Secretary for Transportation Policy;

24 “(2) each regional office; and

1 “(3) such headquarters offices as the Secretary,
2 in consultation with the Director, considers appro-
3 priate.

4 “(i) ANNUAL REPORT BY SECRETARY.—

5 “(1) IN GENERAL.—Not later than September
6 30 of each fiscal year, the Secretary, with the assist-
7 ance of the Director, shall submit to the Committee
8 on Transportation and Infrastructure of the House
9 of Representatives and the Committee on Banking,
10 Housing, and Urban Affairs of the Senate a report
11 on the speed of delivery of public transportation cap-
12 ital projects and efforts to enhance the speed of
13 project delivery under this section.

14 “(2) CONTENTS.—A report submitted by the
15 Secretary under paragraph (1) shall contain, at a
16 minimum—

17 “(A) background data on the speed of
18 project delivery;

19 “(B) an analysis of the data and trends re-
20 lating to the speed of project delivery;

21 “(C) a description of the steps that the Of-
22 fice has taken to enhance the speed of project
23 delivery and an analysis of the effectiveness of
24 those steps;

1 “(D) a description of the efforts of the Of-
2 fice to coordinate with the Office of Expedited
3 Project Delivery in the Federal Highway Ad-
4 ministration;

5 “(E) an identification of remaining obsta-
6 cles to faster project delivery;

7 “(F) a description of future steps that the
8 Office will take to enhance the speed of project
9 delivery and future goals for enhancing the
10 speed of project delivery;

11 “(G) an assessment of whether head-
12 quarters offices, regional offices, other Federal
13 agencies, and any other relevant parties are
14 fully implementing and complying with section
15 6002 of SAFETEA-LU (Public Law 109-59)
16 (relating to efficient environmental reviews for
17 project decision making) and a description of
18 the steps that the Office has taken or intends
19 to take to ensure full implementation and com-
20 pliance with such section; and

21 “(H) such recommendations as the Sec-
22 retary may have for improvements to the func-
23 tions and roles of the Office and other measures
24 to enhance the speed of project delivery.

1 “(j) REPORT BY GOVERNMENT ACCOUNTABILITY OF-
2 FICE.—Not later than 4 years after the date of enactment
3 of this section, the Comptroller General shall submit to
4 the Committee on Transportation and Infrastructure of
5 the House of Representatives and the Committee on
6 Banking, Housing, and Urban Affairs of the Senate a re-
7 port on the speed of delivery of public transportation cap-
8 ital projects and efforts to enhance the speed of project
9 delivery under this section.

10 “(k) CAREER RESERVED POSITION.—The position of
11 Director shall be treated for purposes of title 5 as a career
12 reserved position, as defined by section 3132(a)(8) of title
13 5.

14 “(l) LOCATION.—The Office shall be located in the
15 Office of the Administrator of Federal Transit Adminis-
16 tration.

17 “(m) FUNDING.—The Secretary shall allocate suffi-
18 cient funding to carry out this section from the adminis-
19 trative expenses authorized by section **【5338(e)】**.

20 “(n) SAVINGS PROVISION.—Nothing in this section
21 shall be construed as—

22 “(1) superseding, amending, or modifying
23 NEPA, any other Federal environmental law, or any
24 requirement of this title; or

1 “(2) affecting the responsibility of any Federal
2 officer to comply with or enforce any such a law or
3 requirement.

4 “(o) DEFINITIONS.—In this section, the following
5 definitions apply:

6 “(1) ADMINISTRATOR.—The term ‘Adminis-
7 trator’ means the Administrator of the Federal
8 Transit Administration.

9 “(2) DESIGNATED POINT OF CONTACT.—The
10 term ‘designated point of contact’ means a point of
11 contact designated by the Secretary under sub-
12 section (h).

13 “(3) DIRECTOR.—The term ‘Director’ means
14 the Director of the Office of Expedited Project De-
15 livery appointed under subsection (b).

16 “(4) HEADQUARTERS OFFICE.—The term
17 ‘headquarters office’ means a headquarters office of
18 the Federal Transit Administration.

19 “(5) MANAGEMENT PLAN.—The term ‘manage-
20 ment plan’ means a project management plan under
21 section 5327(a).

22 “(6) NEPA.—The term ‘NEPA’ means the Na-
23 tional Environmental Policy Act of 1969 (42 U.S.C.
24 4321 et seq.).

1 “(7) NEW STARTS PROJECT.—The term ‘new
2 starts project’ has the meaning given that term in
3 section 5309(a).

4 “(8) OFFICE.—The term ‘Office’ means the Of-
5 fice of Expedited Project Delivery established under
6 subsection (a).

7 “(9) PROJECT DELIVERY.—The term ‘project
8 delivery’ means planning, environmental review, per-
9 mitting, design, right-of-way acquisition, and con-
10 struction for a public transportation capital project.

11 “(10) PUBLIC TRANSPORTATION CAPITAL
12 PROJECT.—The term ‘public transportation capital
13 project’ means a public transportation capital
14 project carried out with assistance made available
15 under this chapter.

16 “(11) REGIONAL OFFICE.—The term ‘regional
17 office’ means a regional office of the Federal Transit
18 Administration.”.

19 (b) CLERICAL AMENDMENT.—The analysis for such
20 chapter is amended by inserting after the item relating
21 to section 5325 the following:

“Sec. 5326. Office of Expedited Project Delivery.”.

22 **SEC. 3018. PROGRAM.**

23 Section 5328(c) is repealed.

1 **SEC. 3019. NATIONAL TRANSIT DATABASE.**

2 Section 5335(a) of title 49, United States Code, is
3 amended—

4 (1) by striking “and” after “transportation fi-
5 nancial”;

6 (2) by inserting “,” after “financial”; and

7 (3) by inserting “, and asset condition” after
8 “operating”.

9 **SEC. 3020. APPORTIONMENT OF APPROPRIATIONS FOR**
10 **FORMULA GRANTS.**

11 **【to be supplied】**

12 **SEC. 3021. FIXED GUIDEWAY MODERNIZATION FORMULA**
13 **GRANTS.**

14 (a) GRANT PROGRAM.—Section 5337 of title 49 is
15 amended to read as follows:

16 **“§ 5337. Fixed guideway modernization program**

17 “(a) PROGRAM GOALS.—The goals of the fixed guide-
18 way modernization program are to—

19 “(1) rehabilitate, maintain, and preserve the
20 Nation’s fixed guideway public transportation sys-
21 tems;

22 “(2) reduce the maintenance backlog and in-
23 crease the state of good repair of the Nation’s fixed
24 guideway public transportation systems; and

25 “(3) increase the overall ridership on fixed
26 guideway public transportation systems.

1 “(b) GENERAL AUTHORITY.—The Secretary may
2 make grants to eligible recipients under this section to as-
3 sist State and local government authorities in financing
4 capital projects to modernize eligible fixed guideway sys-
5 tems.

6 “(c) [to be supplied]

7 “(d) AVAILABILITY OF AMOUNTS.—An amount ap-
8 portioned under this section—

9 “(1) remains available for 3 years after the fis-
10 cal year in which the amount is apportioned; and

11 “(2) that is unobligated at the end of the fourth
12 year shall be reapportioned for the next fiscal year
13 among eligible recipients in accordance with sub-
14 section (c).

15 “(e) GRANT REQUIREMENTS.—A grant under this
16 section shall be subject at all the requirements of section
17 [5307,] including the performance management require-
18 ments of such section.

19 “(f) [to be supplied]

20 “(g) [to be supplied]”.

21 (b) CLERICAL AMENDMENT.—The analysis for chap-
22 ter 53 is amended by striking the item relating to section
23 5337 and inserting the following:

“5337. Fixed guideway modernization program.”.

24 **SEC. 3022. AUTHORIZATIONS.**

25 [to be supplied]

1 **SEC. 3023. REPEALS.**

2 Sections 5339 and 5340, and the items relating to
3 such sections in the analysis for chapter 53, are repealed.

4 **SEC. 3024. OVER-THE-ROAD BUS ACCESSIBILITY PROGRAM.**

5 Section 3038(g) of the Transportation Equity Act for
6 the 21st century (49 U.S.C. 5310 note; 112 Stat. 392)
7 is amended in paragraphs (1) and (2) by striking “each
8 fiscal year” and inserting “fiscal years 2010 through
9 2012”.

10 **SEC. 3025. OBLIGATION LIMITS.**

11 **[to be supplied]**

12 **SEC. 3026. TRANSPORTATION FRINGE BENEFITS.**

13 (a) REQUIREMENT THAT AGENCIES OFFER TRANSIT
14 PASS TRANSPORTATION FRINGE BENEFITS TO THEIR
15 EMPLOYEES NATIONWIDE.—

16 (1) IN GENERAL.—Section 3049(a)(1) of the
17 Safe, Accountable, Flexible, Efficient Transportation
18 Equity Act: A Legacy for Users (5 U.S.C. 7905
19 note; 119 Stat. 1711) is amended—

20 (A) by striking “Effective” and all that
21 follows through “each covered agency” and in-
22 serting “Each agency”; and

23 (B) by inserting “at a location in an ur-
24 banized area of the United States that is served
25 by fixed route public transportation” before
26 “shall be offered”.

1 (2) CONFORMING AMENDMENTS.—Section
2 3049(a) of such Act (5 U.S.C. 7905 note; 119 Stat.
3 1711) is amended—

4 (A) in paragraph (3)—

5 (i) by striking subparagraph (A); and

6 (ii) by redesignating subparagraphs

7 (B) through (F) as subparagraphs (A)

8 through (E), respectively; and

9 (B) in paragraph (4) by striking “a cov-
10 ered agency” and inserting “an agency”.

11 (b) BENEFITS DESCRIBED.—Section 3049(a)(2) of
12 such Act (5 U.S.C. 7905 note; 119 Stat. 1711) is amended
13 by striking the period at the end and inserting the fol-
14 lowing: “, except that the maximum level of such benefits
15 shall be the maximum amount which may be excluded
16 from gross income for qualified parking as in effect for
17 a month under section 132(f)(2)(B) of the Internal Rev-
18 enue Code of 1986.”.

19 (c) GUIDANCE.—Section 3049(a) of SAFETEA-LU
20 (5 U.S.C. 7905 note; 119 Stat. 1711) is amended by add-
21 ing at the end the following:

22 “(5) GUIDANCE.—

23 “(A) ISSUANCE.—Not later than 60 days

24 after the date of enactment of this paragraph,

25 the Secretary of Transportation shall issue

1 guidance on nationwide implementation of the
2 transit pass transportation fringe benefits pro-
3 gram under this subsection.

4 “(B) UNIFORM APPLICATION.—

5 “(i) IN GENERAL.—The guidance to
6 be issued under subparagraph (A) shall
7 contain a uniform application for use by all
8 Federal employees applying for benefits
9 from an agency under the program.

10 “(ii) REQUIRED INFORMATION.—As
11 part of such an application, an employee
12 shall provide, at a minimum, the employ-
13 ee’s home and work addresses, a break-
14 down of the employee’s commuting costs,
15 and a certification of the employee’s eligi-
16 bility for benefits under the program.

17 “(iii) WARNING AGAINST FALSE
18 STATEMENTS.—Such an application shall
19 contain a warning against making false
20 statements in the application.

21 “(C) INDEPENDENT VERIFICATION RE-
22 QUIREMENTS.—The guidance to be issued
23 under subparagraph (A) shall contain inde-
24 pendent verification requirements to ensure

1 that, with respect to an employee of an agen-
2 cy—

3 “(i) the eligibility of the employee for
4 benefits under the program is verified by
5 an official of the agency;

6 “(ii) employee commuting costs are
7 verified by an official of the agency; and

8 “(iii) records of the agency are
9 checked to ensure that the employee is not
10 receiving parking benefits from the agency.

11 “(D) PROGRAM IMPLEMENTATION RE-
12 QUIREMENTS.—The guidance to be issued
13 under subparagraph (A) shall contain program
14 implementation requirements applicable to each
15 agency to ensure that—

16 “(i) benefits provided by the agency
17 under the program are adjusted in cases of
18 employee travel, leave, or change of ad-
19 dress;

20 “(ii) removal from the program is in-
21 cluded in the procedures of the agency re-
22 lating to an employee separating from em-
23 ployment with the agency; and

24 “(iii) benefits provided by the agency
25 under the program are made available

1 using an electronic format (rather than
2 using paper fare media) where such a for-
3 mat is available for use.

4 “(E) ENFORCEMENT AND PENALTIES.—
5 The guidance to be issued under subparagraph
6 (A) shall contain a uniform administrative pol-
7 icy on enforcement and penalties. Such policy
8 shall be implemented by each agency to ensure
9 compliance with program requirements, to pre-
10 vent fraud and abuse, and, as appropriate, to
11 penalize employees who have abused or misused
12 the benefits provided under the program.

13 “(F) PERIODIC REVIEWS.—The guidance
14 to be issued under subparagraph (A) shall re-
15 quire each agency, not later than September 1
16 of the first fiscal year beginning after the date
17 of enactment of this paragraph, and every 3
18 years thereafter, to develop and submit to the
19 Secretary a review of the agency’s implementa-
20 tion of the program. Each such review shall
21 contain, at a minimum, the following:

22 “(i) An assessment of the agency’s
23 implementation of the guidance, including
24 a summary of the audits and investiga-

1 tions, if any, of the program conducted by
2 the Inspector General of the agency.

3 “(ii) Information on the total number
4 of employees of the agency that are partici-
5 pating in the program.

6 “(iii) Information on the total number
7 of single occupancy vehicles removed from
8 the roadway network as a result of partici-
9 pation by employees of the agency in the
10 program.

11 “(iv) Information on energy savings
12 and emissions reductions, including reduc-
13 tions in greenhouse gas emissions, result-
14 ing from reductions in single occupancy ve-
15 hicle use by employees of the agency that
16 are participating in the program.

17 “(v) Information on reduced conges-
18 tion and improved air quality resulting
19 from reductions in single occupancy vehicle
20 use by employees of the agency that are
21 participating in the program.

22 “(vi) Recommendations to increase
23 program participation and thereby reduce
24 single occupancy vehicle use by Federal
25 employees nationwide.

1 “(6) REPORTING REQUIREMENTS.—Not later
2 than September 30 of the first fiscal year beginning
3 after the date of enactment of this paragraph, and
4 every 3 years thereafter, the Secretary shall submit
5 to the Committee on Transportation and Infrastruc-
6 ture and the Committee on Oversight and Govern-
7 ment Reform of the House of Representatives and
8 the Committee on Banking, Housing, and Urban Af-
9 fairs of the Senate a report on nationwide implemen-
10 tation of the transit pass transportation fringe bene-
11 fits program under this subsection, including a sum-
12 mary of the information submitted by agencies pur-
13 suant to paragraph (5)(F).”.

14 (d) EFFECTIVE DATE.—Except as otherwise specifi-
15 cally provided, the amendments made by this section shall
16 become effective on the first day of the first fiscal year
17 beginning after the date of enactment of this Act.

18 **SEC. 3027. STREETCAR CATEGORICAL EXCLUSION.**

19 Not later than one year after the date of enactment
20 of this Act, the Secretary shall complete a rulemaking
21 process regarding light rail streetcars that are—

22 (1) located within an existing right-of-way with-
23 in the classes of action identified in regulation by
24 the Secretary; and

1 (2) that are categorically excluded from require-
2 ments for environmental assessments or environ-
3 mental impact statements pursuant to regulations
4 promulgated by the Council on Environmental Qual-
5 ity under part 1500 of title 40, Code of Federal
6 Regulations (as in effect on October 1, 2003).

7 **SEC. 3028. SAFETEA-LU REPEALS.**

8 The following provisions of SAFETEA-LU are re-
9 pealed:

10 (1) Section 3009(i).

11 (2) Section 3011(c).

12 (3) Section 3012(b).

13 (4) Section 3045.

14 (5) Section 3046.

15 **TITLE IV—COMMERCIAL MOTOR**
16 **VEHICLE SAFETY**

17 **SEC. 4001. SHORT TITLE.**

18 This title may be cited as the “Motor Carrier Safety
19 Enhancement Act of 2009”.

20 **SEC. 4002. AMENDMENTS TO TITLE 49, UNITED STATES**
21 **CODE.**

22 Except as otherwise expressly provided, whenever in
23 this title an amendment or repeal is expressed in terms
24 of an amendment to, or a repeal of, a section or other
25 provision, the reference shall be considered to be made to

1 a section or other provision of title 49, United States
2 Code.

3 **Subtitle A—Authorization of**
4 **Appropriations**

5 **SEC. 4011. MOTOR CARRIER SAFETY GRANTS.**

6 (a) AUTHORIZATION OF APPROPRIATIONS.—Section
7 31104(a) is amended by striking paragraphs (1) through
8 (5) and inserting the following:

9 “(1) [§] for fiscal year 2010;

10 “(2) [§] for fiscal year 2011;

11 “(3) [§] for fiscal year 2012;

12 “(4) [§] for fiscal year 2013;

13 “(5) [§] for fiscal year 2014; and

14 “(6) [§] for fiscal year 2015.”.

15 (b) ADMINISTRATIVE TAKEDOWN.—

16 (1) IN GENERAL.—Section 31104(e) is amend-
17 ed to read as follows:

18 “(e) DEDUCTION FOR ADMINISTRATIVE EX-
19 PENSES.—

20 “(1) IN GENERAL.—On October 1 of each fiscal
21 year or as soon after that as practicable, the Sec-
22 retary may deduct, from amounts made available
23 under subsection (a) for that fiscal year, not more
24 than [_____] of those amounts for administrative

1 expenses incurred in carrying out section 31102 in
2 that fiscal year.

3 “(2) TRAINING.—The Secretary shall use at
4 least 75 percent of the amounts deducted under
5 paragraph (1) to train non-Government employees
6 and to develop related training materials in carrying
7 out section 31102.

8 “(3) CONTRACTS.—The Secretary may use
9 amounts deducted under paragraph (1) to enter into
10 contracts and cooperative agreements with States,
11 local governments, associations, institutions, cor-
12 porations, and other persons if the Secretary deter-
13 mines such contracts and cooperative agreements
14 are cost-effective, benefit multiple jurisdictions of
15 the United States, and enhance safety programs and
16 related enforcement activities.”.

17 (2) REPORT TO CONGRESS.—At the end of each
18 fiscal year, the Secretary shall submit to Congress a
19 report detailing the use of amounts deducted under
20 paragraph (1), including specific amounts and activi-
21 ties used for border enforcement.

22 (c) ALLOCATION CRITERIA AND ELIGIBILITY.—Sec-
23 tion 31104(f) is amended by adding at the end the fol-
24 lowing: “Such criteria shall take into consideration wheth-
25 er a State shares a land border with another country and

1 conducts border commercial motor vehicle safety programs
2 and related activities.”.

3 (d) ADMINISTRATIVE EXPENSES.—Section
4 31104(i)(1) is amended by striking subparagraphs (A)
5 through (E) and inserting the following:

6 “(A) **[\$]** for fiscal year 2010;

7 “(B) **[\$]** for fiscal year 2011;

8 “(C) **[\$]** for fiscal year 2012;

9 “(D) **[\$]** for fiscal year 2013;

10 “(E) **[\$]** for fiscal year 2014; and

11 “(F) **[\$]** for fiscal year 2015.”.

12 (e) INCENTIVE PROGRAM.—Section 31104(k) is
13 amended to read as follows:

14 “(k) INCENTIVE PROGRAM.—

15 “(1) IN GENERAL.—The Secretary shall estab-
16 lish an incentive program to provide additional fund-
17 ing to States in a fiscal year that the Secretary de-
18 termines, under regulations issued by the Secretary,
19 showed significant improvement in reducing fatali-
20 ties and crashes involving commercial motor vehicles.

21 “(2) ELIGIBILITY.—A State shall be eligible for
22 an incentive grant in a fiscal year if—

23 “(A)(i) the State reduces the number of
24 fatalities and crashes involving commercial
25 motor vehicles in the previous fiscal year com-

1 pared to the State’s average number of such fa-
2 talities and crashes in the 3 preceding fiscal
3 years; or

4 “(ii) the State reduces the commercial
5 motor vehicle fatal accident rate in the previous
6 fiscal year compared to the State’s average rate
7 in the three preceding fiscal years; and

8 “(B) the State ranked among the top
9 States in commercial motor vehicle fatality re-
10 duction or fatality rate reduction in the pre-
11 vious fiscal year.

12 “(3) SET ASIDE.—For each of fiscal years 2011
13 through 2015, the Secretary shall set aside not to
14 exceed 10 percent of the amounts appropriated
15 under subsection (a) for providing additional funding
16 to States under the program established under para-
17 graph (1).

18 “(4) USE OF FUNDS.—A State receiving addi-
19 tional funding under the program established under
20 paragraph (1) shall use the funding for activities eli-
21 gible for grants under section 31102.”.

22 (f) WITHHOLDING AMOUNTS FOR STATE NON-
23 COMPLIANCE.—Section 31104 is amended by adding at
24 the end the following:

1 “(1) WITHHOLDING AMOUNTS FOR STATE NON-
2 COMPLIANCE.—The Secretary shall withhold up to 5 per-
3 cent of the amount required to be apportioned to a State
4 under paragraphs (1), (3), and (4) of section 104(b) of
5 title 23 on October 1 of each fiscal year beginning after
6 September 30, 2010, throughout which the State does not
7 comply substantially with a requirement of section
8 31102.”.

9 **SEC. 4012. GRANT PROGRAMS.**

10 (a) AUTHORIZATION OF APPROPRIATIONS.—There
11 are authorized to be appropriated from the Highway Trust
12 Fund (other than the Mass Transit Account) the following
13 sums for the following Federal Motor Carrier Safety Ad-
14 ministration programs:

15 (1) COMMERCIAL DRIVER’S LICENSE PROGRAM
16 IMPLEMENTATION GRANTS.—For commercial driv-
17 er’s license program implementation grants under
18 section 31313 of title 49, United States Code—

19 (A) 【\$】 for fiscal year 2010;

20 (B) 【\$】 for fiscal year 2011;

21 (C) 【\$】 for fiscal year 2012;

22 (D) 【\$】 for fiscal year 2013;

23 (E) 【\$】 for fiscal year 2014; and

24 (F) 【\$】 for fiscal year 2015.

1 (2) COMMERCIAL VEHICLE INFORMATION SYS-
2 TEMS AND NETWORKS DEPLOYMENT.—For carrying
3 out the commercial vehicle information systems and
4 networks deployment program under section 4126 of
5 SAFETEA-LU(119 Stat. 1738)—

6 (A) **[\$]** for each of fiscal years 2010
7 through 2013; and

8 (B) **[\$]** for each of fiscal years 2014 and
9 2015.

10 (3) COMMERCIAL MOTOR VEHICLE OPERATOR
11 SAFETY GRANTS.—For training grants under section
12 4030 of this Act **[\$]** for each of fiscal years **[2010]**
13 through 2015.

14 (b) PERIOD OF AVAILABILITY.—The amounts made
15 available under this section shall remain available until ex-
16 pended.

17 (c) INITIAL DATE OF AVAILABILITY.—Amounts au-
18 thorized to be appropriated from the Highway Trust Fund
19 (other than the Mass Transit Account) by this section
20 shall be available for obligation on the date of their appor-
21 tionment or allocation or on October 1 of the fiscal year
22 for which they are authorized, whichever occurs first.

23 (d) CONTRACT AUTHORITY.—Approval by the Sec-
24 retary of a grant with funds made available under this
25 section imposes upon the United States a contractual obli-

1 gation for payment of the Government's share of costs in-
2 curred in carrying out the objectives of the grant.

3 **Subtitle B—General Authority and**
4 **State Grants**

5 **SEC. 4021. MOTOR CARRIER SAFETY ASSISTANCE PRO-**
6 **GRAM.**

7 (a) GENERAL AUTHORITY.—Section 31102 is amend-
8 ed to read as follows:

9 **“§ 31102. Motor carrier safety assistance program**

10 “(a) GENERAL AUTHORITY.—The Secretary of
11 Transportation shall administer a motor carrier safety as-
12 sistance program to assist States with—

13 “(1) the development and implementation of
14 programs for improving motor carrier safety; and

15 “(2) the enforcement of Federal regulations,
16 standards, and orders on commercial motor vehicle
17 safety and hazardous materials transportation safety
18 or compatible State regulations, standards, and or-
19 ders.

20 “(b) PROGRAM GOAL.—The goal of the motor carrier
21 safety assistance program is to ensure that the Secretary,
22 States, and other political jurisdictions work in partner-
23 ship to establish programs to improve motor carrier, com-
24 mercial motor vehicle, and driver safety to support a safe
25 and efficient transportation system by—

1 “(1) making targeted investments to promote
2 safe commercial motor vehicle transportation, includ-
3 ing transportation of passengers and hazardous ma-
4 terials;

5 “(2) investing in activities likely to generate
6 maximum reductions in the number and severity of
7 commercial motor vehicle crashes and fatalities re-
8 sulting from such crashes;

9 “(3) adopting and enforcing effective motor car-
10 rier, commercial motor vehicle, and driver safety reg-
11 ulations and practices consistent with Federal re-
12 quirements; and

13 “(4) assessing and improving statewide per-
14 formance by setting program goals and meeting per-
15 formance standards, measures, and benchmarks.

16 “(c) STATE PLANS.—

17 “(1) PROCEDURES.—The Secretary shall pre-
18 scribe procedures for a State to participate in the
19 program, including procedures under which the
20 State shall submit a plan, in writing, to the Sec-
21 retary in which the State agrees—

22 “(A) to assume responsibility for improv-
23 ing motor carrier safety in the State; and

24 “(B) to adopt and enforce Federal regula-
25 tions, standards, and orders on commercial

1 motor vehicle safety and hazardous materials
2 transportation safety or compatible State regu-
3 lations, standards, and orders.

4 “(2) CONTENTS.—A plan submitted by a State
5 under paragraph (1) shall demonstrate to the satis-
6 faction of the Secretary that the State—

7 “(A) is implementing performance-based
8 activities, including deployment of technology,
9 to enhance the efficiency and effectiveness of
10 commercial motor vehicle safety programs;

11 “(B) is implementing a border commercial
12 motor vehicle safety program and related en-
13 forcement activities, if the State shares a land
14 border with another country;

15 “(C) has designated a State motor vehicle
16 safety agency responsible for administering the
17 plan throughout the State;

18 “(D) has the legal authority, resources,
19 and qualified personnel necessary to enforce the
20 regulations, standards, and orders;

21 “(E) will devote adequate amounts to the
22 administration of the plan and enforcement of
23 the regulations, standards, and orders;

24 “(F) provides a right of entry and inspec-
25 tion to carry out the plan;

1 “(G) provides that all reports required
2 under this section be submitted to the agency
3 and that the agency will make the reports avail-
4 able to the Secretary on request;

5 “(H) provides that the agency will adopt
6 the reporting requirements and use the forms
7 for record keeping, inspections, and investiga-
8 tions the Secretary prescribes;

9 “(I) requires registrants of commercial
10 motor vehicles to make a declaration of knowl-
11 edge of applicable safety regulations, standards,
12 and orders of the Government and the State;

13 “(J) will grant maximum reciprocity for
14 inspections conducted under the North Amer-
15 ican Inspection Standard through the use of a
16 nationally accepted system that allows ready
17 identification of previously inspected commer-
18 cial motor vehicles;

19 “(K) ensures that activities described in
20 subsection (g)(3)(B), if financed with grants
21 under this section, will not diminish the effec-
22 tiveness of the development and implementation
23 of commercial motor vehicle safety programs
24 described in subsection (a);

1 “(L) will coordinate the plan, data collec-
2 tion, and information systems with State high-
3 way safety programs under title 23;

4 “(M) ensures participation in
5 SAFETYNET and other information systems
6 by all appropriate jurisdictions receiving fund-
7 ing under this section;

8 “(N) is willing and able to exchange infor-
9 mation with other States in a timely manner;

10 “(O) will undertake efforts that will em-
11 phasize and improve enforcement of State and
12 local traffic safety laws and regulations related
13 to commercial motor vehicle safety;

14 “(P) will promote activities in support of
15 national priorities, including—

16 “(i) activities aimed at removing im-
17 paired commercial motor vehicle drivers
18 from the highways of the United States
19 through adequate enforcement of regula-
20 tions on the use of alcohol and controlled
21 substances and by ensuring ready roadside
22 access to alcohol detection and measuring
23 equipment;

24 “(ii) activities aimed at providing an
25 appropriate level of training to State motor

1 carrier safety assistance program officers
2 and employees on recognizing drivers im-
3 paired by alcohol or controlled substances;
4 and

5 “(iii) interdiction activities affecting
6 the transportation of controlled substances
7 by commercial motor vehicle drivers and
8 training on appropriate strategies for car-
9 rying out those interdiction activities;

10 “(Q) has established a program to ensure
11 that—

12 “(i) accurate, complete, and timely
13 motor carrier safety data is collected and
14 reported to the Secretary; and

15 “(ii) the State will participate in a na-
16 tional motor carrier safety data correction
17 system prescribed by the Secretary;

18 “(R) will cooperate in the enforcement of
19 financial responsibility requirements under sec-
20 tions 13906, 31138, and 31139 and regulations
21 issued thereunder;

22 “(S) will impose consistent, effective, and
23 reasonable sanctions;

24 “(T) ensures that roadside inspections will
25 be conducted at a location that is adequate to

1 protect the safety of drivers and enforcement
2 personnel;

3 “(U) will include in the training manual
4 for the licensing examination to drive a non-
5 commercial motor vehicle and a commercial
6 motor vehicle, information on best practices for
7 driving safely in the vicinity of noncommercial
8 and commercial motor vehicles;

9 “(V) will enforce the registration require-
10 ments of section 13902 by prohibiting the oper-
11 ation of any vehicle discovered to be operated
12 by a motor carrier without a registration issued
13 under such section or to operate beyond the
14 scope of such registration;

15 “(W) will conduct comprehensive and high-
16 ly visible traffic enforcement and commercial
17 motor vehicle safety inspection programs in
18 high-risk locations and corridors; and

19 “(X) will implement activities to monitor
20 the safety performance of motor carriers of pas-
21 sengers, including inspections of commercial
22 motor vehicles designed or used to transport
23 passengers; except that roadside inspections
24 must be conducted at a station, terminal, bor-
25 der crossing, maintenance facility, destination,

1 or other location where a motor carrier may
2 make a planned stop, except in the case of an
3 imminent or obvious safety hazard.

4 “(3) MAINTENANCE OF EFFORT.—

5 “(A) IN GENERAL.—A plan submitted by a
6 State under this subsection shall provide that
7 the total expenditure of amounts of the State
8 and its political subdivisions (not including
9 amounts of the Government) for commercial
10 motor vehicle safety programs for enforcement
11 of commercial motor vehicle size and weight
12 limitations, drug interdiction, and State traffic
13 safety laws and regulations under this sub-
14 section will be maintained at a level at least
15 equal to the average level of that expenditure
16 for the 3 most recent fiscal years ending before
17 the date of enactment of the Motor Carrier
18 Safety Enhancement Act of 2009.

19 “(B) CALCULATING STATE EXPENDI-
20 TURES.—In calculating the average level of
21 State expenditure, the Secretary—

22 “(i) may allow the State to exclude
23 State expenditures for Government-spon-
24 sored demonstration or pilot programs;
25 and

1 “(ii) shall require the State to exclude
2 Government amounts.

3 “(d) PERFORMANCE MEASURES.—

4 “(1) NATIONAL GOAL.—The Secretary shall es-
5 tablish a national goal for reductions in fatalities
6 and crashes involving commercial motor vehicles.
7 The goal shall provide for at least **【____】** percent
8 reduction in such fatalities by January 1, 2016.

9 “(2) GUIDANCE AND STANDARDS.—Not later
10 than one year after the date of enactment of the
11 Motor Carrier Safety Enhancement Act of 2009, the
12 Secretary shall—

13 “(A) issue guidance on the effectiveness of
14 specific enforcement and related activities in
15 generating reductions in the number and sever-
16 ity of commercial motor vehicle crashes and fa-
17 talities resulting from such crashes; and

18 “(B) publish standards for data timeliness,
19 accuracy, and completeness that will allow
20 States to meet program goals and are con-
21 sistent with the standards issued under section
22 31106(a)(4).

23 “(3) OPTIMIZATION OF ALLOCATIONS.—The
24 Secretary shall develop a tool for States to optimize
25 allocations of motor carrier safety resources to carry

1 out enforcement and related activities to meet pro-
2 gram goals and to contribute to the national fatality
3 reduction goal established under paragraph (1).

4 “(4) PERIODIC UPDATES OF GUIDANCE.—The
5 Secretary shall update the guidance issued under
6 paragraph (2)(A) periodically to reflect new informa-
7 tion.

8 “(5) STATE TARGETS.—

9 “(A) IN GENERAL.—To monitor the effec-
10 tiveness of State plans in meeting the goals of
11 the program and contributing to the national
12 fatality reduction goal, in the second fiscal year
13 following the date of enactment of the Motor
14 Carrier Safety Enhancement Act of 2009, and
15 each fiscal year thereafter, the Secretary shall
16 require States in the plan submitted by States
17 under subsection (c) to—

18 “(i) establish targets, in quantifiable
19 metrics, for enforcement activities, data
20 quality, and other benchmarks to reduce
21 fatalities and crashes involving commercial
22 motor vehicles;

23 “(ii) select target activities in accord-
24 ance with the Secretary’s latest guidance
25 to ensure States pursue activities likely to

1 generate maximum crash and fatality re-
2 duction; and

3 “(iii) meet the standards for data
4 published by the Secretary under para-
5 graph (2)(B).

6 “(B) ADEQUACY OF TARGETS.—The Sec-
7 retary shall ensure that targets established by
8 a State in the second fiscal year following the
9 date of enactment of the Motor Carrier Safety
10 Enhancement Act of 2009 and in each fiscal
11 year are sufficient and will allow the State to
12 contribute to the national goal in fatality reduc-
13 tion. If the Secretary determines that the tar-
14 gets are not sufficient or will not allow the
15 State to contribute appropriately toward achiev-
16 ing such national goal, the Secretary shall dis-
17 approve the plan under section (f).

18 “(e) ANNUAL UPDATES OF STATE PLANS.—

19 “(1) ESTABLISHMENT OF TARGETS.—A State
20 shall—

21 “(A) update its plan under subsection (c)
22 annually to establish targets for the following
23 fiscal year; and

24 “(B) submit the updated plan to the Sec-
25 retary.

1 “(2) REQUIREMENTS FOR TARGETS.—Subject
2 to the availability of funds, targets established by a
3 State under paragraph (1) for a fiscal year shall ex-
4 ceed the levels achieved by the State in the previous
5 fiscal year.

6 “(3) STATE REPORTS.—Under the motor car-
7 rier safety assistance program, a State shall report
8 to the Secretary the number and rate of crashes and
9 fatalities involving commercial motor vehicles occur-
10 ring in the State in the previous fiscal year. A State
11 shall include in the report information on commer-
12 cial motor vehicles registered in the State and in-
13 volved in crashes in such fiscal year and any other
14 information requested by the Secretary.

15 “(4) ASSESSMENTS.—The Secretary shall as-
16 sess whether a State met its targets in the previous
17 fiscal year, and whether targeted activities are re-
18 ducing the number and severity of crashes and re-
19 sulting fatalities, as part of the annual plan approval
20 process under subsection (f).

21 “(f) PLAN REVIEW.—

22 “(1) APPROVAL PROCESS.—Before distributing
23 grant funds under subsection (g) in a fiscal year, the
24 Secretary shall—

1 “(A) review each State plan submitted to
2 the Secretary under subsection (c), as updated
3 by the State under subsection (e); and

4 “(B)(i) approve the plan if the Secretary
5 determines that the plan meets the require-
6 ments and promotes the objectives of this sec-
7 tion; or

8 “(ii) disapprove the plan.

9 “(2) RESUBMITTAL.—If the Secretary dis-
10 approves a plan under this subsection, the Secretary
11 shall give the State a written explanation and allow
12 the State to modify and resubmit the plan for ap-
13 proval.

14 “(3) CONTINUOUS EVALUATION OF PLANS.—

15 “(A) IN GENERAL.—On the basis of re-
16 ports submitted by the motor vehicle safety
17 agency of a State with a plan approved under
18 this subsection and the Secretary’s own inves-
19 tigations, the Secretary shall make a continuing
20 evaluation of the way the State is carrying out
21 the plan.

22 “(B) WITHDRAWAL OF APPROVAL.—If the
23 Secretary finds, after notice and opportunity for
24 comment, the State plan previously approved is
25 not being followed or has become inadequate to

1 ensure enforcement of the regulations, stand-
2 ards, or orders or meet the goals of the pro-
3 gram, the Secretary shall withdraw approval of
4 the plan and notify the State. The plan stops
5 being effective when the notice is received. A
6 State adversely affected by the withdrawal may
7 seek judicial review under chapter 7 of title 5.

8 “(C) ADMINISTRATIVE AND JUDICIAL PRO-
9 CEEDINGS.—Notwithstanding the withdrawal,
10 the State may retain jurisdiction in administra-
11 tive or judicial proceedings begun before the
12 withdrawal if the issues involved are not related
13 directly to the reasons for the withdrawal.

14 “(g) GRANTS TO STATES.—

15 “(1) IN GENERAL.—Subject to this section and
16 the availability of amounts, the Secretary may make
17 grants to States for the development and implemen-
18 tation of programs for the purposes described in
19 subsection (a).

20 “(2) ELIGIBILITY.—A State shall be eligible for
21 a grant under this subsection only if the State has
22 in effect a State plan under subsection (c) that has
23 been approved by the Secretary under subsection (f).

24 “(3) USE OF GRANT FUNDS.—

1 “(A) IN GENERAL.—A State receiving a
2 grant under this subsection shall use the grant
3 funds for activities to further the State’s plan
4 under subsection (c) in a manner that best
5 meets the goals of the program and contributes
6 to the national fatality reduction goal estab-
7 lished under subsection (d).

8 “(B) USE OF GRANTS TO ENFORCE OTHER
9 LAWS.—Subject to subparagraph (C), a State
10 may use grant funds received under this sub-
11 section for the following activities if carried out
12 in conjunction with an appropriate inspection of
13 the commercial motor vehicle to enforce Federal
14 or State commercial motor vehicle safety regu-
15 lations:

16 “(i) Enforcement of commercial motor
17 vehicle size and weight limitations at loca-
18 tions other than fixed weight facilities, at
19 specific locations such as steep grades or
20 mountainous terrains where the weight of
21 a commercial motor vehicle can signifi-
22 cantly affect the safe operation of the vehi-
23 cle, or at ports where intermodal shipping
24 containers enter and leave the United
25 States.

1 “(ii) Detection of the unlawful pres-
2 ence of a controlled substance (as defined
3 under section 102 of the Comprehensive
4 Drug Abuse Prevention and Control Act of
5 1970 (21 U.S.C. 802)) in a commercial
6 motor vehicle or on the person of any occu-
7 pant (including the operator) of the vehi-
8 cle.

9 “(iii) Documented enforcement of
10 State traffic laws and regulations designed
11 to promote the safe operation of commer-
12 cial motor vehicles, including documented
13 enforcement of such laws and regulations
14 relating to noncommercial motor vehicles
15 when necessary to promote the safe oper-
16 ation of commercial motor vehicles.

17 “(C) LIMITATIONS.—

18 “(i) EFFECT ON COMMERCIAL MOTOR
19 VEHICLE SAFETY PROGRAMS.—A State
20 may use grant funds received under this
21 subsection for an activity described in sub-
22 paragraph (B) only if the activity will not
23 diminish the effectiveness of the develop-
24 ment and implementation of commercial

1 motor vehicle safety programs described in
2 subsection (a).

3 “(ii) ENFORCEMENT ACTIVITIES RE-
4 LATING TO NONCOMMERCIAL MOTOR VEHI-
5 CLES.—A State may not use more than 5
6 percent of the total amount of grants re-
7 ceived by the State under this subsection
8 in a fiscal year for enforcement activities
9 relating to noncommercial motor vehicles
10 described in subparagraph (B)(iii) unless
11 the Secretary determines a higher percent-
12 age will result in significant increases in
13 commercial motor vehicle safety.

14 “(h) ANNUAL REPORT.—The Secretary shall submit
15 to the Committee on Transportation and Infrastructure
16 of the House of Representatives and the Committee on
17 Commerce, Science, and Transportation of the Senate an
18 annual report that—

19 “(1) analyzes commercial motor vehicle safety
20 trends among the States and documents the most ef-
21 fective commercial motor vehicle safety programs
22 implemented with grants under this section;

23 “(2) describes the effect of activities carried out
24 with grants made under this section on commercial
25 motor vehicle safety; and

1 “(3) documents the number and rate of crashes
2 and fatalities involving commercial motor vehicles by
3 State.”.

4 (b) REPEAL.—Section 31107 is repealed.

5 (c) CLERICAL AMENDMENTS.—The analysis for
6 chapter 311 is amended—

7 (1) by striking the item relating to section
8 31102 and inserting the following:

 “31102. Motor carrier safety assistance program.”; and

9 (2) by striking the item relating to section
10 31107.

11 **SEC. 4022. COMMERCIAL DRIVER’S LICENSE PROGRAM.**

12 (a) IN GENERAL.—Section 31309 is amended—

13 (1) in subsection (e)(4)(A) by striking the pe-
14 riod at the end and inserting “and must use the sys-
15 tems to receive and submit conviction and disquali-
16 fication data.”; and

17 (2) in subsection (f) by inserting “, subject to
18 section 31313(a),” after “may use”.

19 (b) REQUIREMENTS FOR STATE PARTICIPATION.—

20 (1) IN GENERAL.—Section 31311(a) is amend-
21 ed—

22 (A) in paragraph (5) by striking “At least”
23 and all that follows through “regulation),” and
24 inserting the following: “Within the time period
25 the Secretary prescribes by regulation,”; and

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

2 “(22) Before issuing a commercial driver’s li-
3 cense to an individual, the State shall request infor-
4 mation pertaining to the individual from the drug
5 and alcohol clearinghouse maintained under section
6 31306a.

7 “(23) The State shall ensure that the State’s
8 commercial driver’s license information system com-
9 plies with applicable Federal information technology
10 standards.”.

11 (2) CRITICAL REQUIREMENTS.—Section 31311
12 is amended by adding at the end the following:

13 “(d) CRITICAL REQUIREMENTS.—

14 “(1) IDENTIFICATION OF CRITICAL REQUIRE-
15 MENTS.—The Secretary shall review the require-
16 ments of subsection (a), including the regulations
17 issued under subsection (a) and section 31309(e)(4),
18 and identify the requirements that are critical to an
19 effective State commercial driver’s license program.

20 “(2) GUIDANCE.—Not later than 180 days
21 after the date of enactment of this subsection, the
22 Secretary shall issue guidance to assist States in
23 complying with the critical requirements identified
24 under paragraph (1). The guidance shall include a
25 description of the actions that a State must take to

1 collect and share accurate and complete data in a
2 timely manner.”.

3 (3) STATE COMMERCIAL DRIVER’S LICENSE
4 PROGRAM PLAN.—Section 31311 is further amended
5 by adding at the end the following:

6 “(e) STATE COMMERCIAL DRIVER’S LICENSE PRO-
7 GRAM PLAN.—

8 “(1) IN GENERAL.—Not later than 180 days
9 after the date of issuance of guidance under sub-
10 section (d)(2), a State shall develop and submit to
11 the Secretary for approval a plan for complying with
12 the requirements of this section in the period begin-
13 ning on the date of the plan and ending on Sep-
14 tember 30, 2015.

15 “(2) CONTENTS.—A plan submitted by a State
16 under paragraph (1) shall—

17 “(A) identify the actions that the State
18 must take to comply with the critical require-
19 ments identified under subsection (d)(1);

20 “(B) identify the actions that the State
21 must take to address any deficiencies in the
22 State’s commercial driver’s license program, as
23 identified by the Secretary in the most recent
24 audit of the program; and

1 “(C) identify other actions that the State
2 must take to comply with the requirements of
3 subsection (a).

4 “(3) PRIORITY.—

5 “(A) IMPLEMENTATION SCHEDULE.—A
6 plan submitted by a State under paragraph (1)
7 shall include a schedule for the implementation
8 of the actions identified under paragraph (2).
9 In establishing the schedule, the State shall give
10 priority to the actions identified under para-
11 graphs (2)(A) and (2)(B).

12 “(B) DEADLINE FOR COMPLIANCE WITH
13 REQUIREMENTS.—A plan submitted by a State
14 under paragraph (1) shall include assurances
15 that the State will take the necessary actions to
16 comply with the requirements of subsection (a)
17 not later than September 30, 2015.

18 “(4) APPROVAL AND DISAPPROVAL.—The Sec-
19 retary shall review a plan submitted by a State
20 under paragraph (1) and approve or disapprove the
21 plan. The Secretary shall approve the plan if the
22 Secretary determines that the plan meets the re-
23 quirements of this subsection and promotes the goals
24 of this chapter.

1 “(5) MODIFICATION OF DISAPPROVED PLANS.—

2 If the Secretary disapproves a plan under this sub-
3 section, the Secretary shall give the State a written
4 explanation of the disapproval and allow the State to
5 modify and resubmit the plan for approval.

6 “(6) PLAN UPDATES.—The Secretary may re-
7 quire States to review and update plans, as appro-
8 priate.”.

9 (4) ANNUAL COMPARISON OF STATE LEVELS OF
10 COMPLIANCE.—Section 31311 is further amended by
11 adding at the end the following:

12 “(f) ANNUAL COMPARISON OF STATE LEVELS OF
13 COMPLIANCE.—On an annual basis, the Secretary shall—

14 “(1) conduct a comparison of the relative levels
15 of compliance by States with the requirements of
16 subsection (a); and

17 “(2) make available to the public the results of
18 the comparison, using a mechanism that the Sec-
19 retary determines appropriate.”.

20 (c) DECERTIFICATION AUTHORITY.—Section 31312
21 is amended—

22 (1) by redesignating subsections (b) and (c) as
23 subsections (c) and (d), respectively; and

24 (2) by inserting after subsection (a) the fol-
25 lowing:

1 “(b) DEADLINE FOR COMPLIANCE WITH CRITICAL
2 REQUIREMENTS.—After September 30, 2015, in making
3 a determination under subsection (a), the Secretary shall
4 consider a State to be in substantial noncompliance with
5 this chapter if the Secretary determines that—

6 “(1) the State is not complying with a critical
7 requirement identified under section 31311(d)(1);
8 and

9 “(2) sufficient grant funding has been made
10 available to the State under section 31313(a) to
11 comply with the requirement.”.

12 (d) GRANTS FOR COMMERCIAL DRIVER’S LICENSE
13 PROGRAM IMPLEMENTATION.—

14 (1) IN GENERAL.—Effective October 1, 2010,
15 section 31313(a) is amended to read as follows:

16 “(a) GRANTS FOR COMMERCIAL DRIVER’S LICENSE
17 PROGRAM IMPLEMENTATION.—

18 “(1) GENERAL AUTHORITY.—The Secretary of
19 Transportation may make a grant to a State in a
20 fiscal year to assist the State in complying with the
21 requirements of section 31311(a).

22 “(2) ELIGIBILITY.—For fiscal year 2011, and
23 each fiscal year thereafter, to be eligible for a grant
24 under this subsection, a State shall have in effect a
25 commercial driver’s license program plan that has

1 been approved by the Secretary under section
2 31311(e).

3 “(3) USES OF FUNDS.—

4 “(A) CRITICAL REQUIREMENTS.—Subject
5 to subparagraphs (B) and (C), a State may use
6 grant funds under this subsection only to en-
7 sure that the State’s commercial driver’s license
8 program complies with the critical requirements
9 identified under section 31311(d)(1).

10 “(B) OTHER STATE PRIORITIES.—If the
11 Secretary determines that a State’s commercial
12 driver’s license program is in compliance with
13 the critical requirements identified under sec-
14 tion 31311(d)(1), the State shall use, subject to
15 subparagraph (C), grant funds under this sub-
16 section to implement the State’s commercial
17 driver’s license program plan in accordance
18 with the priorities set forth in the plan.

19 “(C) OTHER PURPOSES AUTHORIZED BY
20 THIS CHAPTER.—If the Secretary determines
21 that a State’s commercial driver’s license pro-
22 gram is meeting the priorities of the State set
23 forth in the State’s commercial driver’s license
24 program plan and the State is in compliance
25 with the requirements of section 31311, the

1 State may use grant funds under this sub-
2 section to improve implementation of the
3 State's commercial driver's license program (in-
4 cluding expenditures for technology upgrades or
5 modernization and training), to implement an
6 innovative approach to enhance commercial
7 motor vehicle operator safety, or for any other
8 purpose authorized by this chapter.

9 “(D) PERSONNEL.—Notwithstanding sub-
10 paragraphs (A), (B), and (C), a State may use
11 grant funds under this subsection for expendi-
12 tures for personnel, including a full-time posi-
13 tion to function as a coordinator of a State's
14 activities to meet the requirements of this sec-
15 tion and section 31311.

16 “(4) APPLICATION.—

17 “(A) FORM AND CONTENT.—To be eligible
18 to receive a grant under this subsection, a State
19 shall submit to the Secretary an application
20 that is in such form, and contains such infor-
21 mation, as the Secretary may require.

22 “(B) REVIEW OF STATE PLAN AND IMPLE-
23 MENTATION.—The Secretary shall review a
24 State's commercial driver's license program
25 plan under section 31311(e), and the State's

1 progress in implementing the plan, in each fis-
2 cal year before making available grant funds to
3 a State in the succeeding fiscal year.

4 “(5) MAINTENANCE OF EXPENDITURES.—The
5 Secretary may make a grant to a State under this
6 subsection only if the State provides assurances sat-
7 isfactory to the Secretary that the total expenditure
8 of amounts of the State and political subdivisions of
9 the State, exclusive of amounts from the United
10 States, for the State’s commercial driver’s license
11 program will be maintained at a level that at least
12 equals the average level of that expenditure by the
13 State and political subdivisions of the State for the
14 most recent 3 full fiscal years ending before the date
15 of enactment of the Motor Carrier Safety Enhance-
16 ment Act of 2009.

17 “(6) GOVERNMENT SHARE.—

18 “(A) IN GENERAL.—The Secretary shall
19 reimburse a State under a grant made under
20 this subsection an amount that is not more
21 than 80 percent of the costs incurred by the
22 State in a fiscal year in complying with this
23 chapter and improving its implementation of its
24 commercial driver’s license program.

1 “(B) IN-KIND CONTRIBUTIONS.—In deter-
2 mining such costs under subparagraph (A), the
3 Secretary shall include in-kind contributions
4 made by the State.”.

5 (2) ADDITIONAL GRANTS.—Effective October 1,
6 2010, section 31313(c) is amended to read as fol-
7 lows:

8 “(c) EMPLOYER NOTIFICATION INCENTIVE PRO-
9 GRAM.—

10 “(1) IN GENERAL.—The Secretary may provide
11 additional funding to a State through a grant in a
12 fiscal year to implement a system to notify an em-
13 ployer of an operator of a commercial motor vehicle
14 of a suspension or revocation of such operator’s
15 commercial driver’s license.

16 “(2) ELIGIBILITY.—Any State with a commer-
17 cial driver’s license program that the Secretary de-
18 termines is in compliance with the critical require-
19 ments identified under section 31311(d)(1) and such
20 other requirements as the Secretary may establish
21 regarding eligibility is eligible for an additional grant
22 under paragraph (1).

23 “(3) FUNDING.—The Secretary may deduct up
24 to 10 percent of the amounts made available to

1 carry out this section for a fiscal year to make
2 grants under this subsection.”.

3 (3) APPORTIONMENT.—Section 31313(d) is
4 amended to read as follows:

5 “(d) APPORTIONMENT.—Except as otherwise pro-
6 vided in subsections (b) and (c), all amounts made avail-
7 able to carry out this section for a fiscal year shall be ap-
8 portioned to States according to a criteria prescribed by
9 the Secretary. These criteria shall ensure that the Sec-
10 retary makes available to each eligible State not less than
11 of the total funds available to carry out this sec-
12 tion for such fiscal year if the Secretary has approved a
13 commercial driver’s license program plan for the State
14 under section 31311.”.

15 (4) (A) ADMINISTRATIVE TAKEDOWN.—Section
16 31313 is amended by adding at the end the fol-
17 lowing:

18 “(e) DEDUCTION FOR ADMINISTRATIVE EX-
19 PENSES.—On October 1 of each fiscal year or as soon
20 after that as practicable, the Secretary may deduct, from
21 amounts made available to carry out this section for that
22 fiscal year, not more than of those amounts for
23 administrative expenses incurred in carrying out section
24 31311 in that fiscal year.”.

1 (B) REPORT TO CONGRESS.—Not later than
2 September 30 of each year, the Secretary shall sub-
3 mit to Congress a report detailing the use of funds
4 deducted for administrative expenses under section
5 31313(e) of title 49, United States Code.

6 (5) CONFORMING AMENDMENT.—The section
7 heading for section 31313 is amended by striking
8 “**improvements**” and inserting “**implementa-**
9 **tion**”.

10 (6) CLERICAL AMENDMENT.—The analysis for
11 chapter 313 is amended by striking the item relating
12 to section 31313 and inserting the following:

“31313. Grants for commercial driver’s license program implementation.”.

13 **SEC. 4023. NATIONAL CLEARINGHOUSE FOR RECORDS RE-**
14 **LATING TO ALCOHOL AND CONTROLLED SUB-**
15 **STANCES TESTING OF COMMERCIAL MOTOR**
16 **VEHICLE OPERATORS.**

17 (a) IN GENERAL.—Chapter 313 is amended by in-
18 serting after section 31306 the following:

19 **“§ 31306a. National clearinghouse for records relating**
20 **to alcohol and controlled substances test-**
21 **ing**

22 “(a) ESTABLISHMENT.—

23 “(1) IN GENERAL.—Subject to the require-
24 ments of this section, the Secretary of Transpor-
25 tation shall establish and maintain an information

1 system that will serve as a national clearinghouse for
2 records relating to the alcohol and controlled sub-
3 stances testing program applicable to operators of
4 commercial motor vehicles under section 31306.

5 “(2) PURPOSES.—The purposes of the clearing-
6 house shall be—

7 “(A) to improve compliance with the re-
8 quirements of the testing program; and

9 “(B) to help prevent accidents and injuries
10 resulting from the misuse of alcohol or use of
11 controlled substances by operators of commer-
12 cial motor vehicles.

13 “(3) CONTENTS.—The clearinghouse shall be a
14 repository of records relating to violations of the
15 testing program by individuals submitted to the Sec-
16 retary in accordance with this section.

17 “(4) ELECTRONIC EXCHANGE OF RECORDS.—
18 The Secretary shall ensure the ability for records to
19 be submitted to the clearinghouse, and requested
20 from the clearinghouse, on an electronic basis.

21 “(5) DEADLINE.—The Secretary shall establish
22 the clearinghouse not later than one year after the
23 date of enactment of this section.

24 “(b) EMPLOYMENT PROHIBITIONS.—

1 “(1) IN GENERAL.—An employer may permit
2 an individual to operate a commercial motor vehicle
3 or perform any other safety-sensitive function if the
4 employer determines, as often as required by the
5 Secretary, through a request for information from
6 the clearinghouse that the individual—

7 “(A) has not violated the requirements of
8 the testing program in the preceding 3-year pe-
9 riod; or

10 “(B) if the individual has violated the re-
11 quirements of the testing program during that
12 period, is eligible to return to safety-sensitive
13 duties pursuant to the return-to-duty process
14 established under the testing program.

15 “(2) VIOLATIONS.—For purposes of paragraph
16 (1), an individual shall be considered to have vio-
17 lated the requirements of the testing program if the
18 individual—

19 “(A) has a verified or confirmed, as appli-
20 cable, positive controlled substances or alcohol
21 test result under the testing program;

22 “(B) has failed or refused to submit to a
23 controlled substances or alcohol test under the
24 testing program; or

1 “(C) has otherwise failed to comply with
2 the requirements of the testing program.

3 “(3) APPLICABILITY.—Paragraph (1) shall
4 apply to an individual who performs a safety-sen-
5 sitive function for an employer as a full time regu-
6 larly employed driver, casual, intermittent or occa-
7 sional driver, leased driver, or independent owner-op-
8 erator contractor or, as determined by the Secretary,
9 pursuant to another arrangement.

10 “(4) EFFECTIVE DATE.—The Secretary shall
11 issue a written notice when the Secretary determines
12 that the clearinghouse is operational and employers
13 can use the clearinghouse to meet the requirements
14 of section 382.413 of title 49, Code of Federal Reg-
15 ulations, as in effect on the date of enactment of
16 this section. Paragraph (1) shall take effect not later
17 than 30 days after the date of issuance of the writ-
18 ten notice, on a date specified by the Secretary in
19 the written notice.

20 “(5) CONTINUED APPLICATION OF EXISTING
21 REQUIREMENTS.—Following the date on which para-
22 graph (1) takes effect, an employer shall continue to
23 meet the requirements of section 382.413 of title 49,
24 Code of Federal Regulations, as in effect on the date
25 of enactment of this section, for a period of 3 years

1 or for such longer period as the Secretary deter-
2 mines appropriate.

3 “(6) NOTICE.—The Secretary shall provide no-
4 tice of the requirements applicable to employers
5 under this section through published notices in the
6 Federal Register.

7 “(c) REPORTING OF RECORDS.—

8 “(1) IN GENERAL.—The Secretary shall require
9 employers and appropriate service agents, including
10 medical review officers, to submit to the Secretary
11 for inclusion in the clearinghouse records of viola-
12 tions of the testing program by individuals, as de-
13 scribed in subsection (b)(2).

14 “(2) SPECIFIC REPORTING REQUIREMENTS.—In
15 carrying out paragraph (1), the Secretary shall re-
16 quire, at a minimum—

17 “(A) a medical review officer to report
18 promptly, as determined by the Secretary, to
19 the clearinghouse—

20 “(i) a verified positive controlled sub-
21 stances test result of an individual under
22 the testing program; and

23 “(ii) a failure or refusal of an indi-
24 vidual to submit to a controlled substances

1 test in accordance with the requirements of
2 the testing program; and

3 “(B) an employer (or, in the case of an op-
4 erator of a commercial motor vehicle who is self
5 employed, the service agent administering the
6 operator’s testing program) to report promptly,
7 as determined by the Secretary, to the clearing-
8 house—

9 “(i) a confirmed positive alcohol test
10 result of an individual under the testing
11 program; and

12 “(ii) a failure or refusal of an indi-
13 vidual to present him or herself to a med-
14 ical review officer for a controlled sub-
15 stances test in accordance with the require-
16 ments of the testing program.

17 “(3) UPDATING OF RECORDS.—The Secretary
18 shall ensure that a record in the clearinghouse is up-
19 dated to include a return to duty test result of an
20 individual under the testing program.

21 “(4) INCLUSION OF RECORDS IN CLEARING-
22 HOUSE.—The Secretary shall include all records of
23 violations received pursuant to this subsection in the
24 clearinghouse.

1 “(5) MODIFICATIONS AND DELETIONS.—If the
2 Secretary determines that a record contained in the
3 clearinghouse is not accurate, the Secretary shall
4 modify or delete the record.

5 “(6) NOTIFICATION OF INDIVIDUALS.—The
6 Secretary shall establish a process to provide notifi-
7 cation to an individual of—

8 “(A) a submission of a record to the clear-
9 inghouse relating to the individual; and

10 “(B) any modification or deletion of a
11 record in the clearinghouse pertaining to the in-
12 dividual, including the reason for the modifica-
13 tion or deletion.

14 “(7) TIMELY AND ACCURATE REPORTING.—The
15 Secretary may establish additional requirements, as
16 appropriate, to ensure timely and accurate reporting
17 of records to the clearinghouse.

18 “(8) RETENTION OF RECORDS.—The Secretary
19 shall retain a record of a violation submitted to the
20 clearinghouse for a period of 3 years beginning on
21 the date of submission of the record.

22 “(d) ACCESS TO CLEARINGHOUSE BY EMPLOYERS.—

23 “(1) IN GENERAL.—The Secretary shall estab-
24 lish a process for an employer to request and receive

1 records in the clearinghouse pertaining to an indi-
2 vidual in accordance with subsection (b)(1).

3 “(2) WRITTEN CONSENT OF INDIVIDUALS.—An
4 employer shall obtain the written consent of an indi-
5 vidual before requesting any records in the clearing-
6 house pertaining to the individual.

7 “(3) ACCESS TO RECORDS.—Upon receipt of a
8 request for records from an employer under para-
9 graph (1), the Secretary shall provide the employer
10 with access to the records as expeditiously as prac-
11 ticable.

12 “(4) RECORDS OF REQUESTS.—The Secretary
13 shall require an employer to maintain for a 3-year
14 period—

15 “(A) a record of each request made by the
16 employer for records from the clearinghouse;
17 and

18 “(B) any information received pursuant to
19 the request.

20 “(5) USE OF RECORDS.—

21 “(A) IN GENERAL.—An employer may use
22 a record received from the clearinghouse per-
23 taining to an individual only for the purpose of
24 determining whether an employment prohibition

1 applies with respect to the individual under sub-
2 section (b)(1).

3 “(B) PROTECTION OF PRIVACY OF INDI-
4 VIDUALS.—An employer that receives a record
5 from the clearinghouse pertaining to an indi-
6 vidual shall protect the privacy of the individual
7 and the confidentiality of the record, including
8 taking reasonable precautions to ensure that in-
9 formation contained in the record is not di-
10 vulged to any person who is not directly in-
11 volved in determining whether an employment
12 prohibition applies with respect to the indi-
13 vidual under subsection (b)(1).

14 “(e) ACCESS TO CLEARINGHOUSE BY INDIVID-
15 UALS.—

16 “(1) IN GENERAL.—The Secretary shall estab-
17 lish a process for an individual to request and re-
18 ceive information from the clearinghouse—

19 “(A) to learn whether a record pertaining
20 to the individual is contained in the clearing-
21 house;

22 “(B) to verify the accuracy of the record;

23 “(C) to verify updates to the individual’s
24 record, including completion of a return-to-duty
25 process under the testing program; and

1 “(D) to learn of requests for information
2 from the clearinghouse regarding the individual.

3 “(2) DISPUTE PROCEDURE.—The Secretary
4 shall establish a procedure, including an appeal
5 process, for an individual to dispute and remedy an
6 administrative error in a record pertaining to the in-
7 dividual in the clearinghouse, except that the appeal
8 process shall not be used to dispute or remedy the
9 validity of a controlled substance or alcohol test re-
10 sult.

11 “(f) ACCESS TO CLEARINGHOUSE BY CHIEF COM-
12 MERCIAL DRIVER LICENSING OFFICIALS.—

13 “(1) IN GENERAL.—The Secretary shall estab-
14 lish a process for the chief commercial driver licens-
15 ing official of a State to request and receive records
16 pertaining to an individual from the clearinghouse.

17 “(2) USE OF INFORMATION.—The chief com-
18 mercial driver licensing official of a State may not
19 obtain a record pertaining to an individual from the
20 clearinghouse for any other purpose other than to
21 take an action related to a commercial driver’s li-
22 cense for the individual under applicable State law
23 or to comply with section 31311(a)(22).

24 “(g) USE OF CLEARINGHOUSE INFORMATION FOR
25 ENFORCEMENT PURPOSES.—The Secretary may use the

1 records in the clearinghouse for the purposes of enforce-
2 ment activities under this chapter.

3 “(h) DESIGN OF CLEARINGHOUSE.—

4 “(1) IN GENERAL.—In establishing the clear-
5 ighouse, the Secretary shall develop a secure proc-
6 ess for—

7 “(A) registration, authorization, and au-
8 thentication of a user of the clearinghouse;

9 “(B) registration, authentication, and au-
10 thORIZATION of individuals required to report to
11 the clearinghouse under subsection (c);

12 “(C) preventing information from the
13 clearinghouse from being accessed by unauthor-
14 ized users;

15 “(D) timely and accurate electronic sub-
16 missions of data to the clearinghouse under
17 subsection (c);

18 “(E) timely and accurate access to records
19 from the clearinghouse under subsections (d),
20 (e), and (f); and

21 “(F) updates to an individual’s record re-
22 lated to compliance with the return-to-duty
23 process under the testing program.

24 “(2) ARCHIVE CAPABILITY.—The clearinghouse
25 shall be designed to allow for an archive of the re-

1 ceipt, modification, and deletion of records for the
2 purposes of auditing and evaluating the timeliness,
3 accuracy, and completeness of data in the clearing-
4 house.

5 “(3) SECURITY STANDARDS.—The clearing-
6 house shall be designed and administered in compli-
7 ance with applicable Department of Transportation
8 information technology security standards.

9 “(4) INTEROPERABILITY WITH OTHER SYS-
10 TEMS.—In establishing the clearinghouse and devel-
11 oping requirements for data to be included in the
12 clearinghouse, the Secretary, to the maximum extent
13 practicable, shall take into consideration—

14 “(A) existing information systems con-
15 taining regulatory and safety data for motor ve-
16 hicle operators;

17 “(B) the efficacy of using or combining
18 clearinghouse data with one or more of such
19 systems; and

20 “(C) the potential interoperability of the
21 clearinghouse with existing and future systems.

22 “(i) PRIVACY.—The Secretary shall—

23 “(1) establish a process to make information
24 available from the clearinghouse in a manner that is

1 consistent with applicable Federal information and
2 privacy laws, including regulations; and

3 “(2) not provide information from the clearing-
4 house to an individual who is not authorized by this
5 section to receive the information.

6 “(j) FEES.—

7 “(1) AUTHORITY TO COLLECT FEES.—The Sec-
8 retary may collect fees for requests for information
9 from the clearinghouse. Fees collected under this
10 subsection in a fiscal year shall equal as nearly as
11 possible the costs of operating the clearinghouse in
12 that fiscal year, including personnel costs. The
13 amount of any fee collected under this subsection
14 shall be credited as offsetting collections to the ac-
15 count that finances the activities and services for
16 which the fee is imposed and shall be available for
17 such activities and services until expended.

18 “(2) LIMITATION.—The Secretary shall ensure
19 that an individual requesting information from the
20 clearinghouse in order to dispute or remedy an error
21 in a record pertaining to the individual pursuant to
22 subsection (e)(2) may obtain the information with-
23 out being subject to a fee authorized by paragraph
24 (1).

1 “(k) ENFORCEMENT.—An employer, and any person
2 acting as a service agent, shall be subject to civil and
3 criminal penalties for a violation of this section in accord-
4 ance with section 521(b).

5 “(l) DEFINITIONS.—In this section, the following
6 definitions apply:

7 “(1) CHIEF COMMERCIAL DRIVER LICENSING
8 OFFICIAL.—The term ‘chief commercial driver li-
9 censing official’ means the official in a State who is
10 authorized—

11 “(A) to maintain a record about a com-
12 mercial driver’s license issued by the State; and

13 “(B) to take action on a commercial driv-
14 er’s license issued by the State.

15 “(2) CLEARINGHOUSE.—The term ‘clearing-
16 house’ means the clearinghouse to be established
17 under subsection (a).

18 “(3) EMPLOYER.—Notwithstanding section
19 31301, the term ‘employer’ means a person or entity
20 employing one or more employees (including an indi-
21 vidual who is self employed) that is subject to De-
22 partment of Transportation requirements under the
23 testing program. The term does not include a service
24 agent.

1 “(4) MEDICAL REVIEW OFFICER.—The term
2 ‘medical review officer’ means a person who is a li-
3 censed physician and who is responsible for receiving
4 and reviewing laboratory results generated under the
5 testing program and evaluating medical explanations
6 for certain controlled substances test results.

7 “(5) SAFETY SENSITIVE FUNCTION.—The term
8 ‘safety sensitive function’ has the meaning such
9 term has under part 382 of title 49, Code of Federal
10 Regulations, or any successor regulation.

11 “(6) SERVICE AGENT.—The term ‘service
12 agent’ means a person or entity, other than an em-
13 ployee of the employer, who provides services to em-
14 ployers or employees (or both) under the testing pro-
15 gram.

16 “(7) TESTING PROGRAM.—The term ‘testing
17 program’ means the alcohol and controlled sub-
18 stances testing program established under section
19 31306.

20 “(m) AUTHORIZATION OF APPROPRIATIONS.—From
21 amounts made available under section 31104(i)(1), the
22 Secretary may use not to exceed \$5,000,000 to carry out
23 this section for fiscal year 2010 to establish the clearing-
24 house and \$2,000,000 for each of fiscal years 2011, 2012,

1 and 2013 to operate the clearinghouse. Such sums shall
2 remain available until expended.”.

3 (b) CONFORMING AMENDMENT.—The analysis for
4 such chapter is amended by inserting after the item relat-
5 ing to section 31306 the following:

“Sec. 31306a. National clearinghouse for records relating to alcohol and con-
trolled substances testing.”.

6 (c) PENALTIES.—

7 (1) APPLICATION OF PENALTY.—Section
8 31306(j) of such title is amended by inserting “An
9 employer, including an individual who is self-em-
10 ployed, shall be subject to civil and criminal pen-
11 alties in accordance with section 521(b) for a viola-
12 tion of this section.” before “This section”.

13 (2) VIOLATIONS RELATING TO COMMERCIAL
14 MOTOR VEHICLE SAFETY REGULATIONS AND OPERA-
15 TORS.—Section 521(b) of such title is amended—

16 (A) in paragraph (1)(A) by inserting
17 “31306, 31306a,” before “31310(g)(1)(A)”;

18 (B) in paragraphs (2)(A), (2)(B), and
19 (6)(A) by inserting “31306, 31306a, or” before
20 “31502”; and

21 (C) in paragraph (5)(A) by inserting
22 “31306, 31306a,” before “or 31502”.

23 (3) CONTROLLED SUBSTANCE OR ALCOHOL
24 TESTING.—Any person acting as a service agent

1 under the Secretary's regulations in part 40 of title
2 49, Code of Federal Regulations, as in effect on the
3 date of enactment of this Act, who violates the re-
4 quirements prescribed by the Secretary for con-
5 ducting controlled substances or alcohol testing
6 under such part or any related regulation of the De-
7 partment shall be liable to the United States Gov-
8 ernment for a civil penalty of not more than
9 \$10,000 for each violation. Each day that a violation
10 continues shall constitute a separate violation.

11 (d) ENHANCED OVERSIGHT OF COLLECTION
12 SITES.—

13 (1) IN GENERAL.—The Secretary shall establish
14 appropriate standards and procedures for periodic
15 review of collection sites to determine compliance
16 with the Secretary's regulations under part 40 of
17 title 49, Code of Federal Regulations.

18 (2) INSPECTIONS.—**【to be supplied】**

19 (3) INFORMATION SYSTEM.—The Secretary
20 shall develop an information system—

21 (A) to collect data, including violations, ob-
22 tained during inspections and other procedures
23 developed by the Secretary to review collection
24 sites; and

1 (B) to provide a means to evaluate the
2 level of compliance with the regulations referred
3 to in paragraph (1) of a collection site.

4 (4) REPORT TO CONGRESS.—No later than No-
5 vember 30 of each year, the Secretary shall submit
6 to the Committee on Transportation and Infrastruc-
7 ture of the House of Representatives and the Com-
8 mittee on Commerce, Science, and Transportation of
9 the Senate a report summarizing the findings of
10 oversight of collection sites conducted in the pre-
11 ceding fiscal year.

12 (5) DEFINITION.—The term “collection site”
13 means a place selected by an employer where em-
14 ployees present themselves for the purpose of pro-
15 viding a urine specimen for a drug test subject to
16 the requirements of subpart D of part 40 of title 49,
17 Code of Federal Regulations.

18 **SEC. 4024. PERFORMANCE AND REGISTRATION INFORMA-**
19 **TION SYSTEMS MANAGEMENT PROGRAM.**

20 (a) IN GENERAL.—Section 31109 is amended to read
21 as follows:

22 **“§ 31109. Performance and registration information**
23 **systems management program**

24 “(a) IN GENERAL.—The Secretary shall carry out a
25 performance and registration information systems man-

1 agement program to link Federal motor carrier safety in-
2 formation systems with State commercial vehicle registra-
3 tion and licensing systems as part of the motor carrier
4 information system established under section 31106.

5 “(b) DESIGN.—The program shall enable a State
6 to—

7 “(1) determine the safety fitness of a motor
8 carrier or registrant when licensing or registering
9 the motor carrier or registrant or while the license
10 or registration is in effect; and

11 “(2) deny, suspend, or revoke the commercial
12 motor vehicle registration of a motor carrier or reg-
13 istrant to whom the Secretary has issued an oper-
14 ations out-of-service order.

15 “(c) PROGRAM PARTICIPATION.—Not later than Sep-
16 tember 30, 2013, the Secretary shall require States to par-
17 ticipate in the program by—

18 “(1) complying with the uniform policies, proce-
19 dures, and technical and operational standards pre-
20 scribed by the Secretary under section 31106(a)(4);

21 “(2) having in effect a law providing the State
22 with the authority to impose the sanctions described
23 in paragraph (3)(A) on the basis of an out-of-service
24 order issued by the Secretary; and

1 “(3) establishing and implementing a process,
2 approved by the Secretary, to—

3 “(A) deny, suspend, or revoke the vehicle
4 registration or seize the registration plates of a
5 commercial motor vehicle registered to a motor
6 carrier to whom the Secretary has issued an
7 out-of-service order; and

8 “(B) reinstate the vehicle registration or
9 return the registration plates of the commercial
10 motor vehicle subject to sanctions under sub-
11 paragraph (A), if the Secretary permits such
12 carrier to resume operations after the date of
13 issuance of such order.

14 “(d) FUNDING.—

15 “(1) INITIAL.—A State may use grant funds
16 made available to the State under section 4126 of
17 SAFETEA-LU (119 Stat. 1738) for each of fiscal
18 years 2010 through 2013 to meet the requirements
19 of this section for participation in the program
20 under subsection (c).

21 “(2) AFTER MEETING REQUIREMENTS.—After
22 the earlier of the date on which the Secretary deter-
23 mines that a State has met the requirements of this
24 section for participation in the program under sub-
25 section (c) or September 30, 2013, the Secretary

1 shall allow a State to use funds allocated to the
2 State under section 31104(f) or made available to
3 the State under section 4126 of SAFETEA-LU to
4 implement the program under subsection (c).”.

5 (b) CONFORMING AMENDMENTS.—Section 31106(b)
6 is amended—

7 (1) by striking paragraphs (2) through (4);

8 (2) by striking “(b) PERFORMANCE AND REG-
9 ISTRATION INFORMATION PROGRAM.—” and all that
10 follows through “(1) INFORMATION CLEARING-
11 HOUSE.—The Secretary” and inserting the fol-
12 lowing:

13 “(b) INFORMATION CLEARINGHOUSE.—The Sec-
14 retary”; and

15 (3) by aligning the remaining text accordingly.

16 (c) CLERICAL AMENDMENT.—The analysis for chap-
17 ter 311 is amended by striking the item relating to section
18 31109 and inserting the following:

“31109. Performance and registration information systems management pro-
gram.”.

19 **SEC. 4025. COMMERCIAL VEHICLE INFORMATION SYSTEMS**
20 **AND NETWORKS DEPLOYMENT GRANTS.**

21 (a) IN GENERAL.—Section 4126(a) of SAFETEA-
22 LU (119 Stat. 1738) is amended by—

23 (1) in paragraph (1) by striking “and” at the
24 end;

1 (2) in paragraph (2) by striking “and Federal”
2 and all that follows though the period at the end and
3 inserting a semicolon; and

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

5 “(3) facilitate compliance with Federal and
6 State commercial vehicle regulatory requirements;
7 and

8 “(4) provide assistance for State participation
9 in the performance and registration information sys-
10 tems management program under section 31109.”.

11 (b) AMOUNT OF GRANTS.—

12 (1) CORE DEPLOYMENT GRANTS.—Section
13 4126(e) of such Act (119 Stat. 1738) is amended—

14 (A) by striking paragraph (2); and

15 (B) by redesignating paragraph (3) as
16 paragraph (2).

17 (2) EXPANDED DEPLOYMENT GRANTS.—Section
18 4126(d) of such Act (119 Stat. 1739) is amended—

19 (A) by striking paragraph (3); and

20 (B) by redesignating paragraph (4) as
21 paragraph (3).

22 (c) ELIGIBILITY.—Section 4126(e) of such Act (119
23 Stat. 1739) is amended—

24 (1) in paragraph (2)(B)—

1 (A) by inserting “in interstate commerce”
2 after “efficiency”; and

3 (B) by striking “and” at the end;

4 (2) in paragraph (3) by striking the period at
5 the end and inserting “; and”; and

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

7 “(4) shall be participating not later than Sep-
8 tember 30, 2013, in the performance and registra-
9 tion information systems management program
10 under section 31109 of title 49, United States Code;
11 and

12 “(5) for the deployment of electronic screening
13 shall—

14 “(A) employ a uniform methodology, ap-
15 proved by the Secretary, for selecting a motor
16 carrier for an inspection;

17 “(B) utilize weigh-in-motion or equivalent
18 systems as part of the screening process;

19 “(C) meet interoperability standards for
20 transponders on commercial motor vehicles and
21 data at electronic screening sites; and

22 “(D) allow inspection and screening data
23 to be utilized for regulatory enforcement pur-
24 poses.”.

1 (d) FEDERAL SHARE.—Section 4126(f) of such Act
2 (119 Stat. 1739) is amended by adding at the end the
3 following: “Notwithstanding any other provision of this
4 subsection, the Federal share of the cost of a project relat-
5 ing to participation in the performance and registration
6 information systems management program under section
7 31109 of title 49, United States Code, shall be 100 per-
8 cent for fiscal years 2010 through 2013.”.

9 **SEC. 4026. AMENDMENTS TO COMPLIANCE REVIEW PROC-**
10 **ESS.**

11 Not later than one year after the date of enactment
12 of this Act, the Secretary shall revise the safety fitness
13 determination methodology of the Department of Trans-
14 portation established pursuant to section 31144 of title
15 49, United States Code, to reflect Safety Recommendation
16 H-99-6 of the National Transportation Safety Board,
17 issued February 26, 1999.

18 **SEC. 4027. NEW ENTRANT CARRIERS.**

19 (a) SAFETY REVIEW.—Section 31144(g)(1) is
20 amended to read as follows:

21 “(1) SAFETY REVIEW.—

22 “(A) IN GENERAL.—The Secretary shall
23 require, by regulation, each owner and operator
24 granted new operating authority, after the date
25 on which section 31148(b) is first implemented,

1 to undergo a safety review within the first 18
2 months after the owner or operator, as the case
3 may be, begins operations under such authority.

4 “(B) OPERATORS WITH AUTHORITY TO
5 TRANSPORT PASSENGERS OR HAZARDOUS MA-
6 TERIALS.—Safety reviews of owners and opera-
7 tors with authority to transport passengers and
8 hazardous materials shall be conducted on an
9 accelerated schedule.”.

10 (b) FUNDING.—Section 31144(g)(5) is amended to
11 read as follows:

12 “(5) FUNDING.—

13 “(A) IN GENERAL.—A State shall carry
14 out the requirements of this section with funds
15 allocated to the State under section 31104(f).

16 “(B) DETERMINATION.—If the Secretary
17 determines that a State or local government is
18 not able to use government employees to con-
19 duct new entrant motor carrier audits, the Sec-
20 retary may conduct audits for the State or local
21 government.”.

22 (c) FEDERAL SHARE.—Section 31103(b) is amended
23 by inserting before the period at the end “and new entrant
24 safety reviews authorized by section 31144(g)”.

1 **SEC. 4028. MOTOR CARRIER REGISTRATION.**

2 Section 13902(a)(1) is amended to read as follows:

3 “(1) IN GENERAL.—Except as provided in this
4 section, the Secretary shall register a person to pro-
5 vide transportation subject to jurisdiction under sub-
6 chapter I of chapter 135 as a motor carrier if the
7 Secretary finds that the person—

8 “(A) is willing and able to comply with—

9 “(i) this part and the applicable regu-
10 lations of the Secretary and the Board;

11 “(ii) any safety regulations imposed
12 by the Secretary;

13 “(iii) the duties of employers and em-
14 ployees established by the Secretary under
15 section 31135;

16 “(iv) the safety fitness requirements
17 established by the Secretary under section
18 31144;

19 “(v) the accessibility requirements es-
20 tablished by the Secretary under subpart
21 H of part 37 of title 49, Code of Federal
22 Regulations (or a successor regulation) for
23 transportation provided by an over-the-
24 road bus; and

25 “(vi) the minimum financial responsi-
26 bility requirements established by the Sec-

1 retary pursuant to sections 13906 and
2 31138;

3 “(B) has demonstrated, through successful
4 completion of a proficiency examination to be
5 developed by the Secretary, knowledge of the
6 requirements and regulations described in sub-
7 paragraph (A);

8 “(C) has disclosed any relationship involv-
9 ing common ownership, common management,
10 or common familial relationship between that
11 person and any other motor carrier, if the rela-
12 tionship occurred in the 3-year period preceding
13 the date of the filing of the application for reg-
14 istration; and

15 “(D) has been issued a Department of
16 Transportation number under section 31134.”.

17 **SEC. 4029. REINCARNATED CARRIERS.**

18 (a) EFFECTIVE PERIODS OF REGISTRATION.—

19 (1) SUSPENSIONS, AMENDMENTS, AND REVOCA-
20 TIONS.—Section 13905(d) is amended—

21 (A) by redesignating paragraph (2) as
22 paragraph (4);

23 (B) by striking paragraph (1) and insert-
24 ing the following:

1 “(1) APPLICATIONS.—On application of the
2 registrant, the Secretary may amend or revoke a
3 registration.

4 “(2) COMPLAINTS AND ACTIONS ON SEC-
5 RETARY’S OWN INITIATIVE.—On complaint or on the
6 Secretary’s own initiative and after notice and an
7 opportunity for a proceeding, the Secretary may—

8 “(A) suspend, amend, or revoke any part
9 of the registration of a motor carrier, broker, or
10 freight forwarder for willful failure to comply
11 with—

12 “(i) this part;

13 “(ii) an applicable regulation or order
14 of the Secretary or the Board, including
15 the accessibility requirements established
16 by the Secretary under subpart H of part
17 37 of title 49, Code of Federal Regulations
18 (or a successor regulation) for transpor-
19 tation provided by an over-the-road bus; or

20 “(iii) a condition of its registration;

21 “(B) suspend, amend, or revoke any part
22 of the registration of a motor carrier, broker, or
23 freight forwarder—

1 “(i) for failure to pay a civil penalty
2 imposed under chapter 5, 51, 149, or 311
3 of this title; or

4 “(ii) for failure to arrange and abide
5 by an acceptable payment plan for such
6 civil penalty, within 90 days of the time
7 specified by order of the Secretary for the
8 payment of such penalty; and

9 “(C) deny, suspend, amend, or revoke any
10 part of a registration of a motor carrier fol-
11 lowing a determination by the Secretary that
12 the motor carrier failed to disclose in its appli-
13 cation for registration a material fact relevant
14 to its willingness and ability to comply with—

15 “(i) this part;

16 “(ii) an applicable regulation or order
17 of the Secretary of the Board; or

18 “(iii) a condition of its registration.

19 “(3) LIMITATION.—Paragraph (2)(B) shall not
20 apply to any person who is unable to pay a civil pen-
21 alty because such person is a debtor in a case under
22 chapter 11 of title 11.”; and

23 (C) in paragraph (4) (as redesignated by
24 subparagraph (A) of this paragraph) by strik-

1 ing “paragraph (1)(B)” and inserting “para-
2 graph (2)(B)”.

3 (2) PROCEDURE.—Section 13905(e) is amended
4 by inserting “or if the Secretary determines that the
5 registrant has failed to disclose a material fact in its
6 application for registration in accordance with sub-
7 section (d)(2)(C),” after “registrant,”.

8 (b) DUTIES OF EMPLOYERS AND EMPLOYEES.—Sec-
9 tion 31135 is amended—

10 (1) by redesignating subsection (d) as sub-
11 section (e); and

12 (2) by inserting after subsection (e) the fol-
13 lowing:

14 “(d) AVOIDING COMPLIANCE.—Two or more employ-
15 ers shall not use common ownership, common manage-
16 ment, common control, or common familial relationship to
17 enable any or all such employers to avoid compliance, or
18 mask or otherwise conceal non-compliance, or a history of
19 non-compliance, with commercial motor vehicle safety reg-
20 ulations issued under this subchapter or an order of the
21 Secretary issued under this subchapter or such regula-
22 tions. If the Secretary determines that actions described
23 in the preceding sentence have occurred, the Secretary
24 shall deny, suspend, amend, or revoke all or part of any
25 such employer’s registration under section 13905 or

1 31134, and shall take into account such noncompliance
2 for purposes of determining civil penalty amounts under
3 section 521(b)(2)(D).”.

4 (c) INFORMATION SYSTEMS.—Section 31106(a)(3) is
5 amended—

6 (1) in subparagraph (F) by striking “and” at
7 the end;

8 (2) in subparagraph (G) by striking the period
9 at the end and inserting “; and”; and

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

11 “(H) determine whether a motor carrier is
12 or has been related, through common owner-
13 ship, common management, or common familial
14 relationship to any other motor carrier.”.

15 **SEC. 4030. COMMERCIAL MOTOR VEHICLE OPERATOR**
16 **TRAINING.**

17 (a) IN GENERAL.—Not later than two years after the
18 date of enactment of this Act, the Secretary shall issue
19 final regulations establishing minimum training require-
20 ments for commercial motor vehicle operators.

21 (b) REQUIREMENTS.—The regulations shall—

22 (1) address the knowledge and skills necessary
23 for commercial motor vehicle operators, before ob-
24 taining a commercial driver’s license for the first
25 time or upgrading from one class of commercial

1 driver's license to another, to safely operate a com-
2 mercial motor vehicle;

3 (2) address the specific and additional training
4 needs of commercial motor vehicle operators seeking
5 passenger or hazardous materials endorsements;

6 (3) require instruction that is effective for ac-
7 quiring the knowledge and skills referred to in para-
8 graphs (1) and (2), including classroom and behind-
9 the-wheel instruction;

10 (4) require the issuance of a certification that
11 a commercial motor vehicle operator has met the re-
12 quirements established by the Secretary; and

13 (5) require a training provider (including public
14 or private driving schools, motor carriers, or owners
15 or operators of a commercial motor vehicle) offering
16 training that results in the issuance of a certification
17 to an operator under paragraph (4) to demonstrate
18 that such training meets the requirements of the
19 regulations, through a process established by the
20 Secretary.

21 (c) COMMERCIAL DRIVER'S LICENSE UNIFORM
22 STANDARDS.—Section 31308(1) is amended to read as
23 follows:

24 “(1) an individual issued a commercial driver's
25 license—

1 “(A) pass written and driving tests for the
2 operation of a commercial motor vehicle that
3 comply with the minimum standards prescribed
4 by the Secretary under section 31305(a); and

5 “(B) present certification of completion of
6 driver training that meets the requirements es-
7 tablished by the Secretary under section 4030
8 of the Motor Carrier Safety Enhancement Act
9 of 2009;”.

10 (d) GRANTS.—

11 (1) IN GENERAL.—The Secretary shall establish
12 a grant program for driving schools or other training
13 program providers to provide training to operators
14 of commercial motor vehicles in accordance with the
15 minimum requirements established by the Secretary
16 under subsection (b).

17 (2) ELIGIBILITY.—To be eligible to receive a
18 grant under this section, a driving school or other
19 training program provider must demonstrate to the
20 satisfaction of the Secretary that the training pro-
21 vided meets the requirements established by the Sec-
22 retary under subsection (b).

23 (3) FEDERAL SHARE.—The Federal share of
24 the cost for which a grant is made under this section
25 shall be .

1 **SEC. 4031. IMPROVED OVERSIGHT OF MOTOR CARRIERS OF**
2 **PASSENGERS.**

3 (a) Section 31144 is amended by adding at the end
4 the following:

5 “(h) SAFETY REVIEWS OF OWNERS AND OPERATORS
6 OF COMMERCIAL MOTOR VEHICLES DESIGNED OR USED
7 TO TRANSPORT PASSENGERS.—

8 “(1) IN GENERAL.—Not later than September
9 30, 2015, the Secretary shall determine the safety
10 fitness of each owner, and each operator, of a com-
11 mercial motor vehicle designed or used to transport
12 passengers who the Secretary registers, on or before
13 September 30, 2014, under section 13902 or 31134.

14 “(2) SAFETY FITNESS RATING.—As part of the
15 safety fitness determination required by paragraph
16 (1), the Secretary shall assign a safety fitness rating
17 to each owner and each operator described in para-
18 graph (1).

19 “(3) PERIODIC MONITORING.—

20 “(A) PROCESS.—The Secretary shall es-
21 tablish a process, by regulation, for monitoring
22 on a regular basis the safety performance of an
23 owner or operator of a commercial motor vehi-
24 cle designed or used to transport passengers,
25 following the assignment of a safety rating to
26 such owner or operator.

1 “(B) ELEMENTS OF MONITORING AND
2 SAFETY ENFORCEMENT.—Regulations issued
3 under subparagraph (A) shall provide for the
4 following:

5 “(i) Monitoring of the safety perform-
6 ance, in critical safety areas, of an owner
7 or operator of a commercial motor vehicle
8 designed or used to transport passengers
9 (including by activities conducted on site at
10 the offices of the owner or operator or off
11 site).

12 “(ii) Progressive interventions de-
13 signed to correct unsafe practices of an
14 owner or operator of a commercial motor
15 vehicle designed or used to transport pas-
16 sengers.

17 “(iii) Periodic updates to an owner or
18 operator’s safety fitness rating, if the Sec-
19 retary determines that such update will im-
20 prove the safety performance of an owner
21 or operator of a commercial motor vehicle
22 designed or used to transport passengers.

23 “(iv) Enforcement action, including
24 determining that the owner or operator is

1 not fit and prohibited from operating as
2 provided in subsection (c)(2).”.

3 (b) ENFORCEMENT STRIKE FORCES.—The Secretary
4 may carry out targeted enforcement of commercial motor
5 vehicle safety regulations issued by the Secretary for own-
6 ers or operators of commercial motor vehicles designed or
7 used to transport passengers, as the Secretary determines
8 appropriate.

9 **SEC. 4032. COMMERCIAL DRIVER’S LICENSE PASSENGER**
10 **ENDORSEMENT REQUIREMENTS.**

11 (a) IN GENERAL.—Not later than 2 years after the
12 date of enactment of this Act, the Secretary shall review
13 and assess the current knowledge and skill testing require-
14 ments for a commercial driver’s license passenger endorse-
15 ment to determine any necessary improvements to the
16 knowledge test or examination of driving skills in order
17 ensure the safe operation of commercial motor vehicles de-
18 signed or used to transport passengers.

19 (b) REPORT.—Not later than 120 days after comple-
20 tion of the review and assessment under subsection (a),
21 the Secretary shall submit to the Committee on Transpor-
22 tation and Infrastructure of the House of Representatives
23 and the Committee on Commerce, Science, and Transpor-
24 tation of the Senate—

1 (1) a report on the review and assessment con-
2 ducted under subsection (a);

3 (2) a plan to implement any changes to the
4 knowledge and skills tests; and

5 (3) a timeframe by which the Secretary will im-
6 plement the changes.

7 **SEC. 4033. COMMERCIAL MOTOR VEHICLE SAFETY INSPEC-**
8 **TION PROGRAMS.**

9 (a) IN GENERAL.—Section 31142(b) is amended to
10 read as follows:

11 “(b) INSPECTION OF VEHICLES AND RECORD RE-
12 TENTION.—

13 “(1) REGULATIONS ON GOVERNMENT STAND-
14 ARDS.—The Secretary of Transportation shall pre-
15 scribe regulations on Government standards for in-
16 spection of commercial motor vehicles and retention
17 by employers of records of an inspection.

18 “(2) CONTENTS OF STANDARDS.—The stand-
19 ards shall provide for—

20 “(A) annual or more frequent inspections
21 of a commercial motor vehicle designed or used
22 to transport property unless the Secretary finds
23 that another inspection system is as effective as
24 an annual or more frequent inspection system;
25 and

1 “(B) annual or more frequent inspections
2 of a commercial motor vehicle designed or used
3 to transport passengers.

4 “(3) TREATMENT OF REGULATIONS.—Regula-
5 tions prescribed under this subsection are deemed to
6 be regulations prescribed under section 31136.

7 “(4) SPECIAL RULES FOR INSPECTION PRO-
8 GRAM.—Any inspection required under paragraph
9 (2)(B) shall be conducted by, or under a program
10 established by, the State in which the vehicle is reg-
11 istered. A roadside inspection conducted by a State
12 or other jurisdiction shall not be considered an in-
13 spection for the purposes of meeting the require-
14 ments of paragraph (2)(B).”.

15 (b) PERIODIC REVIEW OF STATE SAFETY INSPEC-
16 TION PROGRAMS.—The Secretary shall periodically review
17 State safety inspection programs of commercial motor ve-
18 hicles designed or used to transport passengers.

19 **SEC. 4034. DRIVER MEDICAL QUALIFICATIONS.**

20 (a) EXAMINATION REQUIREMENT FOR NATIONAL
21 REGISTRY OF MEDICAL EXAMINERS.—Section
22 31149(c)(1)(D) is amended to read as follows:

23 “(D) develop requirements applicable to a
24 medical examiner seeking to be listed in the na-

1 tional registry established under this section, in-
2 cluding—

3 “(i) specific courses and materials
4 that must be completed to be listed in the
5 registry;

6 “(ii) certification, including self-cer-
7 tification if the Secretary determines that
8 self-certification is necessary for sufficient
9 participation in the national registry, to
10 verify that the medical examiner has com-
11 pleted specific training, including refresher
12 courses, that the Secretary determines are
13 necessary to be listed in the registry;

14 “(iii) an examination to be listed in
15 the registry for which a passing grade
16 must be achieved; and

17 “(iv) demonstration of the willingness
18 and ability of a medical examiner to meet
19 any reporting requirements established by
20 the Secretary.”.

21 (b) REPORTING RESULTS OF MEDICAL EXAMINA-
22 TION.—

23 (1) IN GENERAL.—Not later than one year
24 after the date of enactment of this Act, the Sec-
25 retary shall submit to the Committee on Transpor-

1 tation and Infrastructure of the House of Represent-
2 atives and the Committee on Commerce, Science,
3 and Transportation of the Senate a report on the
4 feasibility of requiring medical examiners to submit
5 the results of a medical examination directly to the
6 appropriate State licensing agency.

7 (2) REQUIRED ASSESSMENTS.—As part of the
8 report, the Secretary shall include the Secretary’s
9 assessment of—

10 (A) the risks associated with the submis-
11 sion and use of invalid or falsified medical cer-
12 tificates;

13 (B) the effectiveness of the implementation
14 of the Secretary’s rule published on December
15 1, 2008, linking medical certification require-
16 ments to the commercial drivers license (73 FR
17 73096) in identifying drivers with invalid or ex-
18 pired medical certificates;

19 (C) the ability to verify the validity of a
20 driver’s medical certificate through the commer-
21 cial driver licensing information system; and

22 (D) any privacy implications of requiring
23 medical examiners to submit the results of a
24 medical examination to a State licensing agen-
25 cy.

1 (c) ADDITIONAL OVERSIGHT OF LICENSING AU-
2 THORITIES.—

3 (1) IN GENERAL.—Section 31149(c)(1) is
4 amended—

5 (A) in subparagraph (E) by striking “and”
6 at the end;

7 (B) in subparagraph (F) by striking the
8 period at the end and inserting “; and”; and

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

10 “(G) review each year the implementation
11 of commercial driver’s license requirements of a
12 minimum of 10 States to assess the accuracy,
13 validity, and timeliness of—

14 “(i) submission of physical examina-
15 tion reports and medical certificates to
16 State licensing agencies; and

17 “(ii) the processing of such submis-
18 sions by State licensing agencies.”.

19 (2) INTERNAL OVERSIGHT POLICY.—

20 (A) IN GENERAL.—Not later than two
21 years after the date of enactment of this Act,
22 the Secretary shall establish an oversight policy
23 and process within the Department for the pur-
24 poses of carrying out the requirement of section

1 31149(c)(1)(G) as added by paragraph (1) of
2 this subsection.

3 (B) EFFECTIVE DATE.—Section
4 31149(c)(1)(G), as added by paragraph (1) of
5 this subsection, shall take effect on the date
6 that the oversight policies and processes are es-
7 tablished pursuant to subparagraph (A).

8 (d) DEADLINE FOR ESTABLISHMENT OF NATIONAL
9 REGISTRY OF MEDICAL EXAMINERS.—Not later than one
10 year after the date of enactment of this Act, the Secretary
11 shall establish a national registry of medical examiners as
12 required by section 31149(d)(1) of title 49, United States
13 Code.

14 (e) MEDICAL FORM.—

15 (1) IN GENERAL.—Not later than one year
16 after the date of enactment of this Act, the Sec-
17 retary shall develop a unique physical examination
18 report form, and accompanying certification form, to
19 be used for physical examinations of operators of
20 commercial motor vehicles.

21 (2) PREVENTION OF FALSIFICATION.—In order
22 to deter falsification of the form developed under
23 paragraph (1), the Secretary shall—

24 (A) ensure the form is not available to the
25 public;

1 (B) limit distribution of blank forms to
2 medical examiners; and

3 (C) ensure that medical examiners take ap-
4 propriate measures to safeguard blank forms.

5 (3) PROCESS.—The Secretary shall establish a
6 process to ensure that State licensing officials re-
7 quire the new certification form as evidence that an
8 operator has met the physical fitness requirements
9 established by the Secretary.

10 **SEC. 4035. REQUIREMENT FOR REGISTRATION AND USDOT**
11 **NUMBER.**

12 (a) IN GENERAL.—Chapter 311 is amended by in-
13 serting after section 31133 the following:

14 **“§ 31134. Requirement for registration and Depart-**
15 **ment of Transportation number**

16 “(a) IN GENERAL.—An employer subject to safety
17 regulation under this subchapter may operate a commer-
18 cial motor vehicle in interstate commerce only if the Sec-
19 retary registers the employer under this section and issues
20 the employer a Department of Transportation number.

21 “(b) REGISTRATION.—Upon application for registra-
22 tion and a Department of Transportation number under
23 this section, the Secretary shall register the employer if
24 the Secretary determines that—

1 “(1) the employer is willing and able to comply
2 with the requirements of this subchapter and chap-
3 ter 51 if applicable; and

4 “(2) (A) during the 3-year period before the
5 date of the filing of the application, the employer
6 was not related through common ownership, com-
7 mon management, or common familial relationship
8 to any other person subject to safety regulations
9 under this subchapter who, during such 3-year pe-
10 riod, was unwilling or unable to comply with the re-
11 quirements of this subchapter or chapter 51 if appli-
12 cable; or

13 “(B) has disclosed any relationship involving
14 common ownership, common management, or com-
15 mon familial relationship between that person and
16 any other motor carrier if the relationship occurred
17 during such 3-year period.

18 “(c) REVOCATION OR SUSPENSION.—The Secretary
19 shall revoke or suspend the registration of an employer
20 issued under subsection (b) if the Secretary determines
21 that—

22 “(1) the authority of the employer to operate
23 pursuant to chapter 139 is revoked or suspended
24 under section 13905(d)(1) or section 13905(f); or

1 “(2) the employer has willfully failed to comply
2 with the requirements for registration set forth in
3 subsection (b).

4 “(d) COMMERCIAL REGISTRATION.—An employer
5 registered under this section may not provide transpor-
6 tation subject to jurisdiction under subchapter I of chapter
7 135 unless the employer is also registered under section
8 13902 to provide such transportation.

9 “(e) STATE AUTHORITY.—Nothing in this section
10 shall be construed as affecting the authority of a State
11 to issue a Department of Transportation number under
12 State law to a person operating in intrastate commerce.

13 “(f) FEE.—The Secretary may establish a fee for
14 issuance of a registration under this section. The fee shall
15 cover the costs of processing the registration and con-
16 ducting the safety review required under section 31144(g)
17 with respect to the registration but may not exceed **【\$】**.
18 The amount of any fee collected under this subsection
19 shall be credited as offsetting collections to the account
20 that finances the activities and services for which the fee
21 is imposed and shall be available for such activities and
22 services until expended.”.

23 (b) CLERICAL AMENDMENT.—The analysis for chap-
24 ter 311 is amended by inserting after the item relating
25 to section 31133 the following:

“31134. Requirement for registration and Department of Transportation number.”.

1 **SEC. 4036. ELECTRONIC ON-BOARD RECORDERS.**

2 (a) IN GENERAL.—Not later than one year after the
3 date of enactment of this Act, the Secretary shall issue
4 regulations to require commercial motor vehicles owned or
5 operated by motor carriers subject to the Secretary’s
6 hours-of-service regulations under part 395, Code of Fed-
7 eral Regulations, to be equipped with electronic on-board
8 recorders.

9 (b) PERFORMANCE STANDARDS.—The regulations
10 issued pursuant to subsection (a) shall include perform-
11 ance standards for electronic on-board recorders to be
12 used to monitor compliance with the Secretary’s require-
13 ments for hours of service of drivers under part 395, Code
14 of Federal Regulations. Such performance standards shall
15 ensure, at a minimum, that an electronic on-board re-
16 corder installed in a commercial motor vehicle—

17 (1) is synchronized to the vehicle engine or
18 other vehicle equipment;

19 (2) is able to identify each individual who oper-
20 ates the vehicle and track the periods during which
21 such individual operates the vehicle;

22 (3) enables law enforcement personnel to access
23 information contained in the recorder quickly and
24 easily during a roadside inspection; and

1 (4) is tamper-proof.

2 (c) APPLICABILITY.—The regulations prescribed
3 under subsection (a) shall be phased in and shall apply
4 to all commercial motor vehicles used by motor carriers
5 in interstate commerce not later than 4 years after the
6 date of the enactment of this Act.

7 (d) DEFINITIONS.—In this section, the following defi-
8 nitions apply:

9 (1) COMMERCIAL MOTOR VEHICLE.—The term
10 “commercial motor vehicle” has the meaning that
11 term has under section 31132 of title 49, United
12 States Code.

13 (2) ELECTRONIC ON-BOARD RECORDER.—The
14 term “electronic on-board recorder” means an elec-
15 tronic device that acquires and stores data showing
16 the record of duty status of the vehicle operator and
17 performs the functions required of an automatic on-
18 board recording device in section 395.15(b) of title
19 49, Code of Federal Regulations.

20 **SEC. 4037. MOTOR CARRIER SAFETY ADVISORY COM-**
21 **MITTEE.**

22 Section 4144(b)(1) of the Safe, Accountable, Flexi-
23 ble, Efficient Transportation Equity Act: A Legacy for
24 Users (49 U.S.C. 31100 note; 119 Stat. 1748) is amended
25 by inserting “nonprofit employee labor organizations rep-

1 resenting commercial motor vehicle drivers,” after “indus-
2 try,”.

3 **TITLE V—RESEARCH**

4 **SEC. 5001. AMENDMENTS TO TITLE 23, UNITED STATES**
5 **CODE.**

6 Except as otherwise expressly provided, whenever in
7 this title an amendment or repeal is expressed in terms
8 of an amendment to, or a repeal of, a section or other
9 provision, the reference shall be considered to be made to
10 a section or other provision of title 23, United States
11 Code.

12 **SEC. 5002. AUTHORIZATION OF APPROPRIATIONS.**

13 **[to be supplied]**

14 **TITLE VI—RAIL**
15 **TRANSPORTATION**

16 **SEC. 6001. HIGH-SPEED RAIL ASSISTANCE.**

17 Chapter 261 of title 49, United States Code, is
18 amended to read as follows:

19 **“CHAPTER 261—HIGH-SPEED RAIL**
20 **ASSISTANCE**

“Sec.

“26101. High-speed rail corridor planning.

“26102. High-speed rail technology improvements.

“26103. Safety regulations.

“26104. Definitions.

“26105. High-speed rail corridor development.

“26106. Statutory construction.

1 **“§ 26101. High-speed rail corridor planning**

2 “(a) CORRIDOR PLANNING.—(1) The Secretary may
3 provide under this section financial assistance to an appli-
4 cant for high-speed rail corridor planning for up to 80 per-
5 cent of the publicly financed costs associated with eligible
6 activities.

7 “(2) No less than 20 percent of the publicly financed
8 costs associated with eligible activities shall come from
9 State and local sources, which State and local sources may
10 not include funds from any Federal program.

11 “(b) ELIGIBLE ACTIVITIES.—A corridor planning ac-
12 tivity is eligible for financial assistance under subsection
13 (a) if the Secretary determines that it is necessary to es-
14 tablish appropriate engineering, operational, financial, en-
15 vironmental, or socioeconomic projections for the estab-
16 lishment of high-speed rail service in the corridor and that
17 it leads toward development of a prudent financial and in-
18 stitutional plan for implementation of specific high-speed
19 rail improvements. Eligible corridor planning activities in-
20 clude—

21 “(1) environmental assessments;

22 “(2) feasibility studies, including studies on
23 commercial technology improvements or applications;

24 “(3) economic analyses, including ridership,
25 revenue, and operating expense forecasting;

1 “(4) assessing community economic impacts, in-
2 cluding development opportunities at and sur-
3 rounding rail stations;

4 “(5) operational planning;

5 “(6) route selection analyses;

6 “(7) preliminary engineering and design;

7 “(8) identification of specific improvements to a
8 corridor, including electrification, line straightening
9 and other right-of-way improvements, bridge reha-
10 bilitation and replacement, highway-rail grade cross-
11 ing improvements or separations, use of advanced lo-
12 comotives and rolling stock, ticketing, coordination
13 with other modes of transportation, parking and
14 other means of passenger access, track, signal, sta-
15 tion, and other capital work, and use of intermodal
16 terminals;

17 “(9) preparation of financing plans and
18 prospectuses; and

19 “(10) creation of public/private partnerships.

20 “(c) CRITERIA FOR DETERMINING FINANCIAL AS-
21 SISTANCE.—Selection by the Secretary of recipients of fi-
22 nancial assistance under this section shall be based on
23 such criteria as the Secretary considers appropriate, in-
24 cluding—

1 “(1) the relationship of the corridor to the na-
2 tional rail plan, as developed under section 103(j)(2)
3 of this title;

4 “(2) the integration of the corridor into metro-
5 politan area and statewide transportation planning,
6 including the State rail plan developed under chap-
7 ter 227 of this title; and

8 “(3) the potential interconnection of the cor-
9 ridor with other parts of the Nation’s transportation
10 system.

11 “(d) AUTHORIZATION OF APPROPRIATIONS.—There
12 are authorized to be appropriated to the Secretary—

13 “(1) **[\$00,000,000,000]** for fiscal year 2010;

14 “(2) **[\$00,000,000,000]** for fiscal year 2011;

15 “(3) **[\$00,000,000,000]** for fiscal year 2012;

16 “(4) **[\$00,000,000,000]** for fiscal year 2013;

17 “(5) **[\$00,000,000,000]** for fiscal year 2014;

18 and

19 “(6) **[\$00,000,000,000]** for fiscal year 2015.

20 **“§ 26102. High-speed rail technology improvements**

21 “(a) AUTHORITY.—The Secretary may conduct re-
22 search, development, and demonstration of high-speed rail
23 technologies and undertake analyses supporting develop-
24 ment of high-speed rail in the United States.

1 “(b) **ELIGIBLE RECIPIENTS.**—In carrying out activi-
2 ties authorized by subsection (a), the Secretary may pro-
3 vide financial assistance to any United States private busi-
4 ness, educational institution located in the United States,
5 State or local government or public authority, or agency
6 of the Federal Government.

7 “(c) **AUTHORIZATION OF APPROPRIATIONS.**—There
8 are authorized to be appropriated to the Secretary—

9 “(1) **[\$00,000,000,000]** for fiscal year 2010;

10 “(2) **[\$00,000,000,000]** for fiscal year 2011;

11 “(3) **[\$00,000,000,000]** for fiscal year 2012;

12 “(4) **[\$00,000,000,000]** for fiscal year 2013;

13 “(5) **[\$00,000,000,000]** for fiscal year 2014;

14 and

15 “(6) **[\$00,000,000,000]** for fiscal year 2015.

16 **“§ 26103. Safety regulations**

17 “The Secretary shall promulgate such safety regula-
18 tions as may be necessary for high-speed rail services.

19 **“§ 26104. Definitions**

20 “For purposes of this chapter—

21 “(1) the term ‘applicant’ means a State, a
22 group of States, an Interstate Compact, a public
23 agency established by one or more States and having
24 responsibility for providing high-speed rail service, or
25 Amtrak;

1 “(2) the term ‘capital project’ means a project
2 or program in a State rail plan developed under
3 chapter 227 of this title for acquiring, constructing,
4 improving, or inspecting equipment, track, and track
5 structures, or a facility of use in or for the primary
6 benefit of high-speed rail service, expenses incidental
7 to the acquisition or construction (including design-
8 ing, engineering, location surveying, mapping, envi-
9 ronmental studies, and acquiring rights-of-way),
10 payments for the capital portions of rail trackage
11 rights agreements, highway-rail grade crossing im-
12 provements related to high-speed rail service, miti-
13 gating environmental impacts, communication and
14 signalization improvements, relocation assistance, ac-
15 quiring replacement housing sites, and acquiring,
16 constructing, relocating, and rehabilitating replace-
17 ment housing;

18 “(3) the term ‘corridor’ means a corridor de-
19 fined in section 104(d)(2)(B) of title 23 (as in effect
20 on the day before the date of enactment of the Sur-
21 face Transportation Authorization Act of 2009);

22 “(4) the term ‘financial assistance’ includes
23 grants, contracts, cooperative agreements, and other
24 transactions;

1 “(5) the term ‘high-speed rail’ means intercity
2 passenger rail service that is reasonably expected to
3 reach speeds of at least 110 miles per hour;

4 “(6) the term ‘intercity passenger rail service’
5 has the meaning given the term ‘intercity rail pas-
6 senger transportation’ in section 24102 of this title;

7 “(7) the term ‘Secretary’ means the Secretary
8 of Transportation;

9 “(8) the term ‘State’ means any of the 50
10 States or the District of Columbia; and

11 “(9) the term ‘United States private business’
12 means a business entity organized under the laws of
13 the United States, or of a State, and conducting
14 substantial business operations in the United States.

15 **“§ 26105. High-speed rail corridor development**

16 “(a) IN GENERAL.—The Secretary of Transportation
17 shall establish and implement a high-speed rail corridor
18 development program.

19 “(b) GENERAL AUTHORITY.—(1) The Secretary may
20 make grants under this section to an applicant to finance
21 capital projects that improve, or lead to development of,
22 high-speed rail service in corridors.

23 “(2) Consistent with the requirements of this section,
24 the Secretary shall require that a grant under this section
25 be subject to the terms, conditions, requirements, and pro-

1 visions the Secretary decides are necessary or appropriate
2 for the purposes of this section, including requirements
3 for the disposition of net increases in value of real prop-
4 erty resulting from the project assisted under this section.

5 “(c) APPLICATIONS.—Each applicant seeking to re-
6 ceive a grant under this section to develop a high-speed
7 rail corridor shall submit to the Secretary an application
8 in such form and in accordance with such requirements
9 as the Secretary shall establish.

10 “(d) COMPETITIVE GRANT SELECTION.—The Sec-
11 retary shall—

12 “(1) establish criteria for selecting among
13 projects that meet the criteria specified in subsection
14 (e)(2);

15 “(2) conduct a national solicitation for applica-
16 tions; and

17 “(3) award grants on a competitive basis.

18 “(e) GRANT REQUIREMENTS AND CRITERIA.—

19 “(1) IN GENERAL.—The Secretary, in selecting
20 the recipients of high-speed rail development grants
21 to be provided under subsection (b)(1), shall re-
22 quire—

23 “(A) that the project be part of a State
24 rail plan developed under chapter 227 of this
25 title, or under the plan required by section 211

1 of the Passenger Rail Investment and Improve-
2 ment Act of 2008 (49 U.S.C. 24902 note);

3 “(B) that the applicant or recipient has or
4 will have the legal, financial, and technical ca-
5 pacity to carry out the project, satisfactory con-
6 tinuing control over the use of the equipment or
7 facilities, and the capability and willingness to
8 maintain the equipment or facilities;

9 “(C) that the project be based on the re-
10 sults of preliminary engineering studies or other
11 planning, including corridor planning activities
12 funded under section 26101 of this title;

13 “(D) that the applicant provides sufficient
14 information upon which the Secretary can make
15 the findings required by this subsection;

16 “(E) that if an applicant has selected the
17 proposed operator of its service, the applicant
18 provide written justification to the Secretary
19 showing why the proposed operator is the best,
20 taking into account costs and other factors;

21 “(F) that each recipient of a grant under
22 this chapter comply with the grant require-
23 ments of section 24405 of this title; and

1 “(G) that each project be compatible with,
2 and developed and operated in conformance
3 with—

4 “(i) metropolitan area and statewide
5 transportation planning, including plans
6 developed pursuant to the requirements of
7 section 135 of title 23; and

8 “(ii) the national rail plan, developed
9 in accordance with section 103(j)(2) of this
10 title.

11 “(2) GRANT CRITERIA.—The Secretary shall se-
12 lect projects based on the proposed projects’ ability
13 to—

14 “(A) demonstrate a public return on in-
15 vestment, taking into account—

16 “(i) forecasted benefits;

17 “(ii) overall cost of the proposed
18 project;

19 “(iii) the amount of Federal funding
20 requested; and

21 “(iv) the extent to which the Federal
22 investment in the proposal attracts financ-
23 ing from States, local governments, private
24 entities, and others;

1 “(B) achieve transportation benefits, such
2 as—

3 “(i) improvements to intercity pas-
4 senger rail service, as reflected by esti-
5 mated increases in ridership, increased on-
6 time performance, reduced trip time, addi-
7 tional service frequency to meet anticipated
8 or existing demand, and other factors;

9 “(ii) anticipated favorable impacts on
10 air or highway traffic congestion, capacity,
11 or safety;

12 “(iii) integration with existing inter-
13 city passenger rail service, allowance for
14 and support of future network expansion,
15 and promotion of technical interoperability
16 and standardization of operations, equip-
17 ment, signaling, communications, and
18 power;

19 “(iv) intermodal connectivity through
20 provision of direct connections between
21 train stations, airports, bus terminals, sub-
22 way stations, ferry ports, and other modes
23 of transportation;

24 “(v) implementation of positive train
25 control technologies; and

1 “(vi) improvements to the safety of
2 highway-rail grade crossings on the pro-
3 posed project corridor;

4 “(C) achieve positive economic and employ-
5 ment impacts, such as—

6 “(i) new or expanded business oppor-
7 tunities in the United States and along
8 high-speed rail corridors;

9 “(ii) preservation and creation of jobs
10 in the United States; and

11 “(iii) preservation and expansion of
12 domestic manufacturing capabilities in rail-
13 road infrastructure, equipment, and related
14 products;

15 “(D) promote energy efficiency and envi-
16 ronmental quality, such as—

17 “(i) the use of renewable energy
18 sources;

19 “(ii) energy savings from traffic diver-
20 sions from other modes of transportation;

21 “(iii) employment of energy efficient
22 building and manufacturing methods;

23 “(iv) reductions in emissions; and

1 “(v) the purchase and use of environ-
2 mentally sensitive and fuel-efficient pas-
3 senger rail equipment; and

4 “(E) support interconnected livable com-
5 munities.

6 “(3) STATE RAIL PLANS.—State rail plans com-
7 pleted before the date of enactment of the Surface
8 Transportation Authorization Act of 2009 that sub-
9 stantially meet the requirements of chapter 227 of
10 this title, as determined by the Secretary pursuant
11 to section 22706 of this title, shall be deemed by the
12 Secretary to have met the requirements of para-
13 graph (1)(A) of this subsection.

14 “(f) FEDERAL SHARE.—The Federal share of the
15 cost of a project financed under this section shall not ex-
16 ceed 80 percent of the project net capital cost.

17 “(g) LETTERS OF INTENT.—

18 “(1) The Secretary may issue a letter of intent
19 to an applicant announcing an intention to obligate,
20 for a major capital project under this section, an
21 amount from future available budget authority speci-
22 fied in law that is not more than the amount stipu-
23 lated as the financial participation of the Secretary
24 in the project.

1 “(2) At least 30 days before issuing a letter
2 under paragraph (1) of this subsection, the Sec-
3 retary shall notify in writing the Committee on
4 Transportation and Infrastructure of the House of
5 Representatives, the Committee on Commerce,
6 Science, and Transportation of the Senate, and the
7 House and Senate Committees on Appropriations of
8 the proposed letter or agreement. The Secretary
9 shall include with the notification a copy of the pro-
10 posed letter or agreement, the criteria used in sub-
11 section (e) for selecting the project for a grant
12 award, and a description of how the project meets
13 such criteria.

14 “(3) An obligation or administrative commit-
15 ment may be made only when amounts are appro-
16 priated. The letter of intent shall state that the con-
17 tingent commitment is not an obligation of the Fed-
18 eral Government, and is subject to the availability of
19 appropriations under Federal law and to Federal
20 laws in force or enacted after the date of the contin-
21 gent commitment.

22 “(h) COOPERATIVE AGREEMENTS.—

23 “(1) IN GENERAL.—An applicant may enter
24 into an agreement with any public, private, or non-

1 profit entity to cooperatively implement any project
2 funded with a grant under this chapter.

3 “(2) FORMS OF PARTICIPATION.—Participation
4 by an entity under paragraph (1) may consist of—

5 “(A) ownership or operation of any land,
6 facility, locomotive, rail car, vehicle, or other
7 physical asset associated with the project;

8 “(B) cost-sharing of any project expense;

9 “(C) carrying out administration, construc-
10 tion management, project management, project
11 operation, or any other management or oper-
12 ational duty associated with the project; and

13 “(D) any other form of participation ap-
14 proved by the Secretary.

15 “(3) SUBALLOCATION.—A State may allocate
16 funds under this section to any entity described in
17 paragraph (1).

18 “(i) SECRETARIAL OVERSIGHT.—

19 “(1) The Secretary may use no more than 1
20 percent of amounts made available in a fiscal year,
21 not to exceed a maximum of [_____], for capital
22 projects under this chapter to enter into contracts to
23 award and oversee the construction of such projects.

24 “(2) The Secretary may use amounts available
25 under paragraph (1) of this subsection to make con-

1 tracts for safety, procurement, management, and fi-
2 nancial compliance reviews and audits of a recipient
3 of amounts under paragraph (1).

4 “(3) The Federal Government shall pay the en-
5 tire cost of carrying out a contract under this sub-
6 section.

7 “(j) ACCESS TO SITES AND RECORDS.—Each recipi-
8 ent of assistance under this chapter shall provide the Sec-
9 retary and a contractor the Secretary chooses under sub-
10 section (i) of this section with access to the construction
11 sites and records of the recipient when reasonably nec-
12 essary.

13 “(g) FUNDING.—**[to be supplied]**.

14 **“§ 26106. Statutory construction**

15 “The Secretary of Transportation shall retain the au-
16 thority to select rail corridors under section 104(d)(2)(B)
17 of title 23 (as in effect on the day before the date of enact-
18 ment of the Surface Transportation Authorization Act of
19 2009), notwithstanding any amendment made to that sec-
20 tion after that day.”.

21 **SEC. 6002. CAPITAL GRANTS FOR RAIL LINE RELOCATION**
22 **PROJECTS.**

23 Section 20154 of title 49, United States Code, is
24 amended—

1 (1) in subsection (f) by striking “(not including
2 political subdivisions of States)”;

3 (2) in subsection (h)(3) by inserting “govern-
4 ment sponsored authorities and corporations,” after
5 “subdivision of a State,”; and

6 (3) in subsection (i) by striking “2006 through
7 2009” and inserting “2010 through 2015”.

8 **SEC. 6003. TECHNICAL CORRECTIONS TO PUBLIC LAW 110-**
9 **432.**

10 (a) **LONG TITLE.**—The title of Public Law 110–432
11 is amended by striking “Federal Railroad Safety Adminis-
12 tration” and inserting “Federal Railroad Administration”.

13 (b) **TABLE OF CONTENTS.**—The table of contents in
14 section 1(b) of the Rail Safety Improvement Act of 2008
15 is amended—

16 (1) in the item relating to section 201 by strik-
17 ing “Pedestrian crossing safety” and inserting “Pe-
18 destrian safety at or near railroad passenger sta-
19 tions”; and

20 (2) in the item relating to section 403 by strik-
21 ing “Track inspection time study” and inserting
22 “Study and rulemaking on track inspection time;
23 rulemaking on concrete crossties”.

24 (c) **PERFORMANCE GOALS.**—Section 103(k)(2) of
25 title 49, United States Code, is amended by striking “The

1 strategy and annual plans” and inserting “The Adminis-
2 tration’s performance goals and schedule developed under
3 paragraph (1)”.

4 (d) NOTIFICATION OF GRADE CROSSING PROB-
5 LEMS.—Section 20152(b) of title 49, United States Code,
6 is amended by striking “Class II and Class III rail car-
7 riers” and inserting “Class II and III railroad carriers”.

8 (e) RAILROAD SAFETY TECHNOLOGY GRANTS.—Sec-
9 tion 20158(b)(3) of title 49, United States Code, is
10 amended by striking “20156(e)(2)” and inserting
11 “20156(e)”.

12 (f) ROADWAY USER SIGHT DISTANCE AT HIGHWAY-
13 RAIL GRADE CROSSINGS.—Section 20159 of title 49,
14 United States Code, is amended by striking “the Sec-
15 retary” and inserting “the Secretary of Transportation”

16 (g) MINIMUM TRAINING STANDARDS AND PLANS.—
17 Section 20162(a)(3) of title 49, United States Code, is
18 amended by striking “railroad compliance with Federal
19 standards” and inserting “railroad carrier compliance
20 with Federal standards”.

21 (h) DEVELOPMENT AND USE OF RAIL SAFETY
22 TECHNOLOGY.—Section 20164(a) of title 49, United
23 States Code, is amended by striking “the Railroad Safety
24 Enhancement Act of 2008” and inserting “the Rail Safety
25 Improvement Act of 2008”.

1 (i) NONAPPLICATION, EXEMPTION, AND ALTERNATE
2 HOURS OF SERVICE REGIME.—Section 21102(c)(4) of
3 title 49, United States Code, is amended by redesignating
4 subparagraphs (C) and (D) as subparagraphs (B) and
5 (C), respectively.

6 (j) RAILROAD CARRIER EMPLOYEE EXPOSURE TO
7 RADIATION STUDY.—Section 411(a) of the Rail Safety
8 Improvement Act of 2008 is amended—

9 (1) by striking “5101(a)” and inserting
10 “5105(a)”; and

11 (2) by striking “5101(b)” and inserting
12 “5105(b)”.

13 (k) SAFETY INSPECTIONS IN MEXICO.—Section 416
14 of the Rail Safety Improvement Act of 2008 is amended—

15 (1) by striking “Secretary of Transportation”
16 and inserting “Secretary”;

17 (2) in paragraphs (3) and (4), by striking
18 “Federal Railroad Administration” and inserting
19 “Secretary”; and

20 (3) in paragraph (4) by striking “subsection”
21 and inserting “section”.

22 (l) ASSISTANCE TO FAMILIES OF PASSENGERS IN-
23 VOLVED IN RAIL PASSENGER ACCIDENTS.—Section 1139
24 of title 49, United States Code, is amended—

1 (1) in subsection (a)(1) by striking “phone
2 number” and inserting “telephone number”;

3 (2) in subsection (a)(2) by striking “post trauma
4 communication with families” and inserting
5 “post-trauma communication with families”;

6 (3) in subsection (j)(1) by striking “(other than
7 subsection (g))” and inserting “(other than sub-
8 sections (g) and (k))”; and

9 (4) in paragraphs (1) and (2) of subsection (j)
10 by striking “railroad passenger accident” and insert-
11 ing “rail passenger accident”.

12 (m) AMTRAK BOARD OF DIRECTORS.—Section
13 24302(a)(3) of title 49, United States Code, is amended
14 by striking “5 individuals” and inserting “4 individuals”.

15 (n) ESTABLISHMENT OF GRANT PROCESS.—Section
16 206(a) of the Passenger Rail Investment and Improve-
17 ment Act of 2008 is amended by inserting “of this divi-
18 sion” after “302”.

19 (o) NORTHEAST CORRIDOR STATE-OF-GOOD-REPAIR
20 PLAN.—Section 211 of the Passenger Rail Investment
21 and Improvement Act of 2008 is amended—

22 (1) by inserting “of this division” after
23 “101(e)” in subsection (d); and

24 (2) by inserting “of this division” after
25 “101(d)” in subsection (e).

1 (p) NORTHEAST CORRIDOR INFRASTRUCTURE AND
2 OPERATIONS ADVISORY COMMISSION; SAFETY COM-
3 MITTEE.—Section 24905 of title 49, United States Code,
4 is amended—

5 (1) by redesignating subparagraph (D) of sub-
6 section (a)(1) as subparagraph (E);

7 (2) by striking “and” at the end of subpara-
8 graph (C) of subsection (a)(1);

9 (3) by inserting after such subparagraph (C)
10 the following new subparagraph:

11 “(D) 1 non-voting member from each of
12 the States of Maine, New Hampshire, and
13 Vermont, designated by, and serving at the
14 pleasure of, the chief executive officer thereof;
15 and”;

16 (4) by striking subsection (e) and inserting the
17 following:

18 “(e) AUTHORIZATION OF APPROPRIATIONS.—There
19 are authorized to be appropriated to the Commission
20 \$3,000,000 for the period encompassing fiscal years 2009
21 through 2013 to carry out subsection (a) through (d) of
22 this section and subsection (e) of section 212 of the Pas-
23 senger Rail Investment and Improvement Act of 2008
24 (122 Stat. 4925).”; and

25 (5) in subsection (f)(1)—

1 (A) in subparagraph (C) by striking
2 “freight carriers” and inserting “freight rail-
3 road carriers”; and

4 (B) in subparagraph (F) by striking “rail
5 labor” and inserting “representatives of non-
6 profit employee labor organizations representing
7 railroad employees”.

8 (q) CAPITAL INVESTMENT GRANTS TO SUPPORT
9 INTERCITY PASSENGER RAIL SERVICE.—Section 24402
10 of title 49, United States Code, is amended—

11 (1) by striking “22506” in subsection (d) and
12 inserting “22706”;

13 (2) by striking “22504(a)(5)” in subsection (e)
14 and inserting “22705(a)(5)”;

15 (3) by striking “ranked” in subsection (e);

16 (4) by striking “AND EARLY SYSTEMS WORK
17 AGREEMENTS” in the heading of subsection (f);

18 (5) by striking “A metropolitan planning orga-
19 nization, State transportation department, or other
20 project sponsor” in subsection (i)(1) and inserting
21 “An applicant”; and

22 (6) by striking subsection (k) and inserting the
23 following:

24 “(k) SMALL CAPITAL PROJECTS.—The Secretary
25 shall make not less than 5 percent annually available from

1 the amounts appropriated under section 24406 beginning
2 in fiscal year 2009 for grants for capital projects eligible
3 under this section not exceeding \$2,000,000, including
4 costs eligible under section 209(d) of the Passenger Rail
5 Investment and Improvement Act of 2008. For grants
6 awarded under this subsection, the Secretary may waive
7 requirements of this section, including State rail plan re-
8 quirements, as appropriate.”.

9 (r) PROJECT MANAGEMENT OVERSIGHT.—Section
10 24403(b)(1) of title 49, United States Code, is amended
11 by striking “enter into contracts to oversee the construc-
12 tion of such projects” and inserting “award and oversee
13 the development of construction of such projects”.

14 (s) GRANT CONDITIONS.—Section 24405(b)(2) of
15 title 49, United States Code, is amended by striking “43
16 U.S.C. 151” and inserting “45 U.S.C. 151”.

17 (t) CONGESTION GRANTS.—Section 24105(e) of title
18 49, United States Code, is amended by striking “section
19 301 of the Passenger Rail Investment and Improvement
20 Act of 2008” and inserting “section 24406”.

21 (u) PROPOSALS FOR HIGH-SPEED RAIL CORRIDOR
22 DEVELOPMENT.—

23 (1) AMENDMENT.—The section heading of sec-
24 tion 502 of the Passenger Rail Investment and Im-
25 provement Act of 2008 is amended by striking “**AD-**

1 **DITIONAL HIGH-SPEED RAIL PROJECTS**” and in-
2 serting “**PROPOSALS FOR HIGH-SPEED RAIL**
3 **CORRIDOR DEVELOPMENT**”.

4 (2) **TABLE OF CONTENTS AMENDMENT.**—The
5 item relating to section 502 in table of contents in
6 section 1(b) of the Passenger Rail Investment and
7 Improvement Act of 2008 is amended to read as fol-
8 lows:

“502. Proposals for high-speed rail corridor development.”.

9 (3) **REQUESTS FOR PROPOSALS.**—In section
10 502 of the Passenger Rail Investment and Improve-
11 ment Act of 2008—

12 (A) in subsection (a)—

13 (i) redesignate paragraphs (3) and (4)
14 as paragraphs (4) and (5), respectively;
15 and

16 (ii) strike paragraph (2) and insert
17 the following:

18 “(2) **ADDITIONAL REQUEST FOR PROPOSALS.**—
19 The Secretary shall issue an additional request for
20 proposals 60 days after the date of enactment of the
21 Surface Transportation Authorization Act of 2009.

22 “(3) **SUBMISSION.**—Proposals under para-
23 graphs (1) and (2) shall be submitted to the Sec-
24 retary not later than 270 days after the publication

1 of request for proposals under each paragraph.”;
2 and

3 (B) in subsection (b), by striking “the pro-
4 posals under subsection (a)” and insert “all the
5 proposals under subsection (a)(1) and (2)”.

6 (v) PROMPT MEDICAL ATTENTION.—Section
7 20109(c)(1) of title 49, United States Code, is amended
8 by striking “the railroad shall promptly arrange” and in-
9 serting “the railroad carrier shall promptly arrange”.

10 (w) ENFORCEMENT REPORT.—Section 20120(a) of
11 title 49, United States Code, is amended—

12 (1) in paragraph (2)(G), by inserting “and” at
13 the end; and

14 (2) in paragraph (5)(B) by striking “Adminis-
15 trative Hearing Officer or Administrative Law
16 Judge” and inserting “administrative hearing officer
17 or administrative law judge”.

18 (x) RAILROAD SAFETY RISK REDUCTION PRO-
19 GRAM.—Section 20156 of title 49, United States Code, is
20 amended—

21 (1) in subsection (c) by inserting a comma after
22 “In developing its railroad safety risk reduction pro-
23 gram”; and

24 (2) in subsection (g)(1) by striking “non-prof-
25 it” and inserting “nonprofit”.

1 (y) IMPLEMENTATION OF POSITIVE TRAIN CONTROL
2 SYSTEMS.—Section 20157(a)(1) of title 49, United States
3 Code, is amended—

4 (1) by striking “Class I railroad carrier” and
5 inserting “Class I railroad”; and

6 (2) by striking “parts 171.8, 173.115, and
7 173.132” and inserting “sections 171.8, 173.115,
8 and 173.132”.

9 (z) NATIONAL CROSSING INVENTORY.—Section
10 20160 of title 49, United States Code, is amended—

11 (1) in subsection (a)(1) by striking “or with re-
12 spect to” and inserting “with respect to”; and

13 (2) in subsection (b)(1)(A) by striking “or with
14 respect to” and inserting “with respect to”.

15 (aa) EMPLOYEE SLEEPING QUARTERS.—Section
16 22106(b) of title 49, United States Code, is amended by
17 striking “interest thereof” and inserting “interest there-
18 on”.

19 (bb) PLANS TO ADDRESS NEEDS OF FAMILIES OF
20 PASSENGERS INVOLVED IN RAIL PASSENGER ACCI-
21 DENTS.—Section 24316 of title 49, United States Code,
22 is amended by striking subsection (g).

23 (cc) PLANS TO ADDRESS NEEDS OF FAMILIES OF
24 PASSENGERS INVOLVED IN RAIL PASSENGER ACCI-
25 DENTS.— The item relating to section 24316 in the chap-

1 ter analysis for chapter 243 of title 49, United States
2 Code, is amended by striking “to assist families of pas-
3 sengers” and inserting “to address needs of families of
4 passengers”.

5 (dd) DEFINITIONS.—Section 2(a)(1) of the Rail Safe-
6 ty Improvement Act of 2008 is amended by inserting a
7 comma after “railroad tracks at grade”.

8 (ee) RAILROAD SAFETY STRATEGY.—Section
9 102(a)(6) of the Rail Safety Improvement Act of 2008 is
10 amended to read as follows:

11 “(6) Improving the safety of railroad bridges,
12 tunnels, and related infrastructure to prevent acci-
13 dents, incidents, injuries, and fatalities caused by
14 catastrophic and other failures of such infrastruc-
15 ture.”.

16 (ff) HOURS OF SERVICE REFORM.—Section
17 108(f)(1) of the Rail Safety Improvement Act of 2008
18 is amended by striking “requirements for recordkeeping
19 and reporting for Hours of Service of Railroad Employ-
20 ees” and inserting “requirements for record keeping and
21 reporting for hours of service of railroad employees”.

22 (gg) PEDESTRIAN SAFETY AT OR NEAR RAILROAD
23 PASSENGER STATIONS.—Section 201 of the Rail Safety
24 Improvement Act of 2008 is amended—

1 (1) in the section heading by striking “**Pedes-**
2 **trian crossing safety**” and inserting “**Pedes-**
3 **trian safety at or near railroad passenger**
4 **stations**”;

5 (2) by striking “strategies and methods to pre-
6 vent pedestrian accidents, incidents, injuries, and fa-
7 talities at or near passenger stations, including” and
8 inserting “strategies and methods to prevent train-
9 related accidents, incidents, injuries, and fatalities
10 that involve a pedestrian at or near a railroad pas-
11 senger station, including”; and

12 (3) in paragraph (1) by striking “at railroad
13 passenger stations”.

14 (hh) OPERATION LIFESAVER.—Section 206(a) of the
15 Rail Safety Improvement Act of 2008 is amended by strik-
16 ing “Public Service Announcements” and inserting “pub-
17 lic service announcements”.

18 (ii) STUDY AND RULEMAKING ON TRACK INSPEC-
19 TION TIME; RULEMAKING ON CONCRETE CROSSTIES.—
20 Section 403 of the Rail Safety Improvement Act of 2008
21 is amended—

22 (1) in the section heading by striking “**Track**
23 **inspection time study**” and inserting “**Study**
24 **and rulemaking on track inspection time;**
25 **rulemaking on concrete crossties**”; and

1 (2) in subsection (d)—

2 (A) by striking “CROSS TIES” in the sub-
3 section heading and inserting “CROSSTIES”;

4 (B) by striking “cross ties” and inserting
5 “crossties”; and

6 (C) in paragraph (2) by striking “cross
7 tie” and inserting “crosstie”.

8 (jj) LOCOMOTIVE CAB STUDIES.—Section 405 of the
9 Rail Safety Improvement Act of 2008 is amended—

10 (1) in subsection (a) by striking “cell phones”
11 and inserting “cellular telephones”; and

12 (2) in subsection (d) by striking “Secretary of
13 Transportation” and inserting “Secretary”.

14 (kk) ALCOHOL AND CONTROLLED SUBSTANCE TEST-
15 ING FOR MAINTENANCE-OF-WAY EMPLOYEES.—Section
16 412 of the Rail Safety Improvement Act of 2008 is
17 amended by striking “Secretary of Transportation” and
18 inserting “Secretary”.

19 (ll) TUNNEL INFORMATION.—Section 414 of the Rail
20 Safety Improvement Act of 2008 is amended—

21 (1) in paragraph (2) by striking “parts 171.8,
22 173.115,” and inserting “sections 171.8, 173.115,”;
23 and

24 (2) by striking “part 1520.5” and inserting
25 “section 1520.5”.

1 (mm) RAILROAD BRIDGE SAFETY ASSURANCE.—
2 Section 417(c) of the Rail Safety Improvement Act of
3 2008 is amended by striking “each railroad” and inserting
4 “each railroad carrier”.

5 (nn) ESTABLISHMENT OF TASK FORCE.—Section
6 503 of the Rail Safety Improvement Act of 2008 is
7 amended—

8 (1) in subsection (a) by striking “rail acci-
9 dents” and inserting “rail passenger accidents”; and

10 (2) by adding at the end new subsections (d)
11 and (e) to read as follows:

12 “(d) DEFINITIONS.—In this section, the terms ‘pas-
13 senger’, ‘rail passenger accident’, and ‘rail passenger car-
14 rier’ have the meaning given those terms by section 1139
15 of title 49, United States Code.

16 “(e) FUNDING.—Out of funds appropriated pursuant
17 to section 20117(a)(1)(A) of title 49, United States Code,
18 there shall be made available to the Secretary of Transpor-
19 tation \$500,000 for fiscal year 2010 to carry out this sec-
20 tion. Amounts made available pursuant to this subsection
21 shall remain available until expended.”.

22 (oo) AMTRAK INSPECTOR GENERAL.—Section 101(b)
23 of the Passenger Rail Investment and Improvement Act
24 of 2008 is amended—

25 (1) by striking paragraphs (3) through (5); and

1 (2) by inserting the following:

2 “(3) For fiscal year 2011, \$22,150,000.

3 “(4) For fiscal year 2012, \$23,300,000.

4 “(5) For fiscal year 2013, \$24,500,000.”.

5 (pp) STATE RAIL PLANS.—Section 303 of the Pas-
6 senger Rail Investment and Improvement Act of 2008 is
7 amended—

8 (1) by redesignating subsection (b) as sub-
9 section (c); and

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

12 “(b) TEMPORARY WAIVER.—The Secretary may
13 waive the requirement that a project conducted using
14 funds provided under chapter 244 or chapter 261 of title
15 49, United States Code, be in a State rail plan developed
16 under chapter 227 of title 49, United States Code, for a
17 period not to exceed four years after the date of enactment
18 of this Act.”.

19 **SEC. 6004. CAPITAL GRANTS FOR CLASS II AND CLASS III**
20 **RAILROADS.**

21 Section 22301(g) of title 49, United States Code, is
22 amended to read as follows:

23 “(g) AUTHORIZATION OF APPROPRIATIONS.—There
24 are authorized to be appropriated to the Secretary

1 \$50,000,000 for each of the fiscal years 2010 through
2 2015 for carrying out this section.”.

3 **SEC. 6005. RAILROAD REHABILITATION AND IMPROVE-**
4 **MENT FINANCING.**

5 (a) Section 502 of the Railroad Revitalization and
6 Regulatory Reform Act of 1976 (45 U.S.C. 822(h)) is
7 amended—

8 (1) in subsection (e), by adding at the end the
9 following new paragraph:

10 “(3) INTEREST RATE REDUCTION.—Subject to
11 the availability of funds authorized by subsection
12 (k), the Secretary may reduce the interest to be paid
13 on direct loans provided to State and local govern-
14 ments, interstate compacts consented to by Congress
15 under section 410(a) of the Amtrak Reform and Ac-
16 countability Act of 1997 (49 U.S.C. 24101 note),
17 government sponsored authorities and corporations,
18 or railroad carriers, for the sole purpose of installing
19 a positive train control system as defined in section
20 20157(i) of title 49, United States Code.”;

21 (2) in subsection (f)(1)—

22 (A) by inserting “or private insurance, in-
23 cluding bond insurance,” after “in part credit
24 risk”; and

1 (B) by inserting “or insurance, including
2 bond insurance,” after “authority and credit
3 risk”;

4 (3) in subsection (f)(3), by inserting “or, at the
5 discretion of the Secretary, in a series of payments
6 over the term of the loan. If insurance, including
7 bond insurance, is used, the policy premium shall be
8 paid before the loan is disbursed” after “of loan
9 amounts”;

10 (4) in paragraph (3) of subsection (h) by—

11 (A) striking “and” at the end of paragraph
12 (A);

13 (B) striking “guarantee.” at the end of
14 paragraph (B) and inserting “guarantee; and”;
15 and

16 (C) inserting the following:

17 “(C) the grant requirements of section
18 24405(a) of title 49, United States Code.”; and

19 (5) by adding at the end the following new sub-
20 section:

21 “(k) AUTHORIZATION OF APPROPRIATIONS.—There
22 are authorized to be appropriated to the Secretary for pur-
23 poses of carrying out subsection (e)(3) such funds as may
24 be necessary for the period encompassing fiscal years 2010
25 through 2015.”.

1 **SEC. 6006. AMTRAK DOMESTIC BUYING PREFERENCE.**

2 At the end of section 24305(f) of title 49, United
3 States Code, add the following:

4 “(5) If the Secretary determines that it is necessary
5 to exempt Amtrak from this subsection based on a finding
6 under paragraph (4), the Secretary shall, before the date
7 on which such finding takes effect—

8 “(A) publish in the Federal Register a detailed
9 written justification as to why the waiver is needed;
10 and

11 “(B) provide notice of such finding and an op-
12 portunity for public comment on such finding for a
13 reasonable period of time not to exceed 15 days.

14 “(6) Not later than December 31, 2012, the Sec-
15 retary shall submit to the Committee on Transportation
16 and Infrastructure of the House of Representatives and
17 the Committee on Commerce, Science, and Transportation
18 of the Senate a report on any waivers granted under para-
19 graph (4).”.

20 **SEC. 6007. SEPARATION REQUIREMENTS.**

21 (a) STUDY.—Not later than 18 months after the date
22 of enactment of this Act, the Secretary shall transmit a
23 study to the Committee on Transportation and Infrastruc-
24 ture of the House of Representatives and the Committee
25 on Commerce, Science, and Transportation of the Senate
26 that determines the optimum separation requirements be-

1 tween locomotives and railroad cars containing hazardous
2 material.

3 (b) REGULATIONS.— Not later than 24 months after
4 the date of enactment of this Act, the Secretary shall issue
5 a regulation to revise section 174.85 of title 49 of the Code
6 of Federal Regulations to reflect the findings of the study
7 required under subsection (a).

8 **SEC. 6008. REPORTS ON RAILROAD CONDITIONS AND PER-**
9 **FORMANCE.**

10 (a) AMENDMENT.—Chapter 101 of title 49, United
11 States Code, is amended by adding at the end the fol-
12 lowing new section:

13 **“§ 10103. Reports on railroad conditions and perform-**
14 **ance**

15 “(a) IN GENERAL.—Not later than December 31,
16 2010, and every fourth year thereafter, the Secretary of
17 Transportation shall submit to the Committee on Trans-
18 portation and Infrastructure of the House of Representa-
19 tives and the Committee on Commerce, Science, and
20 Transportation of the Senate a report on the conditions
21 and performance of the freight and intercity passenger rail
22 system. The report shall address, at a minimum—

23 “(1) the role of railroads in the United States
24 economy;

1 “(2) the current physical condition of the rail
2 system, including quality of infrastructure and the
3 capability of infrastructure to support current and
4 future levels of traffic;

5 “(3) the current operational performance of the
6 rail system, including data on average train speed,
7 cars on line, terminal dwell time, and average reli-
8 ability of times required to deliver shipments;

9 “(4) the safety performance of the railroads;

10 “(5) the backlog of current railroad needs; and

11 “(6) estimates of future railroad needs of the
12 United States.

13 “(b) PUBLIC INFORMATION SOURCES.—In preparing
14 the report, the Secretary shall use to the greatest extent
15 practicable public domain information sources including
16 the Federal Railroad Administration’s railroad safety data
17 and railroad reports and filings to Federal Government
18 agencies. If the Secretary determines that additional infor-
19 mation is needed to complete the report and such informa-
20 tion is not available from public domain information
21 sources but is available from the Bureau of Transpor-
22 tation Statistics, the Secretary may obtain and use such
23 information from the Bureau of Transportation Statistics
24 but shall protect the confidentiality of such information
25 as required under existing law.

1 “(c) COMPARISON WITH PRIOR REPORTS.—Each re-
2 port under subsection (a) shall provide the names, includ-
3 ing all necessary information, to relate and compare the
4 conditions and performance measures used in the previous
5 biennial reports.”.

6 (b) TABLE OF SECTIONS AMENDMENT.—The table of
7 sections for chapter 101 of title 49, United States Code,
8 is amended by adding at the end the following new item:

“10103. Reports on railroad conditions and performance.”.

9 **TITLE VII—HAZARDOUS**
10 **MATERIAL TRANSPORTATION**

11 **SEC. 7001. SHORT TITLE.**

12 This title may be cited as the “Hazardous Material
13 Transportation Safety Act of 2009”.

14 **SEC. 7002. AMENDMENT OF TITLE 49, UNITED STATES**
15 **CODE.**

16 Except as otherwise expressly provided, whenever in
17 this title an amendment or repeal is expressed in terms
18 of an amendment to, or a repeal of, a section or other
19 provision, the reference shall be considered to be made to
20 a section or other provision of title 49, United States
21 Code.

1 **Subtitle A—Strengthening Emer-**
2 **gency Response Capabilities**
3 **and Information**

4 **SEC. 7003. MINIMUM STANDARDS FOR EMERGENCY RE-**
5 **SPONSE INFORMATION SERVICES.**

6 (a) IN GENERAL.—Not later than 18 months after
7 the date of enactment of this Act, the Secretary shall pre-
8 scribe, by regulation, minimum standards for persons who
9 provide hazardous material transportation emergency re-
10 sponse information services required or governed by regu-
11 lations prescribed under chapter 51 of title 49, United
12 States Code.

13 (b) AUTHORITY.—Section 5103(b)(1)(A) is amend-
14 ed—

15 (1) in clause (vi) by striking “or” after the
16 semicolon;

17 (2) by redesignating clause (vii) as clause (viii);

18 (3) in clause (viii), as so redesignated, by strik-
19 ing “through (vi)” and inserting “through (vii)”;
20 and

21 (4) by inserting after clause (vi) the following:

22 “(vii) provides hazardous material
23 transportation emergency response infor-
24 mation services required or governed by

1 regulations prescribed under this chapter;
2 or”.

3 **SEC. 7004. TRAINING FOR EMERGENCY RESPONDERS.**

4 (a) OPERATIONS LEVEL TRAINING.—Section 5116 is
5 amended—

6 (1) in subsection (b)(1) by adding at the end
7 the following:

8 “To the extent that a grant is used to train emergency
9 responders, the State or Indian tribe shall certify, in writ-
10 ing, to the Secretary that such training shall ensure that
11 emergency responders who have received such training, at
12 a minimum, have the ability to protect nearby persons,
13 property, and the environment from the effects of acci-
14 dents or incidents involving the transportation of haz-
15 ardous material, in accordance with existing regulations
16 or National Fire Protection Association Standard 472.”;

17 (2) in subsection (j)—

18 (A) by redesignating paragraph (5) as
19 paragraph (7); and

20 (B) by inserting after paragraph (4) the
21 following:

22 “(5) The Secretary may only make a grant to
23 an organization if the organization ensures that
24 emergency responders who receive training under
25 such grant, at a minimum, have the ability to pro-

1 tect nearby persons, property, and the environment
2 from the effects of accidents or incidents involving
3 the transportation of hazardous material, in accord-
4 ance with existing regulations of the Secretary or
5 National Fire Protection Association Standard 472.

6 “(6) Notwithstanding paragraphs (1) and (3),
7 to the extent determined appropriate by the Sec-
8 retary, such grants may be used to train public sec-
9 tor employees to respond to accidents and incidents
10 involving hazardous material.”; and

11 (3) in subsection (k) by striking the second sen-
12 tence and inserting the following:

13 “The report shall identify the ultimate recipients of such
14 grants and include—

15 “(1) a detailed accounting and description of
16 each grant expenditure by each grant recipient, in-
17 cluding the amount of and purpose for each expendi-
18 ture;

19 “(2) the number of persons trained under the
20 grant program by training level;

21 “(3) an evaluation of the efficacy of such train-
22 ing; and

23 “(4) any recommendations the Secretary may
24 have for improving such grant programs.”.

1 (b) TRAINING CURRICULUM.—Section 5115 is
2 amended in each of subsections (b)(1)(B), (b)(2), and (c)
3 by striking “basic”.

4 **SEC. 7005. ASSESSMENT OF VOLUNTEER FIREFIGHTER**
5 **TRAINING CAPABILITIES.**

6 (a) ASSESSMENT.—

7 (1) IN GENERAL.—Not later than 18 months
8 after the date of enactment of this Act, the Sec-
9 retary shall conduct an assessment of the existing
10 training capabilities of, and delivery methods avail-
11 able for the preparedness and training to, volunteer
12 fire services personnel to safely respond to accidents
13 and incidents involving the transportation of haz-
14 ardous material.

15 (2) CONSULTATION.—In carrying out the as-
16 sessment, the Secretary may collaborate with the na-
17 tional hazardous materials fusion center, established
18 under section 5128 of title 49, United States Code,
19 (as added by section 7006 of this Act) and emer-
20 gency response organizations.

21 (b) PILOT PROGRAM.—

22 (1) IN GENERAL.—Upon completion of the as-
23 sessment, the Secretary may carry out a pilot volun-
24 teer firefighter hazardous material training program
25 based on the results of the assessment.

1 (2) ACTIVITIES.—Under the program in para-
2 graph (1), the Secretary, in order to assist volunteer
3 fire services personnel in safely responding to acci-
4 dents and incidents involving the transportation of
5 hazardous material, may—

6 (A) develop training curricula and imple-
7 ment innovative measures for delivering train-
8 ing;

9 (B) determine authorized training pro-
10 grams that are eligible for reimbursement from
11 the Secretary;

12 (C) provide assistance to volunteer fire
13 services personnel to enable the acquisition of
14 training materials and supplies and to support
15 preparedness training and exercises; and

16 (D) coordinate with Federal, State, and
17 local agencies to foster the exchange of fire-re-
18 lated training information and resources.

19 (c) REPORT.—Upon completion of the assessment
20 and, if applicable, the pilot program, the Secretary shall
21 transmit a report to the Committee on Transportation and
22 Infrastructure of the House of Representatives and the
23 Committee on Commerce, Science, and Transportation of
24 the Senate on the results of the assessment and pilot pro-
25 gram, including any recommendations for strengthening

1 training for volunteer firefighters to safely respond to acci-
2 dents and incidents involving the transportation of haz-
3 ardous material.

4 **SEC. 7006. NATIONAL HAZARDOUS MATERIALS FUSION**
5 **CENTER.**

6 Chapter 51 is amended by redesignating section 5128
7 as section 5130 and by inserting after section 5127 the
8 following:

9 **“§ 5128. National hazardous materials fusion center**

10 “(a) IN GENERAL.—The Secretary shall establish
11 and maintain a national hazardous materials fusion center
12 to serve as a data and information network for emergency
13 response providers, Federal, State, and local government
14 agencies, and for-profit and nonprofit organizations that
15 are engaged in hazardous material response.

16 “(b) DUTIES.—Such center shall—

17 “(1) enhance emergency response provider com-
18 munication and safety with respect to accidents and
19 incidents involving the transportation of hazardous
20 material;

21 “(2) improve decisionmaking for the prevention
22 and mitigation of such accidents and incidents;

23 “(3) establish and operate regional incident sur-
24 vey teams to—

1 “(A) determine lessons learned from emer-
2 gency response providers involved in such acci-
3 dents or incidents;

4 “(B) develop best practices for responding
5 to such accidents or incidents; and

6 “(C) improve curricula and training mate-
7 rials for emergency response providers in re-
8 sponding to such accidents and incidents; and

9 “(4) collect and analyze data from the re-
10 sponses to accidents and incidents involving the
11 transportation of hazardous material in order to un-
12 derstand accident and incident trends and patterns
13 and develop recommendations for performance meas-
14 ures for the safe response to hazardous material ac-
15 cidents and incidents, including the safety of emer-
16 gency response providers and the public.

17 “(c) DEFINITIONS.—In this section, the following
18 definitions apply:

19 “(1) The term ‘emergency response provider’
20 includes Federal, State, and local governmental and
21 nongovernmental emergency public safety, fire, law
22 enforcement, emergency response, emergency med-
23 ical (including hospital emergency facilities), and re-
24 lated personnel, agencies, and authorities.

1 “(2) The term ‘regional incident survey team’
2 means teams that are established by the national
3 hazardous materials fusion center and that are com-
4 posed of persons who are skilled by reason of edu-
5 cation, training, or experience in the response to
6 hazardous material accidents and incidents.”.

7 **SEC. 7007. EMERGENCY RESPONSE TO ACCIDENTS AND IN-**
8 **CIDENTS INVOLVING ALTERNATIVE TECH-**
9 **NOLOGIES.**

10 (a) **IN GENERAL.**—The Secretary shall conduct re-
11 search to develop appropriate techniques, training, and
12 equipment necessary for public sector employees to re-
13 spond to accidents and incidents involving the transpor-
14 tation or use in transportation of alternative technologies
15 that utilize hazardous material, including biofuels, hybrid
16 fuel cells, lithium batteries, and hydrogen fuel cells.

17 (b) **REPORT.**—Not later than 2 years after the date
18 of enactment of this Act, the Secretary shall transmit to
19 the Committee on Transportation and Infrastructure of
20 the House of Representatives and the Committee on Com-
21 merce, Science, and Transportation of the Senate a report
22 on the results of the activities carried out under subsection
23 (a).

1 **SEC. 7008. COLLECTION AND SHARING OF COMMODITY**
2 **FLOW DATA.**

3 (a) IN GENERAL.—Chapter 51 is amended by insert-
4 ing after section 5128 (as added by section 7006 of this
5 Act) the following:

6 **“§ 5129. Collection and sharing of commodity flow**
7 **data**

8 “(a) IN GENERAL.—Not later than 12 months after
9 the date of enactment of the Hazardous Material Trans-
10 portation Safety Act of 2009, the Secretary shall establish
11 and maintain a system to collect data on the volume of
12 hazardous material transported throughout the United
13 States by all modes of transportation for the purpose of
14 enhancing the planning and preparation of Federal, State,
15 and local governments and emergency responders for inci-
16 dent response and management.

17 “(b) SPECIFIC REQUIREMENTS.—The Secretary
18 shall—

19 “(1) establish the system using as a model ex-
20 isting and emerging data systems used to plot com-
21 modity movements; and

22 “(2) make the system accessible, as the Sec-
23 retary determines appropriate, to Federal, State,
24 and local government and emergency response rep-
25 resentatives as an emergency planning and pre-
26 paredness tool.

1 (B) law enforcement and other appropriate
2 enforcement personnel;

3 (C) other emergency response providers;

4 (D) persons who offer hazardous material
5 for transportation;

6 (E) persons who transport hazardous ma-
7 terial by air, commercial motor vehicle, rail, and
8 water; and

9 (F) employees of persons who transport or
10 offer for transportation hazardous material by
11 air, commercial motor vehicle, rail, and water.

12 (c) REPORTS.—

13 (1) INTERIM REPORT.—Not later than 3 years
14 after the date of enactment of this Act, the Sec-
15 retary shall—

16 (A) prepare an interim report on the re-
17 sults of the pilot projects carried out under this
18 section, including—

19 (i) a detailed description of the pilot
20 projects;

21 (ii) an evaluation of each pilot project,
22 including an evaluation of the performance
23 of each paperless hazard communications
24 system in such project;

1 (iii) an assessment of the safety and
2 security impact of using paperless hazard
3 communications systems, including any im-
4 pact on the public, emergency response,
5 law enforcement, and the conduct of in-
6 spections and investigations; and

7 (iv) a recommendation on whether
8 paperless hazard communications systems
9 should be incorporated into the Federal
10 hazardous material transportation safety
11 program under chapter 51 of title 49,
12 United States Code, on a permanent basis;
13 and

14 (B) transmit such interim report to the or-
15 ganizations consulted under subsection (b)(2)
16 and shall request that such organizations pro-
17 vide written comments in response to the in-
18 terim report within 60 days.

19 (2) FINAL REPORT.—Not later than 120 days
20 after transmitting the interim report to the organi-
21 zations consulted under subsection (b)(2), the Sec-
22 retary shall transmit to the Committee on Transpor-
23 tation and Infrastructure of the House of Represent-
24 atives and the Committee on Commerce, Science,
25 and Transportation of the Senate a final report on

1 the results of the pilot projects carried out under
2 this section, including the matter described in para-
3 graph (1)(A) and the written comments requested
4 under paragraph (1)(B).

5 (d) DEFINITION.—In this section, the term
6 “paperless hazard communications system” means the use
7 of advanced communications methods, such as wireless
8 communications devices, to convey hazard information be-
9 tween all parties in the transportation chain, including
10 emergency responders and law enforcement personnel.

11 **Subtitle B—Strengthening**
12 **Hazardous Material Safety**

13 **SEC. 7010. TRANSPORTATION OF LITHIUM CELLS AND BAT-**
14 **TERIES.**

15 (a) IN GENERAL.—Chapter 51 of title 49, United
16 States Code, is amended by inserting after section 5110
17 the following:

18 **“§ 5111. Transportation of lithium cells and batteries**

19 “(a) REVISIONS TO CURRENT REGULATIONS.—Not
20 later than 24 months after the date of enactment of this
21 section, the Administrator of the Pipeline and Hazardous
22 Materials Safety Administration, in coordination with the
23 Administrator of the Federal Aviation Administration,
24 shall issue regulations in accordance with this section to
25 provide for the safe transportation of lithium cells and

1 batteries and other energy producing devices that utilize
2 hazardous material and have the potential to create a heat
3 or fire hazard.

4 “(b) REQUIREMENTS.—In carrying out subsection
5 (a), the Administrator of the Pipeline and Hazardous Ma-
6 terials Safety Administration shall, at a minimum—

7 “(1) require packages containing lithium cells
8 and batteries and other such energy producing de-
9 vices to be identified as hazardous material in a
10 manner that clearly conveys the properties, hazards,
11 and dangers of such cells, batteries, and devices;

12 “(2) provide for appropriate marking and label-
13 ing of such packages and proper identification in
14 shipping documents;

15 “(3) minimize regulatory exemptions from such
16 packaging, marking, and labeling requirements;

17 “(4) establish requirements for testing and re-
18 testing lithium cells and batteries and other such en-
19 ergy producing devices that are, at a minimum,
20 equivalent to the United Nations testing regime;

21 “(5) provide for an appropriate marking or
22 other measure that indicates that such lithium cells
23 and batteries and other such energy producing de-
24 vices are in compliance with the requirements estab-
25 lished under paragraph (4);

1 “(6) adopt a watt-hours requirement in lieu of
2 equivalent lithium content to provide a more easily
3 understood measure of the hazard posed by lithium
4 cells and batteries;

5 “(7) establish appropriate packaging perform-
6 ance requirements, including outer packaging re-
7 quirements, for lithium cells and batteries and other
8 such energy producing devices to minimize the risk
9 during transportation, including the prevention of
10 short-circuiting, overheating, initiation of fires, and
11 fire propagation;

12 “(8) establish limits on the number of lithium
13 cells and batteries and other such energy producing
14 devices that may be contained in a single package
15 and limits on the number of packages containing
16 such cells, batteries, and devices that may be trans-
17 ported in a unit load device, pallet, or container on
18 board aircraft;

19 “(9) limit the stowage of lithium cells and bat-
20 teries and other such energy producing devices to
21 crew accessible locations on aircraft, unless such
22 cells, batteries, and devices are transported in a fire-
23 resistant container or the aircraft contains a fire
24 suppression system capable of extinguishing a lith-
25 ium cell or battery fire; and

1 “(10) require reporting of all accidents and in-
2 cidents involving lithium cells and batteries and
3 other such energy producing devices, including those
4 contained in or packed with equipment, that occur
5 on board aircraft or during loading or unloading op-
6 erations and require retention of the failed cells, bat-
7 teries, and devices for evaluation purposes.

8 “(c) REVIEW OF EXEMPTIONS.—The Administrator
9 of the Pipeline and Hazardous Materials Safety Adminis-
10 tration, in coordination with the Administrator of the Fed-
11 eral Aviation Administration, shall review all exemptions,
12 special permits, and approvals that allow grantees of ex-
13 emptions, holders of special permits, or parties to such ex-
14 emptions, permits, and approvals to deviate from current
15 lithium battery requirements to determine if such exemp-
16 tions, special permits, and approvals should be modified
17 to reflect existing statutes and regulations.

18 “(d) TRANSPORTATION OF DEFECTIVE OR DAMAGED
19 BATTERIES.—

20 “(1) IN GENERAL.—The Administrator of the
21 Pipeline and Hazardous Materials Safety Adminis-
22 tration, in coordination with the Administrator of
23 the Federal Aviation Administration, shall establish
24 appropriate safety measures for the transport of
25 lithium cells or batteries identified as being defective

1 for safety reasons or damaged and shall prohibit the
2 transport of such defective or damaged items in air
3 transportation and intrastate air transportation.

4 “(2) RECALLS.—When such lithium cells or
5 batteries are recalled for safety reasons, the Admin-
6 istrator of the Pipeline and Hazardous Materials
7 Safety Administration, in consultation with the Con-
8 sumer Product Safety Commission, shall establish a
9 mechanism for appropriate notification to the manu-
10 facturer and consumers that these items are prohib-
11 ited from being transported in air transportation
12 and intrastate air transportation.

13 “(e) SIMPLIFY AND CONSOLIDATE REQUIRE-
14 MENTS.—

15 “(1) IN GENERAL.—The Administrator of the
16 Pipeline and Hazardous Materials Safety Adminis-
17 tration, in coordination with the Administrator of
18 the Federal Aviation Administration, shall consoli-
19 date and simplify for clarity, ease of understanding,
20 and use the regulations of the Department of Trans-
21 portation governing requirements for transporting
22 lithium cells and batteries.

23 “(2) EDUCATION.—The Administrator of the
24 Pipeline and Hazardous Materials Safety Adminis-
25 tration, in coordination with the Administrator of

1 the Federal Aviation Administration, shall develop a
2 program to educate and provide guidance to the air
3 traveling public, including flight crews, about how to
4 safely carry authorized lithium cells or batteries or
5 electronic devices containing such cells or batteries
6 on board aircraft and shall establish a process to pe-
7 riodically measure the effectiveness of efforts to edu-
8 cate the air traveling public, including flight crews.

9 “(f) RESEARCH AND TESTING.—

10 “(1) IN GENERAL.—The Administrator of the
11 Pipeline and Hazardous Materials Safety Adminis-
12 tration, in coordination with the Administrator of
13 the Federal Aviation Administration, shall conduct
14 research and testing to evaluate the risks posed by
15 lithium cells and batteries and other energy pro-
16 ducing devices that utilize hazardous material in
17 order to further enhance risk reduction for the
18 transportation of such cells, batteries, and devices.

19 “(2) AREAS TO BE COVERED.—The research
20 and testing shall cover, at a minimum, the following
21 areas:

22 “(A) Fire behavior of lithium cells and bat-
23 teries of various sizes and packaging configura-
24 tions to better understand the transportation
25 risks posed by these cells and batteries.

1 “(B) Fire-resistant containers to develop
2 performance standards for such containers, in-
3 cluding fireproof overpacks and unit load de-
4 vices, which can be used for the transportation
5 of lithium cells and batteries of all types on
6 board aircraft.

7 “(C) Fire-resistant containers that flight
8 crews can use in an emergency to temporarily
9 store a lithium cell or battery or electronic de-
10 vice that is hot.

11 “(D) How container designs and their lo-
12 cations in aircraft cargo compartments may de-
13 crease potential risks of fire.

14 “(E) Fire detection and suppression, in-
15 cluding analysis of possible container internal
16 detection and suppression methods and their ef-
17 fectiveness on the control or containment of
18 lithium cell and battery fires and of the pres-
19 sure effects of burning and exploding batteries
20 and the possible penetration of compartment
21 liners and containers by high temperature frag-
22 ments.

23 “(3) ADDITIONAL MEASURES.—

24 “(A) IN GENERAL.—Based on any results
25 of the research described under this subsection,

1 the Administrator of the Pipeline and Haz-
2 arduous Materials Safety Administration, in co-
3 ordination with the Administrator of the Fed-
4 eral Aviation Administration, shall consider re-
5 quiring additional safety measures to reduce the
6 risks posed by the transportation of lithium
7 cells and batteries of all types.

8 “(B) INTERNATIONAL STANDARDS SET-
9 TING.—The Administrator of the Pipeline and
10 Hazardous Materials Safety Administration
11 shall work with appropriate international trans-
12 portation standards setting organizations, such
13 as the United Nations Subcommittee on the
14 Transport of Dangerous Goods and the Inter-
15 national Civil Aviation Organization, to consider
16 other safety enhancing measures for the trans-
17 port of lithium cells and batteries and other en-
18 ergy producing devices that utilize hazardous
19 material.

20 “(g) PRIMARY LITHIUM BATTERIES.—Nothing in
21 this section shall be construed to authorize the Adminis-
22 trator of the Pipeline and Hazardous Materials Safety Ad-
23 ministration or the Administrator of the Federal Aviation
24 Administration to permit the transportation of primary

1 lithium batteries and cells on board passenger-carrying
2 aircraft.”.

3 (b) CLERICAL AMENDMENT.—The analysis for chap-
4 ter 51 of such title is amended by inserting after the item
5 relating to section 5110 the following:

“5111. Transportation of lithium cells and batteries.”.

6 **SEC. 7011. REQUIREMENTS RELATING TO EXTERNAL PROD-**
7 **UCT PIPING ON CARGO TANKS TRANS-**
8 **PORTING HAZARDOUS MATERIAL.**

9 (a) IN GENERAL.—Chapter 51 is amended by insert-
10 ing after section 5117 the following:

11 **“§5118. Requirements relating to external product**
12 **pip ing on cargo tanks transporting haz-**
13 **ardous material**

14 “(a) IN GENERAL.—

15 “(1) PROHIBITION FOR VEHICLES MANUFAC-
16 TURED AFTER 2010.—Subject to subsection (b), the
17 Secretary shall prohibit the transportation of haz-
18 ardous material in the external product piping of all
19 cargo tank motor vehicles manufactured on or after
20 2 years after the date of enactment of the Haz-
21 ardous Material Transportation Safety Act of 2009.

22 “(2) PROHIBITION FOR ALL VEHICLES.—Sub-
23 ject to subsection (b), no person may offer for trans-
24 portation or transport a hazardous material in the

1 external product piping of a cargo tank motor vehi-
2 cle on or after December 31, 2020.

3 “(b) LIMITATION ON APPLICABILITY.—Subsection
4 (a) does not apply to—

5 “(1) a cargo tank motor vehicle designed and
6 constructed with engine, body, and cargo tank per-
7 manently mounted on the same chassis with product
8 piping protected from impact by another motor vehi-
9 cle by the structural components of the cargo tank
10 motor vehicle, such as damage protection guards,
11 framing members, or wheel assemblies; and

12 “(2) a minimal amount, as determined by the
13 Secretary by regulation, of hazardous material res-
14 idue that remains in the external product piping
15 after the piping is drained.

16 “(c) DEFINITIONS.—In this section, the term ‘cargo
17 tank motor vehicle’ has the meaning given such term in
18 part 171 of title 49, Code of Federal Regulations, as in
19 effect on the date of enactment of this section.”.

20 (b) CLERICAL AMENDMENT.—The analysis for chap-
21 ter 51 is amended by inserting after the item relating to
22 section 5117 the following:

“5118. Requirements relating to external product piping on cargo tanks trans-
porting hazardous material.”.

1 **SEC. 7012. COMMERCIAL MOTOR VEHICLE OPERATORS**
2 **REGISTERED TO OPERATE IN MEXICO OR**
3 **CANADA.**

4 Section 5103a(h)(2) is amended to read as follows:

5 “(2) RECORDS CHECK.—The Assistant Sec-
6 retary of Homeland Security (Transportation Secu-
7 rity Administration) shall ensure that such back-
8 ground records check under paragraph (1) includes
9 a check of the operator’s criminal history in—

10 “(A) the United States and Canada, for
11 operators domiciled in Canada; and

12 “(B) the United States and Mexico, for op-
13 erators domiciled in Mexico.”.

14 **SEC. 7013. IMPROVING DATA COLLECTION, ANALYSIS, AND**
15 **REPORTING.**

16 (a) ESTABLISHMENT OF WORKING GROUP.—Not
17 later than 60 days after the date of enactment of this Act,
18 the Administrator of the Pipeline and Hazardous Mate-
19 rials Safety Administration shall establish a working
20 group for the purpose of improving the collection, analysis,
21 reporting, and use of data related to accidents and inci-
22 dents involving the transportation of hazardous material.

23 (b) MEMBERSHIP.—The working group shall consist
24 of—

25 (1) at least one representative of the following
26 agencies appointed by the head of each agency.

1 (A) The Federal Aviation Administration.

2 (B) The Federal Motor Carrier Safety Ad-
3 ministration.

4 (C) The Federal Railroad Administration.

5 (D) The Maritime Administration.

6 (E) The Pipeline and Hazardous Materials
7 Safety Administration.

8 (2) such other officers or employees of the De-
9 partment as the Administrator may appoint.

10 (c) DUTIES.—The working group shall—

11 (1) review the Pipeline and Hazardous Mate-
12 rials Safety Administration's methods for collecting,
13 analyzing, and reporting accidents and incidents in-
14 volving the transportation of hazardous material, in-
15 cluding the adequacy of—

16 (A) information requested on the accident
17 and incident reporting forms required to be
18 submitted to the Administration;

19 (B) methods used by the Administration to
20 verify that the information provided on such
21 forms is accurate and complete;

22 (C) staff resources of the Administration
23 related to data collection, analysis, and report-
24 ing; and

1 (D) the database used by the Administra-
2 tion for recording and reporting such accidents
3 and incidents, including the ability of users to
4 adequately search the database and find infor-
5 mation;

6 (2) make recommendations to the Administra-
7 tion for improving the collection, analysis, reporting,
8 and use of such data; and

9 (3) such other duties as the Administrator de-
10 termines are appropriate.

11 (d) DEVELOPMENT OF ACTION PLAN.—Not later
12 than 180 days after the date of enactment of this Act,
13 taking into consideration the recommendations made by
14 the working group, the Administrator shall develop an ac-
15 tion plan and timeline for improving the collection, anal-
16 ysis, reporting, and use of data by the Administration, in-
17 cluding revising the database of the Administration, as ap-
18 propriate.

19 (e) SUBMISSION TO DOT INSPECTOR GENERAL FOR
20 REVIEW.—Not later than 15 days after the date of devel-
21 opment of the action plan and timeline under subsection
22 (d), the Administrator shall submit the action plan and
23 timeline to the Inspector General of the Department. The
24 Inspector General shall review the action plan and
25 timeline.

1 (f) SUBMISSION TO CONGRESS.—Not later than 60
2 days after the date of submission of an action plan and
3 timeline by the Administrator under subsection (d), the
4 Inspector General shall transmit any recommendations to
5 the Administrator for improving the action plan and
6 timeline and submit such recommendations, the action
7 plan, and timeline to the Committee on Transportation
8 and Infrastructure of the House of Representatives and
9 Committee on Commerce, Science, and Transportation of
10 the Senate.

11 **Subtitle C—Strengthening**
12 **Enforcement**

13 **SEC. 7020. HAZARDOUS MATERIAL ENFORCEMENT TRAIN-**
14 **ING PROGRAM.**

15 (a) IN GENERAL.—The Secretary shall carry out a
16 hazardous material enforcement training program to—

17 (1) develop uniform performance standards for
18 training hazardous material inspectors and inves-
19 tigators; and

20 (2) collect, analyze, and publish findings from
21 inspections and investigations of accidents or inci-
22 dents involving the transportation of hazardous ma-
23 terial.

1 (b) STANDARDS AND GUIDELINES.—Under the pro-
2 gram described in subsection (a), the Secretary may de-
3 velop—

4 (1) guidelines for hazardous material inspector
5 and investigator qualifications;

6 (2) best practices and standards for hazardous
7 material inspector and investigator training pro-
8 grams; and

9 (3) standard protocols to coordinate accident
10 and incident investigation efforts among Federal,
11 State, and local jurisdictions.

12 (c) AVAILABILITY.—The Secretary may make the
13 standards, protocols, and findings of the program de-
14 scribed in this section available to Federal, State, and
15 local enforcement personnel.

16 **SEC. 7021. INSPECTIONS AND INVESTIGATIONS.**

17 (a) NOTICE OF ENFORCEMENT MEASURES.—Section
18 5121(c)(1) is amended—

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

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

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

23 “(G) shall provide to the affected offeror,
24 carrier, packaging manufacturer or tester, or
25 other person responsible for the package rea-

1 sonable notice of any findings made and actions
2 being taken as a result of an inspection or in-
3 vestigation conducted under this subsection.”.

4 (b) REGULATIONS.—Section 5121(e) is amended by
5 adding at the end the following:

6 “(3) MATTERS TO BE ADDRESSED.—In issuing
7 the regulations to carry out subsections (c) and (d),
8 the Secretary shall address, at a minimum, the fol-
9 lowing:

10 “(A) Safe and expeditious resumption of
11 transportation of perishable hazardous material,
12 including radiopharmaceuticals and other med-
13 ical products, that may require timely delivery
14 due to life-threatening situations.

15 “(B) Appropriate training and equipment
16 for inspectors.

17 “(C) The proper closure of packaging in
18 accordance with the hazardous material regula-
19 tions.”.

20 (c) GRANTS AND COOPERATIVE AGREEMENTS.—Sec-
21 tion 5121(g)(1) is amended by striking “security” and in-
22 serting “safety and security”.

23 (d) AUTHORITY TO CONDUCT INVESTIGATIONS.—
24 Section 5121 is amended by adding at the end the fol-
25 lowing:

1 “(i) ACCIDENT OR INCIDENT INVESTIGATIONS.—

2 “(1) IN GENERAL.—A designated officer, em-
3 ployee, or agent of the Secretary may investigate an
4 accident or incident involving the transportation of
5 hazardous material.

6 “(2) AUTHORITY TO CONDUCT INVESTIGA-
7 TIONS.—In conducting an investigation of an acci-
8 dent or incident involving the transportation of haz-
9 ardous material, a designated officer, employee, or
10 agent of the Secretary may—

11 “(A) enter property;

12 “(B) subpoena witnesses;

13 “(C) require the production of records, ex-
14 hibits, and other evidence;

15 “(D) administer oaths; and

16 “(E) take testimony.

17 “(3) COORDINATION WITH STATE INVESTIGA-
18 TIONS.—If an accident or incident involving the
19 transportation of hazardous material is investigated
20 by the State in which such accident or incident oc-
21 curred, the Secretary, to the extent practicable, shall
22 coordinate any investigation conducted by the Sec-
23 retary with respect to such accident or incident with
24 the State’s investigation.

1 “(4) NATIONAL TRANSPORTATION SAFETY
2 BOARD.—Pursuant to chapter 11, the National
3 Transportation Safety Board retains authority to
4 lead the investigation into an accident or incident in-
5 volving the transportation of hazardous material.
6 The Secretary shall use the Secretary’s authority
7 under this paragraph to support any investigation
8 the Board undertakes.

9 “(5) REPORTS.—When the Secretary deter-
10 mines it to be in the public interest, the Secretary
11 shall make available to the public the results of an
12 investigation conducted by the Secretary with re-
13 spect to an accident or incident involving the trans-
14 portation of hazardous material, including a state-
15 ment of the cause of the accident or incident and
16 such recommendations as the Secretary considers
17 appropriate.”.

18 **SEC. 7022. CIVIL PENALTIES FOR DENIAL OF ENTRY.**

19 Section 5123 is amended by adding at the end the
20 following:

21 “(h) PENALTY FOR OBSTRUCTION OF INSPECTIONS
22 AND INVESTIGATIONS.—The Secretary may impose a pen-
23 alty on a person who obstructs or prevents the Secretary
24 from carrying out inspections or investigations under sec-
25 tion 5121(c) or 5121(i).”.

1 **SEC. 7023. INSPECTOR STAFFING.**

2 The Secretary of Transportation shall increase the
3 total number of full-time equivalent positions for haz-
4 ardous material transportation safety inspection and en-
5 forcement personnel at the Pipeline and Hazardous Mate-
6 rials Safety Administration so that by each date listed
7 below, the total number of such positions is at least as
8 follows:

- 9 (1) December 31, 2011, [____];
10 (2) December 31, 2012, [____];
11 (3) December 31, 2013, [____];
12 (4) December 31, 2014, [____]; and
13 (5) December 31, 2015, [____].

14 **Subtitle D—Miscellaneous**

15 **SEC. 7030. HAZARDOUS MATERIAL RESEARCH AND DEVEL-**
16 **OPMENT PROGRAM.**

17 (a) IN GENERAL.—The Secretary may conduct re-
18 search and development aimed at reducing risks associated
19 with the transportation of hazardous material and identi-
20 fying and evaluating new technologies to facilitate the
21 safe, secure, and efficient transportation of hazardous ma-
22 terial.

23 (b) COOPERATIVE RESEARCH PROGRAM.—The Sec-
24 retary shall continue, subject to the availability of funds,
25 to support the hazardous material cooperative research
26 projects being carried out through a contract with the Na-

1 tional Academy of Sciences under section 7131 of
2 SAFETEA-LU (119 Stat. 1910).

3 (c) AUTHORIZATION.—Of the amounts made avail-
4 able by section ____ of this Act, \$_____ for each of fiscal
5 years 2010 through 2015 shall be available to carry out
6 this section.

7 **SEC. 7031. UNIFORM HAZARDOUS MATERIAL STATE REG-**
8 **ISTRATION AND PERMIT PROGRAM.**

9 (a) UNIFORM FORMS AND PROCEDURES.—Section
10 5119 is amended to read as follows:

11 **“§ 5119. Uniform hazardous material State registra-**
12 **tion and permit program**

13 “(a) ESTABLISHMENT AND CONDUCT.—

14 “(1) IN GENERAL.—The Secretary shall estab-
15 lish and carry out a program to develop uniform
16 forms and procedures for States to register, and
17 issue permits to, persons who transport, or cause to
18 be transported, hazardous material by motor vehicle
19 in accordance with this chapter and the regulations
20 issued to carry out this chapter.

21 “(2) CONSIDERATION OF EXISTING STATE ALLI-
22 ANCE PROGRAM.—In establishing the program under
23 this subsection, the Secretary shall consider the pro-
24 gram of uniform forms and procedures for reg-
25 istering and issuing permits to persons who trans-

1 port, or cause to be transported, hazardous material
2 by motor vehicle developed by the alliance of States
3 known as the ‘Alliance for Uniform Hazmat Trans-
4 portation Procedures’.

5 “(b) FINANCIAL AND TECHNICAL ASSISTANCE AND
6 SUPPORT.—

7 “(1) IN GENERAL.—The Secretary may provide
8 planning and transition assistance to States in order
9 to encourage State adoption of the program estab-
10 lished by the Secretary under this section.

11 “(2) USE OF FUNDS.—Assistance awarded to a
12 State under this subsection may be used only to as-
13 sist the State in transitioning the existing registra-
14 tion and permitting programs of the State to the
15 program established under this section.

16 “(3) TERMINATION OF AUTHORITY.—The au-
17 thority to provide assistance to States under this
18 subsection shall terminate on the effective date of
19 the regulations issued to carry out this section or
20 such earlier date as the Secretary may establish.

21 “(c) REGULATIONS.—Not later than 6 years after the
22 date of enactment of the Hazardous Material Transpor-
23 tation Safety Act of 2009, the Secretary shall issue regula-
24 tions to carry out this section.

1 “(d) RELATED EXPENSES.—For purposes of section
2 5125(f)(1), expenses related to transporting hazardous
3 material may include costs incurred in implementing and
4 administering the program established by the Secretary
5 under this section, including costs of establishing or modi-
6 fying forms, procedures, and systems.

7 “(e) TRANSITION OF STATE PROGRAMS.—Not later
8 than the effective date of the regulations issued to carry
9 out this section, a State may enforce registration and per-
10 mitting requirements for motor carriers that transport
11 hazardous material in commerce only in accordance with
12 the program established by the Secretary under this sec-
13 tion.

14 “(f) LIMITATION.—Nothing in this section or the reg-
15 ulations issued by the Secretary to carry out this section
16 shall limit the amount of a fee a State may impose or
17 collect for registering and issuing permits to persons who
18 transport, or cause to be transported, hazardous material
19 by motor vehicle.

20 “(g) AUTHORIZATION OF APPROPRIATIONS.—There
21 are authorized to be appropriated \$1,000,000 to carry out
22 subsection (b).”.

23 (b) CLERICAL AMENDMENT.—The analysis for chap-
24 ter 51 is amended by striking the item relating to section
25 5119 and inserting the following:

“5119. Uniform hazardous material State registration and permit program.”.

1 **SEC. 7032. IMPLEMENTATION OF THE HAZARDOUS MATE-**
2 **RIAL SAFETY PERMIT PROGRAM.**

3 (a) REPORT.—Not later than one year after the date
4 of enactment of this Act, the Comptroller General shall
5 conduct a study, and transmit to the Committee on Trans-
6 portation and Infrastructure of the House of Representa-
7 tives and the Committee on Commerce, Science, and
8 Transportation of the Senate a report, on the implementa-
9 tion of the hazardous material safety permit program
10 under section 5109 of title 49, United States Code.

11 (b) MATTERS TO BE REVIEWED.—In conducting the
12 study, the Comptroller General shall review, at a min-
13 imum—

14 (1) the list of hazardous material requiring a
15 safety permit;

16 (2) the number of permits that have been
17 issued, denied, revoked, or suspended since inception
18 of the program and the number of commercial motor
19 carriers that have never had a permit denied, re-
20 voked, or suspended since inception of the program;

21 (3) the reasons for such denials, revocations, or
22 suspensions;

23 (4) the criteria used by the Federal Motor Car-
24 rier Safety Administration to determine whether a
25 hazardous material safety permit issued by a State
26 is equivalent to the Federal permit; and

1 (5) the Secretary's actions to improve the per-
2 mit application process.

3 (c) RECOMMENDATIONS.—The Comptroller General
4 shall include in the report any recommendations the
5 Comptroller General has for improving the hazardous ma-
6 terial safety permit program.

7 **SEC. 7033. AUTHORIZATION OF APPROPRIATIONS.**

8 Section 5130 (as so redesignated by section 7008 of
9 this Act) is amended—

10 (1) in subsection (a), by adding at the end the
11 following:

12 “(5) For fiscal year 2009, **[\$00,000,000]**.

13 “(6) For fiscal year 2010, **[\$00,000,000]**.

14 “(7) For fiscal year 2011, **[\$00,000,000]**.

15 “(8) For fiscal year 2012, **[\$00,000,000]**.

16 “(9) For fiscal year 2013, **[\$00,000,000]**.

17 “(10) For fiscal year 2014, **[\$00,000,000]**.”.

18 **TITLE VIII—TRANSPORTATION**
19 **DISCRETIONARY SPENDING**
20 **GUARANTEE**

21 **SEC. 8001. DISCRETIONARY SPENDING LIMITS FOR THE**
22 **HIGHWAY AND MASS TRANSIT CATEGORIES.**

23 **[to be supplied]**

1 **SEC. 8002. ADJUSTMENTS TO ALIGN HIGHWAY SPENDING**

2 **WITH REVENUES.**

3 **【to be supplied】**

4 **SEC. 8003. LEVEL OF OBLIGATION LIMITATIONS.**

5 **【to be supplied】**

6 **SEC. 8004. ENFORCEMENT OF GUARANTEE.**

7 **【to be supplied】**

8 **TITLE IX—MISCELLANEOUS**

9 **SEC. 9001. DENALI COMMISSION.**

10 **【to be supplied】**